

**BEFORE THE BOARD OF COMMISSIONERS  
FOR THE STATE OF OREGON, COUNTY OF BENTON**

**In the Matter of Adopting Findings Denying )  
a Conditional Use Permit for Landfill Expansion )  
Land Use Case Number LU-24-027 )**

**ORDER #D2026-054**

WHEREAS, the Community Development Department received an application for a Conditional Use Permit for the expansion of Coffin Butte Landfill south of Coffin Butte Road and deemed it complete on January 15, 2025; and

WHEREAS, the application was reviewed as a quasi-judicial matter by the Community Development Department, which initially issued a staff report on April 15, 2025 that recommended denial of the application; and

WHEREAS, thereafter, the applicant requested a 47-day extension of the 150-day deadline, and the county granted the extension; and

WHEREAS, the Planning Commission held duly advertised public hearings on the application on April 29, May 1, May 6, and May 8, 2025, at which the Planning Commission heard staff presentation, public testimony, and applicant testimony, and at the conclusion of the May 8 hearing, determined that further information was required, and so continued the public hearing until July 8, 2025, and left the record open for submission of additional evidence and argument; and

WHEREAS, the Community Development Department received new evidence and argument during the open record period and issued a Supplemental Staff Report recommending approval of the application with conditions; and

WHEREAS, the Planning Commission held additional hearings on July 8 and July 9, 2025, at which the Planning Commission heard staff presentation, public testimony, and applicant testimony and at the conclusion, held the written record open until July 16, 2025; and

WHEREAS, on July 22, 2025 the Planning Commission reconvened for deliberations, and voted to tentatively deny the application; and

WHEREAS, on July 29, 2025, the Planning Commission reconvened and adopted written findings of fact and conclusions of law in support of its oral decision to deny the application; and

WHEREAS, on August 12, 2025 the applicant filed a timely appeal of the Planning Commission's decision to the Board of Commissioners; and

WHEREAS, on October 15, 2025 the Community Development Department issued a Staff Report recommending to the Board of Commissioners approval of the application with conditions; and

WHEREAS, the Board of Commissioners held duly advertised public hearings on October 22 and October 23, 2025, and accepted written and verbal staff presentation, public testimony, and applicant testimony;

WHEREAS, at the conclusion of the October 23, 2025 hearing, the Board of Commissioners held the written record open until October 29, 2025; and

WHEREAS, the Board of Commissioners reconvened on November 4, 2025 and voted 2 to 1 to approve the application with conditions of approval

WHEREAS, on November 17, 2025, the Board of Commissioners reconvened to adopt written findings of fact and conclusions of law including conditions of approval;

WHEREAS, on December 5, 2025, opponents to the application filed a Notice of Intent to Appeal the Board of Commissioners' decision to the Land Use Board of Appeals;

WHEREAS, on December 16, 2025, the Board of Commissioners voted to withdraw its decision from LUBA for reconsideration;

WHEREAS, on January, 20, 2026, the Board of Commissioners voted to reopen the record to accept a DEQ Pre-Enforcement Notice Letter and to allow a series of open record periods for parties to submit testimony related to the DEQ Pre-Enforcement Notice and any new evidence submitted during the initial open record period. Applicant was given an opportunity to submit final written argument and rebuttal to the Notice and any new evidence submitted during the open record periods;

WHEREAS, on March 3, 2026, the Board of Commissioners reconvened to deliberate on its original decision, to consider the DEQ Notice, evidence and testimony in response thereto, and the February 24, 2026, staff report. The Board also considered the entire record of the Land Use file LU 24-027; and

WHEREAS, the Board of Commissioners voted 3 to 0 to deny the application and the adopt the findings and conclusions of the February 24, 2026, staff report.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDERS AS FOLLOWS:

A. The application for a Conditional Use Permit for the expansion of Coffin Butte Landfill south of Coffin Butte Road is hereby DENIED;

B. The findings of fact and conclusions of law set forth in Exhibit A are incorporated herein and made a part of this Order;

Adopted this 3rd day of March, 2026.

Signed this 3rd day of March, 2026.

BENTON COUNTY BOARD OF  
COMMISSIONERS



Pat Malone, Chair



Gabe Shephard, Commissioner



Nancy Wyse, Commissioner

Approved as to form:



Vance M. Croney, County Counsel



Planning Division

Office: (541) 766-6819

4500 SW Research Way  
Corvallis, OR 97333  
cd.bentoncountyor.gov

**STAFF REPORT**  
**BOARD OF COMMISSIONERS'**  
**RECONSIDERATION OF DECISION APPROVING**  
**CONDITIONAL USE PERMIT**

<b>NATURE OF REQUEST:</b>	<b>Conditional Use Permit to expand Coffin Butte Landfill.</b> Republic Services is proposing to expand existing landfill operations south of Coffin Butte Road, construct an 1,800 sq. ft. employee building with off-street parking, modify an access road, and relocate leachate activities, portions of a perimeter landfill road, an outbound scale, and construct a shop/maintenance area. The Applicant is also proposing to modify access roads North of Coffin Butte Road.
<b>APPLICABLE CODE CRITERIA:</b>	Benton County Code (BCC) Section 51.505, Sections 51.705 through 51.840, Sections 53.205 through 53.235, Section 55.005, Section 60.005, Section 61.005, Section 63.005, Chapter 77, Sections 87.200 through 87.230, Chapter 99.
<b>FILE NO.:</b>	LU-24-027
<b>PROJECT LOCATION:</b>	29175 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 801 28972 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1101 and Tax Lot 1108 29000 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1107 29160 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1200
<b>APPLICANT:</b>	<b>Republic Services</b>
<b>PROPERTY OWNER:</b>	<b>Valley Landfills Inc.</b>
<b>ZONE DESIGNATION:</b>	Landfill Site (LS), Forest Conservation (FC)
<b>COMPREHENSIVE PLAN DESIGNATION:</b>	Landfill Site, Forestry
<b>CAC PLANNING AREA:</b>	North Benton, not active
<b>STAFF CONTACT:</b>	Petra Schuetz, <a href="mailto:petra.schuetz@bentoncountyor.gov">petra.schuetz@bentoncountyor.gov</a>

**Summary of Staff Recommendation:** Denial relating to BCC 53.215(1) odor impacts on adjacent properties and character of the area, and purpose of the FC zone.

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## Executive Summary

Valley Landfills, represented by Jeffrey G. Condit of Miller Nash LLP, applied for a Conditional Use Permit to allow for expansion of the Coffin Butte Landfill (LU-24-027). This application was determined to be complete on January 15, 2025, and County Staff, including neutral third-party planning and engineering consultants, began review of the application.

### Planning Commission

#### **April 2025 Staff Report to Planning Commission**

Citing inadequate technical evidence relating to noise and odor impacts to uses on adjacent properties, County Staff initially recommended denial of LU-24-027 in the April 2025 Staff Report. The Applicant requested and was provided an extension of the review timeframe and prepared and submitted additional evidence responding to the Staff Report, public comments, and Planning Commission feedback.

#### **June 2025 Staff Report to Planning Commission**

Staff prepared a Supplemental Staff Report, issued on June 26, 2025 (“June 2025 Staff Report”), that incorporated the Applicant’s additional evidence, as well as extensive public comments. The June 2025 Staff Report ([Record ID. BC014 June 2025 Supplemental Staff Report](#)) found that the Applicant had responded to identified concerns with expert testimony and evidence, and recommended approval with conditions.

#### **Planning Commission Decision**

After an extensive hearings process, on July 30, 2025, the Planning Commission adopted a unanimous denial of LU-24-027, as documented in the Decision report and four Commissioner exhibits (‘Incorporated Findings’). The Commission found the Coffin Butte Landfill expansion failed to meet BCC 53.215 Conditional Use criteria (1) and (2), citing:

- Serious interference with adjacent uses and the area’s character,
- Serious interference due to odor, noise, litter, degraded air quality, groundwater impacts, and fire,
- Undue burdens on transportation, utilities, emergency services, and county code enforcement,
- Inconsistent compliance with past Conditions, and
- Inadequate proposed mitigations.

Commissioner exhibits further detailed environmental and safety risks, enforcement concerns, residential incompatibility, and long-term impacts of extended landfill operations. The full Planning Commission Decision is located at [Record ID. BC019 Planning Commission Decision](#).

### Board of Commissioners

#### **Appeal to Board of Commissioners (BOC)**

On August 12, 2025, Valley Landfills, represented by Jeffrey G. Condit of Miller Nash LLP, submitted an appeal challenging the Benton County Planning Commission’s denial of LU-24-027 and providing additional evidence relating to construction, noise, and groundwater impacts ([Record ID. BOC1\\_A0001 Appeal Submission](#)).

#### **October 2025 Staff Report to BOC**

The October 15, 2025 Staff Report to the BOC ([Record ID. BOC1\\_BC0004](#) & [BOC1\\_BC0005](#)) reviewed the Applicant’s submitted evidence, as well as additional public testimony received by October 7, 2025. Staff found

## EXHIBIT A

that the Applicant had responded to identified concerns with expert testimony and evidence, and recommended approval with conditions.

### **BOC November 2025 Decision**

After an extensive hearings process, on November 17, 2025, the BOC adopted a two-to-one approval of LU-24-027, as documented in the Decision order ([Record ID. BOC3 BC0015](#)), approval findings ([Record ID. BOC3 BC0013](#)), and detailed Conditions of Approval ([Record ID. BOC3 BC0014](#)).

### **DEQ November 2025 Pre-Enforcement Notification**

On November 6, 2025, the Oregon Department of Environmental Quality (DEQ) issued a public PEN (November DEQ PEN, [Record ID. BOC4 BC0022](#)) to the Applicant, which detailed

- A recent history of EPA inspections that found methane exceedances at the existing landfill and required corrective actions.
- The EPA's referral of the matter to DEQ in October 2025
- Notification of seven Class I violations related to air quality monitoring, gas control, and site operations
- Timelines for the Applicant to complete follow-up information and corrective action requests

The November DEQ PEN was issued after October 7, 2025. Therefore, it was not submitted to the BOC record and could not be considered in the BOC's November 3, 2025 deliberations or the November 17, 2025, adoption hearing.

### Board of Commissioners Reconsideration

Opponents filed a timely notice of intent to appeal the BOC approval to the Oregon Land Use Board of Appeals (LUBA) ([Record ID. BOC3 BC0018](#)). On December 16, 2025, the BOC voted to withdraw its decision for reconsideration ([Record ID. BOC3 BC0019](#)). On January 13, 2026, Planning Staff issued a Staff Report (prior to the scheduled January 20, 2026 hearing on reconsideration) that recommended that the BOC reopen the record to allow Staff to submit the November DEQ PEN letter into the record. Staff concluded that the letter might be relevant to applicable approval criteria, and recommended a responsive period for submission of evidence, testimony and argument related to the November DEQ PEN. On January 20, 2026, the BOC voted to reopen the record and allowed Planning Staff to submit the November DEQ PEN. The BOC established a seven-day open record for new evidence pertaining to the November DEQ PEN, a subsequent seven-day responsive record period, and a final seven days for final arguments from the Applicant.

In this February 2026 Staff Report, Staff's recommendation is based on the expertise of and review from:

- Independent third-party consulting planners, engineers, and legal counsel; as recommended in the BCTT process ([Record ID. BC015 Benton County Reviewing Consultants' Credentials, p. 119 – 161](#))
- County Staff from the Community Development Department, Public Works Department, and Special County Counsel
- Comments from government agency partners ([Record ID. BC015 Compiled Agency Comments, p. 38 – 111](#) & [BOC4 BC0023 January 2026 DEQ Statement](#))

**Staff finds that the November DEQ PEN calls into question some of the application's odor model assumptions, as further explained below, and further that the application does not provide sufficient analysis of adjacent odor-sensitive land uses such as the neighboring horse therapy business and residences to demonstrate that the landfill expansion will not seriously interfere with those uses on adjacent properties. Therefore, the Applicant has not met its burden of proof to show that the proposed use will not seriously interfere with adjacent land uses. Staff recommends denial of LU-24-027.**

## Issues Overview

This section summarizes some of the complex and controversial issues relating to review of this application. The purpose of this section is to provide an overview of Staff's approach to considering such issues in making these Findings. These issues include:

- Reliance on DEQ/EPA Regulations, Monitoring and Enforcement
- Adequacy and Number of Conditions of Approval
- Interpretation of Ambiguous Language in the BCC
- Context of Existing Use vs Proposed Expansion
- Long Range Planning and Policy
- Weighing of Evidence

### Reliance on DEQ/EPA Regulations, Monitoring and Enforcement

The Planning Commission (PC) concluded that Department of Environmental Quality (DEQ), and the Environmental Protection Agency (EPA) regulations, monitoring, and enforcement were inadequate to ensure the proposed expansion would meet DEQ and EPA standards and therefore BCC standards. Commissioner concerns included:

- Federal funding and political support for the agencies are unpredictable, and, therefore, state and federal agencies cannot be relied upon to monitor compliance with and enforce their regulations.
- DEQ and EPA lack the necessary expertise and standards to regulate potential impacts, such as impacts to air and water from PFAS (per- and polyfluoroalkyl substances).

As part of the established regulatory framework, DEQ and EPA are the sole authorities for regulating, monitoring, and enforcing state and federal environmental standards relating to air and water quality. The BCC does not include any provisions regulating air quality or water quality and water quantity. Benton County does not have the staff resources or expertise to evaluate whether a proposed conditional use complies with state and federal air and water quality standards. Staff's review is focused on evaluating landfill expansion impacts that are within the County's regulatory authority under the BCC and are not under the explicit regulatory and permitting authority of state and federal agencies.

The November DEQ PEN provides information that interacts with the Applicant's testimony in relation to County-regulated impacts on adjacent land uses – specifically serious interference with adjacent land uses from odor.

### Adequacy and Number of Conditions of Approval

The PC found that the recommended Conditions of Approval (COAs) (in the June 2025 Staff Report) were insufficient to ensure that the proposed expansion would comply with the relevant BCC standards. Commissioner concerns included:

- The number of conditions (83) was an indication that the standards were not met.
- The COAs lacked the specificity necessary to ensure proper monitoring and terms for enforcement.
- The COAs did not go far enough to alleviate their concerns.
- Given the County's code-enforcement funding limitations, monitoring the Applicant's compliance was infeasible.

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COAs are typical of Conditional Use applications (BCC 53.220) and are often numerous for large-scale projects. Conditions of Approval include both mitigating conditions to mitigate the effects of a proposed use to a non-impactful level, and post-approval ongoing performance requirements to ensure compliance with the approved permit. Staff's consideration focuses on COA content rather than quantity. PC discussion also included discussions about future property values or unplanned development near the subject site as well as franchise agreement and future tax-related topics. Staff finds that these issues are not within the scope of the BCC conditional use criteria.

Currently, County monitoring of Conditions for all approved conditional use permits relies on complaints, Applicant self-reporting, and, for landfill activities, DSAC Disposal Site Advisory Committee oversight. **Speculative and/or unadjudicated matters regarding compliance or lack of compliance with existing Conditions that apply to the existing landfill did not inform Staff's recommendation.**

In response to concerns about the lack of County funding for enforcing future Conditions related to the landfill, the Applicant proposed a Condition to reimburse the County for code enforcement related to the landfill and associated conditions. The Board evaluated costs for staff and third-party review and monitoring of conditions, and adopted a condition intended to cover expected County staffing and review costs.

### Interpretation of Ambiguous Language in the BCC

The PC decision provided new definitions of three terms used in conditional use criteria at BCC 53.215. The Commissioners decided that:

- “Seriously interfere” (BCC 53.215(1)) should have the same meaning as “significant impact,” as that phrase is used in ORS 215.296 relating to farm impacts from development on EFU land, and has been interpreted by the Oregon Supreme Court, rather than using the interpretation identified in the BCTT process.
- “Adjacent property” (BCC 53.215(1)) should be interpreted to encompass a much larger area extending to Adair Village, Independence, Arlie, Lewisburg, Philomath, North Albany, South Corvallis, and “rural unincorporated areas of Benton County”, rather than property sharing a lot line with – or across a right-of-way from – the properties which contain the landfill and its accessory uses.
- “Undue burden” (BCC 53.215(2)) should be interpreted to mean “A situation where a requirement or action is excessively difficult, costly, or impractical to fulfill, effectively preventing or significantly hindering someone from exercising a right or fulfilling an obligation”, rather than using the interpretation identified in the BCTT process.

The BCTT process included discussion of all of the above terms. Below, in the findings addressing BCC 53.215(1) and (2), Staff provided a summary and quotes from the BCTT discussion, as well as additional discussion of the terms in the context of the proposed application.

The county has the authority to interpret ambiguous terms in the BCC. Such an interpretation by the local governing body will be affirmed on appeal, unless it is inconsistent with the express language of the code provision or with other code provisions, the county's comprehensive plan or State law. A reviewing court will give ordinary words their ordinary meaning, with reference to *Websters Third New International Dictionary (2002)*, unless a different meaning is justified. Staff's interpretations of ambiguous language in the BCC is accompanied by consideration and reasoning to withstand potential appeal.

### Context of Existing Use vs Proposed Expansion

Some commenters and Planning Commissioners argued that the proposed landfill expansion application should be reviewed as a new use, without considering the existing landfill impacts as a baseline. However, evaluating an expansion of an existing use as an entirely new use would not be consistent with County practice. Staff reviewed this conditional use application as an expansion of the existing landfill. Thus, the existing landfill operations, as they have been previously approved by Benton County, are important context, and they form the “base case” from which potential impacts may be measured.

However, as indicated by the November DEQ PEN, DEQ and EPA take the position that the existing landfill is not operating consistently with DEQ requirements. This means that, for impacts related to violations identified in the November DEQ PEN, the county may not be able to consider existing conditions as a reliable base case for purposes of conditional use review.

### Construction impacts

The PC found that the Applicant had not sufficiently studied the proposed expansion’s potential impacts from construction activity and that testimony in the record included evidence that such impacts could “seriously interfere” with uses on adjacent properties. Commissioners were concerned that the construction traffic and blasting activities associated with construction could have serious transportation, noise, and groundwater impacts.

Staff finds that Benton County does not typically evaluate construction impacts in conditional use applications. The BCC requires evaluation of the impacts of the proposed use. Construction impacts are temporary, and case law holds that construction leading up to a proposed use is not part of the proposed use. Therefore, it is inappropriate to consider impacts from construction activities that lead to the proposed use being achieved.<sup>1</sup> Staff based its recommendation on the impacts of the landfill use upon implementation of the use.

### Long-Range Planning and Policy

The PC found that Benton County should have additional plans and policies related to the Coffin Butte Landfill. The Planning Commission’s concerns included:

- The County’s lack of a Sustainable Material Management Plan (SMMP) identifying waste-reduction and waste management alternatives.
- That Coffin Butte Landfill-specific fire risks are not considered in the County’s Community Wildfire Protection Plan (CWPP).
- The BCC does not include air quality, water quality, or noise regulations, leaving the County without policy or sufficient expertise to analyze these impacts internally.

Staff considers this to be general advice from the PC to the BOC, unrelated to any applicable approval criteria. Staff’s review of conditional use applications is focused on applicable Code standards adopted in BCC 53.215 and elsewhere in the BCC.

### Weighing of Evidence

The Applicant and their team, County Staff and third-party reviewers, and public testimony provided extensive evidence relating to potential impacts from the use and the proposal’s ability to meet BCC conditional use

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<sup>1</sup> See Cottrell Cmty. Planning Org. v. Multnomah Cnty., LUBA No. 2023-086 (Jan. 22, 2025)

## EXHIBIT A

requirements. However, the Planning Commission's decision in relation to some approval criteria did not provide a clear indication of which evidence the PC found more persuasive in making its decision.<sup>2</sup>

Staff recommends the BOC review the evidence presented and, during its deliberations, identify which evidence was more persuasive in coming to a final decision.

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<sup>2</sup> Proposed findings that included a discussion of “weighing of evidence” were removed from the final findings decision during the PC meeting to adopt the findings. See [July 29, 2025 PC Meeting Minutes](#); [Video recording](#) timestamps 20:52 and 1:13:15.

## I. FINDINGS OF FACT

1. The Coffin Butte Landfill site was established as a disposal site in 1948 as an open burning dump. It was on property formerly part of the Camp Adair U. S. Army post.
2. In 1974, it was designated as a regional solid waste disposal site in the Chemeketa Region Solid Waste Management Plan. This plan was a coordinated, multi-agency planning effort for waste disposal from Linn, Benton, Polk, Marion and Yamhill Counties.
3. A “Solid Waste Management Plan for Benton County” was approved by the Planning Commission in 1977.
4. The Coffin Butte Landfill site was zoned Forest Conservation until 1983. In 1983<sup>3</sup>, the Benton County Comprehensive Plan and the Zoning Map were amended to apply Landfill Site Comprehensive Plan Map designation and Landfill Site (Benton County Code Chapter 77) zoning to approximately 266 acres. The property owners were granted Conditional Use approvals in 1994<sup>4</sup>, 1997<sup>5</sup>, 2011<sup>6</sup>, 2013<sup>7</sup>, and 2015<sup>8</sup>.
5. In 2021, the property owners applied for Conditional Use Permit approval for a landfill expansion (local case file LU-21-047), which was recommended for approval by the Solid Waste Advisory Council (SWAC) but denied by the Benton County Planning Commission. In 2022, the Applicant appealed this denial to the Benton County Board of Commissioners (BOC) before withdrawing that appeal in favor of reserving the option to apply for another CUP in the future.
6. The BOC hired a consulting group in September 2022, to establish and facilitate a community workgroup, which established Findings and recommendations for processing future Conditional Use permits. The workgroup detailed its processes and findings in the Benton County Talks Trash (BCTT) report, which was transmitted to the BOC in April 2023.
7. In a July 2, 2024 order, the BOC delegated the landfill land use application review duties and responsibilities of SWAC to the Environmental and Natural Resources Advisory Committee (ENRAC)<sup>9</sup>. These duties and responsibilities are assigned in BCC 77.305 and charged the Committee to review and make recommendations to the Planning Commission regarding Landfill site development plans and narratives.
8. There are several substantial differences between this application and the Conditional Use proposal in 2021. Rather than proposing the closure of Coffin Butte Road, the Applicant now proposes widening a section of the road adjacent to the development site. As a result, the lifespan of the expanded landfill area will be six years (reduced from twelve), and the volume of waste disposed of will be halved. The

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<sup>3</sup> Local case file PC-83-07/L-83-7

<sup>4</sup> Local case file S-94-3, Approval of a 2.2 megawatt power generation facility on T10S, R4W, Section 18, Tax Lot 1100

<sup>5</sup> Local case file S-97-58, Approval to expand the generating capacity of the power generation facility

<sup>6</sup> Local case file LU-11-016, Approval for the construction of recycling and refuse transfer facility on T10S, R4W, Section 18, Tax Lot 801

<sup>7</sup> Local case file LU-13-061, approval to use [T10S, R4W, Section 18] Tax Lots 1101 & 1104 as a stockpile and staging area

<sup>8</sup> Local case file LU-15-001, approval to enhance a stormwater treatment facility on T10S, R6W, Section 13, Tax Lot 800

<sup>9</sup> Order #D2024-048

## EXHIBIT A

Applicant is no longer proposing that portions of the landfill's working face<sup>10</sup> or supporting infrastructure be located in any zone other than Landfill Site (LS) and Forest Conservation (FC).

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<sup>10</sup> In their application ([Record ID. BC016 Burden of Proof, p. 1 – 90](#)), the applicant states that, “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.” In their June 6, 2025 Cover Letter ([Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 115 - 128](#)), the applicant corrects, “The Applicant reviewed the testimony that the working face in recent history has been larger than the one-half acre previously estimated, and corrects the record to reflect that the current working face size is between approximately 1.5 and 2 acres. There is no regulation or requirement that limits the working face to a particular size.

## II. PROJECT DESCRIPTION

### Background

The “**subject property**” is 462 acres of land in unincorporated Benton County, approximately 6.5 miles north of Corvallis. It consists of 14 Tax Lots<sup>11</sup> owned and/or operated by the Applicant – Republic Services and Valley Landfills, Inc. on which there are existing or proposed landfill operations. The property includes Tax Lots within the County’s Landfill Site (LS), Forest Conservation (FC), and Exclusive Farm Use (EFU) zones.

Not including the Tax Lots where the development is proposed (the “development area”), the Applicant described the current land uses on the subject property as existing landfill areas and accessory uses. In addition to this general description, the Applicant identified a residential or vacant use and farm or forest uses on Tax Lot 104180001104 (in the FC zone), and a farm and open space use on Tax Lot 105130000902 (in the EFU zone).

The Applicant described the development area Tax Lots, and their current land uses as follows ([Record ID. BC016 Burden of Proof, p. 14 – 16](#)):

- **Tax Lot 104180000801**, approximately 89 acres – “[...] 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.”
- **Tax Lot 104180001101**, approximately four acres – “[...] 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.”
- **Tax Lot 104180001107**, approximately 59 acres – “[...] 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 abandoned but mapped Great Blue Heron rookery (#2683) in the northwest quadrant, along with a small area of Palustrine Emergent Wetland in the northeast corner.”
- **Tax Lot 104180001108**, approximately 29 acres – “[...] 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.”
- **Tax Lot 104180001200**, approximately 82 acres – “[...] 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 quadrant, along with Palustrine Emergent Wetland and Palustrine Forested Wetlands.”

The Applicant adds to their BOP ([Record ID. BC016 Burden of Proof, p. 17](#)) that row crops are also farmed on the 20 acres of this Tax Lot that is leased to Agri-Industries, Inc.

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<sup>11</sup> The proposed development work will take place on Tax Lots 104180000801, 104180001101, 104180001107, 104180001108, 104180001200. Additional Tax Lots on the subject property include 104180000301, 104180000900, 104180001000, 104180001104, 104180001106, 105130000900, 105130000901, 105130000902, and 105130001000.

## EXHIBIT A

The subject property is accessed by Coffin Butte Road, which intersects US Highway 99W to the east and Soap Creek Road to the west. Coffin Butte Road cuts east-west through the property and separates the existing landfill area from the only remaining land in this LS zone not yet used for landfill operations.

Adjacent properties<sup>12</sup> are owned by the Applicant, individuals, or state entities such as the Oregon State Game Commission and Oregon Department of Fish and Wildlife (ODFW).

### Proposal

The Applicant requests a Conditional Use Permit to expand existing landfill operations to **Tax Lot 104180001107**, south of Coffin Butte Road within the Landfill Site (LS) zone. The proposal also includes:

- **Tax Lot 104180001101** -Construction of an 1,800-square-foot employee building and off-street parking on a portion of the subject property zoned FC;
- **Tax Lot 104180000801** - Modifications to an access road located on a portion of the subject property zoned FC;
- **Tax Lot 104180001108** - Modifications to an access road; and
- **Tax Lot 104180001200** - Relocation of leachate ponds, loadout, sump, an outbound scale, portions of the perimeter landfill road, and a shop/maintenance building; and removal of existing landfill and leachate activities on the east side of the subject property within the FC zone.

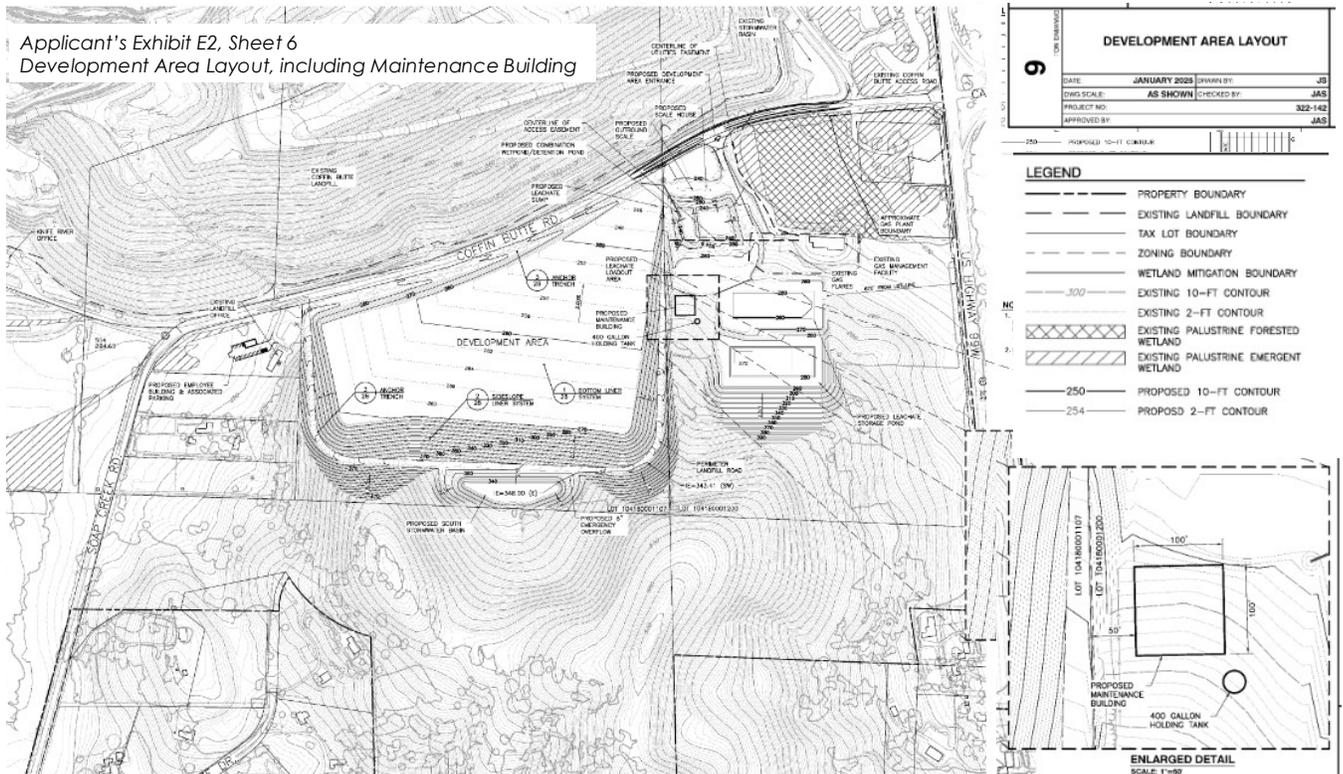
To avoid confusion on definitions of site and ownership, this Staff Report identifies the “**development area**” as the five Tax Lots<sup>13</sup> (264 total acres) of the subject property where the conditional use is proposed (Figure 2 and [Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 142 – 170](#)). The Applicant refers to the development area as the “Development Site” in their Burden of Proof.

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<sup>12</sup> See Section V findings for BCC 53.215(1) for a comprehensive description of the “adjacent property”.

<sup>13</sup> The proposed development work will take place on Tax Lots 801, 1101, 1107, 1108, 1200.

Figure 1. Development Area Map

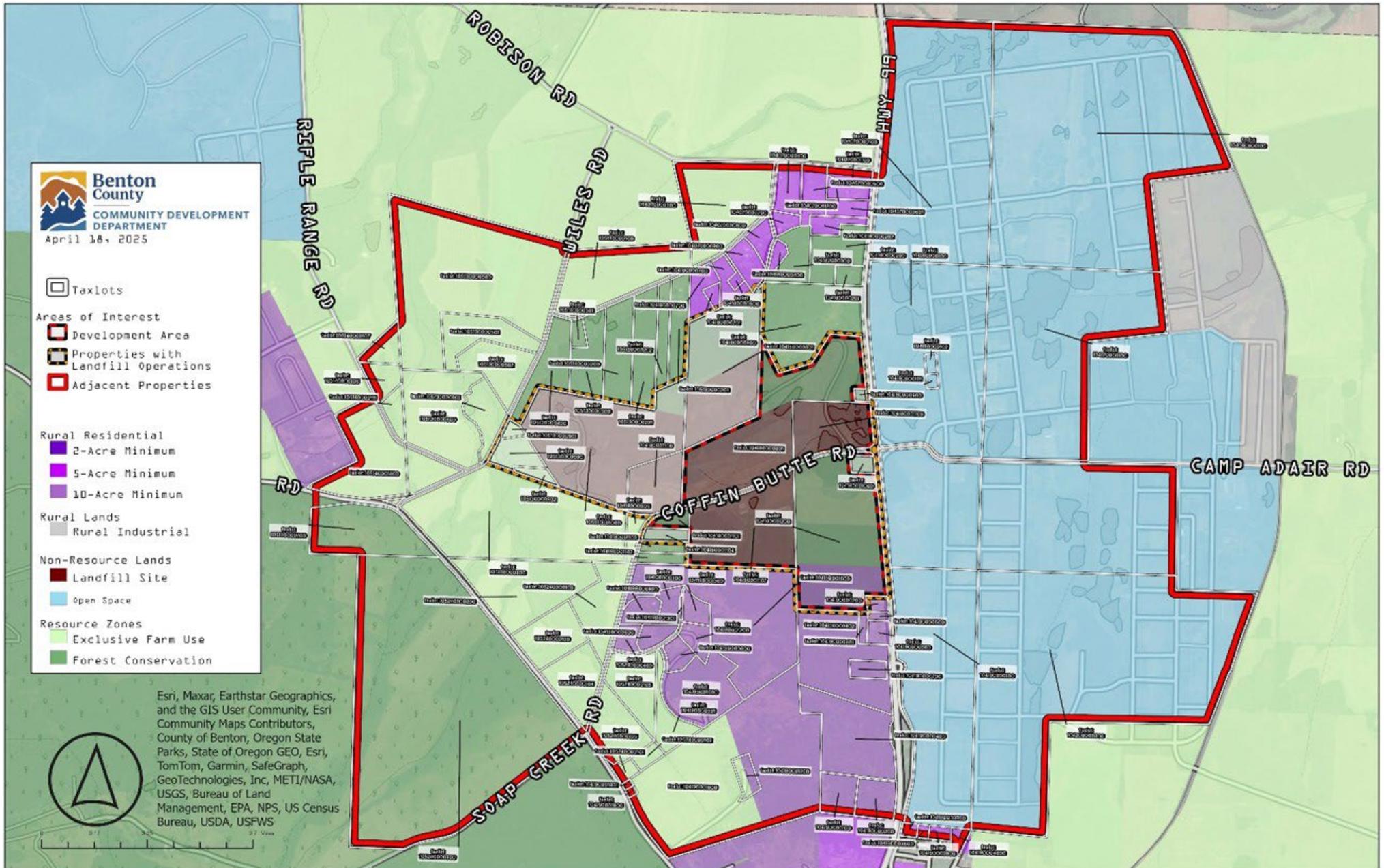


Regarding the phasing of disposal operations in the development area, the working face of the landfill will move from north of Coffin Butte Road to the Development site once it is ready for waste disposal operations. The working face area will be up to two acres (the same as the existing working face), and there will be only one working face operating at a time.

In the development area, neither the existing landfill areas nor the proposed expansion area are connected to sewer or domestic water service. Landfill construction and the bulk of landfill operations use water supplied by Adair Village. An existing office building and the proposed employee building are proposed to be served by two wells used for water production at the landfill. A septic system serves the existing office building, but the new employee building is proposed to be served by a holding tank rather than connected to the existing septic system. The new maintenance building will also be served by a holding tank, and potable water will be trucked in as there is not a well or other water source on site. As mentioned, the development area activities are accessed from Coffin Butte Road, classified as a Major Collector road.

EXHIBIT A

Subject Property and Adjacent Property Map (Record ID. BC015, p. 163)



### III. REVIEW PROCESS

As required by BCC Chapter 60 and 77, a Conditional Use permit is required for a landfill or its accessory uses in the Forest Conservation (FC) zone, and for the expansion of an existing landfill within the Landfill Site (LS) zone.

#### Planning Commission Decision

After numerous hearings and lengthy deliberation, the Planning Commission adopted its written Findings of Denial of LU-24-027 on July 30, 2025. Adopted Findings and conclusions are in the Planning Commission Decision report, as well as four exhibits that make up the ‘Incorporated Findings.’ The exhibits are written statements from Commissioners Fowler, Fulford, Lee, and Biscoe ([Record ID. BC019 Planning Commission Decision](#)) that were the opening statements the Commissioners read at the July 22, 2025, deliberations hearing.

In summary, the Planning Commission denied the Coffin Butte Landfill expansion application after concluding that the proposal did not satisfy BCC 53.215 Conditional Use criteria (1) and (2). The Commission found that the expansion would seriously interfere with adjacent property uses and the character of the surrounding area, citing concerns about odor, noise, litter, air quality, groundwater, and fire hazards. It also concluded that the project would place undue burdens on transportation, fire protection, water and wastewater systems, and county monitoring and enforcement capacity. Past Conditions of Approval were noted as not consistently addressed, and all proposed mitigation measures were viewed as insufficient to ensure compatibility or to manage potential impacts.

The Incorporated Findings expanded these conclusions. Collectively, the four Commissioners’ Incorporated Findings emphasized concerns with environmental impacts, fire and safety risks, noise and blasting, and enforcement challenges. They also pointed to compatibility issues with surrounding residential growth, unresolved compliance questions, and the implications of extending landfill operations for decades in relation to county climate and waste management goals.

On this basis, the Commission determined that the application did not meet the applicable standards and voted unanimously for denial.

When relevant and clearly tied to code criteria, Staff Findings include representative quotes from the Planning Commission decision throughout the findings in Section V of this Staff Report. The full PC Decision is available for review in [Record ID. BC019 Planning Commission Decision](#).

#### Appeal

On August 12, 2025, the Applicant filed a timely appeal of the Planning Commission decision, arguing that the decision “misconstrued the applicable law and did not appropriately weigh the evidence or adequately explain why it found certain evidence more credible or weighty than conflicting evidence in the record” ([Record ID. BOC1 A0001 Appeal Submission, p. 4 – 5](#)).

Benton County appeal procedures and requirements are codified in BCC Chapter 51.805 through 51.840. In accordance with the code, the Applicant’s appeal of the Planning Commission denial is resolved before the Board of Commissioners. The Board of Commissioners must affirm, reverse, or modify in whole or in part the decision that is under appeal.

## EXHIBIT A

### Board of Commissioners November Decision and Withdrawal for Reconsideration

After an extensive hearings process, on November 17, 2025, the BOC adopted a two-to-one approval of LU-24-027, as documented in the Decision order ([Record ID. BOC3 BC0015](#)), approval findings ([Record ID. BOC3 BC0013](#)), and Conditions of Approval ([Record ID. BOC3 BC0014](#)).

Opponents submitted a timely notice of intent to appeal the BOC approval to the Oregon Land Use Board of Appeals (LUBA) on December 5, 2025 ([Record ID. BOC3 BC0018](#)).

On December 16, 2025, the BOC decided to withdraw its decision for reconsideration ([Record ID. BOC3 BC0019](#)). On January 20, 2026, the BOC decided to reopen the record and allow Planning Staff to submit DEQ's November PEN. The BOC established a seven-day open record for new evidence pertaining to the DEQ PEN, a subsequent seven-day responsive record period, and a final seven days for final arguments from the Applicant<sup>14</sup>.

### Public Notice

The BOC hearing to reconsider its decision requires notice in accordance with BCC 51.835 and that notice was duly provided.

### Agency Review Opportunities

BCC 77.305 requires that the Benton County Environmental Health Division and the County's Solid Waste Advisory Council (SWAC) review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. This BCC provision is procedural and does not include any additional standards against which to measure the Site Development Plan Map and narrative.

The Environmental Health Division no longer administers the solid waste program for Benton County. That responsibility was transferred to the Community Development Department. Accordingly, the Environmental Health Division has not submitted any comments or recommendations. The OC delegated review and recommendation duty from SWAC to the County Environmental and Natural Resource Advisory Committee (ENRAC) through Order #D2024-048 in July of 2024. A recommendation letter from ENRAC was included with Staff evaluation in the June 2025 Staff Report.

On March 20, 2025, Benton County provided notice of the proposal to Oregon Department of Environmental Quality (DEQ), Oregon Department of Fish and Wildlife (ODFW), Oregon Department of State Lands (DSL), Oregon Department of Land Conservation and Development (DLCD), the Army Corps of Engineers, Adair Rural Fire District, Corvallis Fire Department, the City of Corvallis, and Adair Village. DLCD, the City of Corvallis, the Corvallis Fire Department, and the City of Adair Village did not comment on the application. Comments received from the remaining agencies are compiled in [Record ID. BC015 Compiled Agency Comments, p. 38 – 111](#) and Record ID. [BOC4 BC0023](#).

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<sup>14</sup> For additional detail, the county's special land use counsel entered into the record legal guidance regarding the BOC reconsideration on January 20, 2026 ([Record ID. BOC4 BC0020](#)) and February 2, 2026 ([Record ID. BOC4 BC0027](#)).

## IV. COMMENTS

Comments that addressed and applied to Benton County Code criteria contributed to the Board of Commissioner Findings.

### Agency Comments

During the open record period for the BOC reconsideration, Planning Staff entered into the record DEQ's Pre-Enforcement Notice (PEN) to the Applicant and a subsequent, related statement from DEQ to the county. As of February 3, 2026 (the close of the responsive record period), the County received no new responses from partner government agencies.

### DEQ

#### **November 2025 Pre-Enforcement Notice (PEN)**

Michael Eisele, PE, Environmental Engineer 3, Oregon Department of Environmental Quality (DEQ) – November 6, 2025

**Summary:** DEQ issued the PEN to the Applicant regarding landfill gas compliance issues. The notice summarizes the recent history of EPA inspections that found methane exceedances at the existing landfill and required corrective actions. The notice describes that, after reviewing records submitted by the Applicant, the EPA referred the matter to DEQ in October 2025.

DEQ found seven Class I violations (the most serious category) related to monitoring, gas control, and site operations. Generally, the violations included:

- Failure to conduct regular emissions and wellhead monitoring using proper procedures
- Failure to remonitor and take corrective action after methane exceedances
- Gas control systems were not designed to handle maximum expected flows, failure to amend the related design plan as required, and failure to operate the system continuously when gas is routed to it
- Failure to maintain landfill cover and inspect/repair it monthly to minimize gas leaks

The PEN included requested detailed records by November 26, 2025. DEQ also directed specific corrective actions by January 1 and February 1, 2026, respectively.

Finally, DEQ states that the PEN is not a final enforcement action but formally refers the matter to DEQ's Office of Compliance and Enforcement for a future enforcement order and possible civil penalties.

#### **January 2026 Statement to County**

Mary Camarata, Regional Solutions Coordinator, DEQ – January 16, 2026

**Summary:** The statement from DEQ responded to county staff's request for information regarding the timing of the November 6, 2025 PEN. DEQ stated that it issued the PEN to the Applicant as a result of EPA's formal referral of methane-related compliance concerns, not in response to the county's landfill expansion land-use process. The EPA had led Clean Air Act inspections and information requests at the landfill since 2022 under a national methane initiative, identified potential violations, and provided its findings and records to DEQ in mid-2025. After reviewing materials compiled by EPA over several years, DEQ issued the notice once the referral was finalized. DEQ further stated that it plays no role in county land-use approvals and that those decisions did not influence the timing of the PEN.

## EXHIBIT A

DOGAMI, ODFW, ENRAC, Adair Rural Fire District, and ODOT comments were included in the June 2025 Staff Report and compiled as an exhibit ([Record ID. BC015 Compiled Agency Comments, p. 38 – 111](#)).

### DOGAMI

Melissa Carley, Aggregate Permitting Reclamationist, Oregon Department of Geology and Mineral Industries – (MLRR) and DOGAMI, April 9, 2025

“DOGAMI has no comments on the proposed Land Use Application.”

### ODFW

Joe Stack, Regional Habitat Biologist, South Willamette Watershed, Oregon Department of Fish and Wildlife (ODFW) April 11, 2025

#### **Summary:**

On April 11, 2025, Joe Stack, Regional Habitat Biologist for the Oregon Department of Fish and Wildlife (ODFW), submitted comments regarding the proposed expansion of the landfill. He identified two documented Great Blue Heron rookeries on the subject property — one on tax lot 1107 (western rookery) and one on tax lot 1200 (eastern rookery) — as sensitive habitats subject to protection under Benton County Code (BCC 87 - Goal 5 Resources) and ODFW’s Fish and Wildlife Habitat Mitigation Policy (OAR 635-415). Staff recommended that if either rookery is determined to be active, the Applicant coordinate with ODFW to develop a mitigation plan that includes a 300-foot buffer and construction restrictions during the nesting season (February 15 – July 31).

Following review of the Applicant’s Wildlife Habitat Assessment ([Record ID. BC016 Wildlife habitat assessment and surveys \(Exhibit E4\), p. 186 – 286](#)), Stack submitted revised comments on April 18, 2025. He noted that the eastern rookery exhibited nesting activity in 2022 and, under the Forest Practices Act, remains classified as active. While he acknowledged the Applicant’s proposed protection measures as appropriate, Stack advised that additional survey efforts may be necessary to confirm the current status of the rookery. He further recommended coordination with the Oregon Department of Forestry to ensure compliance with relevant habitat protection standards.

Staff responds to the issue of the Great Blue Heron rookeries and Goal 5 resources in the CHAPTER 87 section of this Staff Report.

### ENRAC

Jason Schindler, Chair, Benton County Environmental and Natural Resource Advisory Committee (ENRAC), April 16, 2025

#### **Summary and Response:**

On April 16, 2025, ENRAC Chair Jason Schindler submitted a letter stating that ENRAC recommends that the Planning Commission deny LU-24-027. Furthermore, the letter includes a list of the major topics that informed the ENRAC recommendation. These topics broadly included air pollution, methane emissions, water pollution, leachate, impact to nearby residents and community, economics, and regional impacts and coordination. Citing that the existing landfill already has an overestimated lifespan, ENRAC urged that end-of-life planning and closure strategies be addressed before any expansion is approved.

Finally, the ENRAC Chair refers to an attached report, which includes supplemental documentation and statements or comments from individual ENRAC members.

## EXHIBIT A

The ENRAC recommendation for denial did not include discussion of potential Conditions of Approval<sup>15</sup>.

### Adair Rural Fire Protection District

Aaron Harris, Fire Chief, Adair Rural Fire Protection District, April 21, 2025

#### **Summary:**

On April 21, 2025, Fire Chief Aaron C. Harris of the Adair Rural Fire Protection District submitted testimony recommending denial of land use application LU-24-027, citing concerns related to the proposed landfill expansion. Chief Harris outlined four primary issues: potential reductions in property tax revenue due to decreased property values near the landfill; increased traffic and associated emergency response demands; elevated fire risk tied to methane emissions, including findings from a current EPA investigation; and long-term challenges to sustaining a volunteer-based fire department.

Staff responds to the issues surrounding fire risks in the CHAPTER 53 and CHAPTER 60 sections of this Staff Report.

### ODOT Region 2

Arielle Childress, Traffic Analysis Engineer – ODOT Region 2

On May 13, 2025, ODOT submitted a letter stating that ODOT had no comments on the application.

### Public Comments

The public comment period for this reconsideration began when the BOC reopened the record period on January 20, 2026, accepting Planning Staff's recommendation to include the November 2025 DEQ PEN, and providing the opportunity for persons to respond to that evidence.

Members of the public were able to provide written testimony through an online form, email, an upload site for media files, postal mail, or hand delivery. Since the comment period began, Commissioners and the public have had access to public entries. County Staff uploaded new testimony every weekday onto an online platform under the County domain. The County web page, which is active as of the writing of this Staff Report, hosts the LU-24-027 Planning Commission, BOC, and BOC reconsideration record.

Staff reviewed all submissions from the public, searching for potentially relevant evidence, argument and testimony regarding the DEQ PEN as it relates to applicable approval criteria. As of February 3, 2026, the County received 153 new submissions from members of the public<sup>16</sup>. In summation, the overarching topics included:

- DEQ PEN information requests and corrective actions
- Credibility of the Applicant's submitted studies, reporting, monitoring, and operations
- November 2025, Board decision to approve with conditions
- Procedure for reconsideration and BOC ex-parte contacts
- Air pollution
- Water pollution
- Health risks
- Fire risks

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<sup>15</sup> In the attached notes ("ENRAC Deliberations for CUP Expansion Application"), individual committee members used a work sheet to note their thoughts on potential conditions of approval (COAs). However, as stated at the beginning of the document regarding these notes, "No effort was made to aggregate language or find consensus per topic."

<sup>16</sup> This number is not exclusively submissions that pertain to the November 2025 DEQ PEN. This is the total submissions that the county received through the approved means of submission during the open record and responsive record periods.

## EXHIBIT A

- Local climate, weather patterns, and geography as they pertain to odor
- Recent odor complaints

While many public submissions were not directly relevant or responsive to the DEQ PEN, others presented compelling arguments that mirror those which the Staff presents in this Staff Report. Staff Findings do not rely on, nor include summaries or quotes from, specific opposition testimony from the reconsideration record. The DEQ PEN caused Staff to review previous opponent record submissions and Staff finds sufficient evidence therein to support the recommendation for denial.

Staff previously quoted or summarized opponent testimony in the October 2025 and June 2025 Staff Reports, citations for which are compiled in Section IX. Previously cited opponent testimony met one or more of the following criteria.

- The testimony presented a clear argument linking the concerns to the application and applicable code standards;
- Supporting evidence was provided to substantiate the claims made;
- The testimony originated from property owners or residents located adjacent to the subject property; or
- The Applicant referenced the comments directly in their responses;

## V. CONDITIONAL USE

### Relevant Code Chapters

The relevant requirements and standards for the proposed landfill expansion are in the following chapters of the Benton County Code (BCC):

- BCC 51 Development Code Administration
- BCC 53 General Review Criteria and Procedures
- BCC 55 Exclusive Farm Use Zone (EFU)
- BCC 60 Forest Conservation Zone (FC)
- BCC 61 Open Space Zone (OS)
- BCC 63 Rural Residential Zone (RR)
- BCC 77 Landfill Site Zone (LS)
- BCC 87 Goal 5 Resources
- BCC 99 General Development Standards

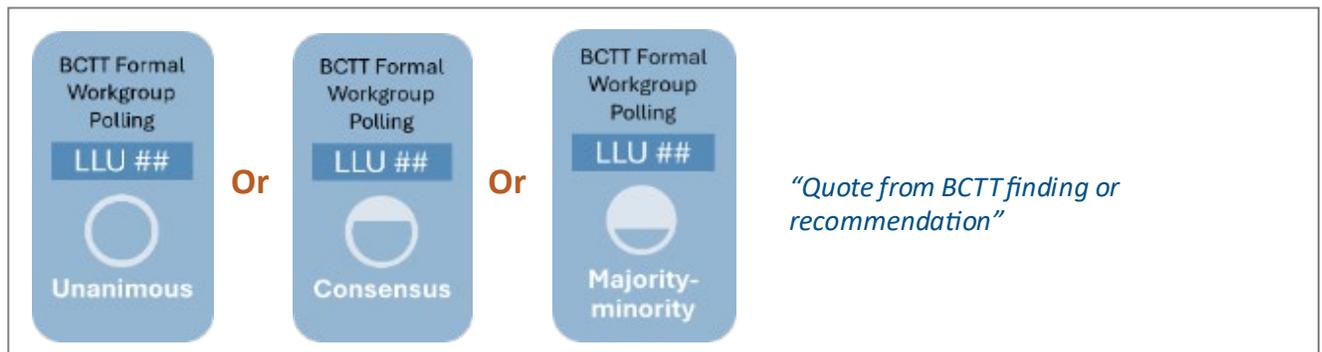
Section V., Conditional Use is the substantive focus of this Staff Report and addresses BCC Chapter 53 Conditional Use criteria – the primary criteria under debate in this appeal. In Section V, the findings evaluate the Applicant’s submission, including new information and materials, as well as testimony from the public and commenting agencies.

Any code standards not covered in Section V. contain findings for BCC Chapters 60, 77, 87, and 99, which have not significantly changed, aside from the removal of proposed Conditions of Approval in this Staff Report and references to staff recommendation for denial. These standards and findings are contained in Section VI.

### Understanding How This Report Uses the Benton County Talks Trash (BCTT) Report

Staff included Findings and recommendations from the 2021 Benton County Talks Trash (BCTT) report as supplemental guidance regarding code interpretations. The BCTT Legal Issues and Land Use Review Subcommittee’s findings and recommendations are the result of subcommittee member polling and are accompanied by more comprehensive discussions within the BCTT report. As shown in the example in **Figure 1**, when BCTT findings are referenced within this report, they will include the polling reference number (beginning with “F-” for findings and “R-” for recommendations), the results of each finding (e.g. “unanimous”, “consensus”, “majority-minority”), and relevant quotations.

Figure 2. Example BCTT Findings Result Graphic



## Key to Reading Findings

*Text in italics within this Staff Report is quoted from the Benton County Code (BCC).*

In response, **Staff Response, Planning** achieve the following:

1. Identify the approval standards, which are cited in the section above;
2. Set out the facts relied upon to meet the standard(s);
3. Explain how those facts do or do not lead to compliance with the standard(s); and
4. Show evidence that, when viewed as a whole, would permit a reasonable person to make that finding.

The Applicant has the burden of proof to show, by a preponderance of the evidence, compliance with the relevant requirements and standards, and the Applicant provided responses to standards in their narrative submittal, titled “Burden of Proof” (BOP – [Record ID. BC016 Burden of Proof, p. 1 – 90](#)) and supplemental material.

Quotes or summaries of materials provided by the Applicant appear under the sub-heading “Applicant Response” and quotes or summaries of issues identified by opponents appear under the sub-heading “Opponent Testimony”.

Each of the Findings start with a “**Pre-Planning Commission Decision, evidence cited by Staff**” section, where citations refer to Applicant responses, agency comments, and opponent testimony that Staff previously mentioned in the June 2025 Staff Report.

This Staff Report also includes a sub-heading for “Planning Commission Decision” that provides PC findings that are relevant and clearly tied to code criteria. **Where the Findings include a string of quotations, they always appear in chronological order.**

These are followed by a final sub-heading called “County Response”. Where relevant, the County Responses begin with Staff Responses from Benton County departments or third-party consultants that provided technical responses (e.g. “Public Works”, “Kellar Engineering”, “Maul Foster & Alongi (MFA)”, or “Planning”). The final County Response will always be “**Staff Response, Planning**”.

**References to the record.** Applicant submissions, agency comments, public testimony, and Benton County material make up the record, which was open during the PC review process, again for the initial BOC review, and once more for the BOC reconsideration. Throughout the findings in this Staff Report, material are cited with a “Record ID” consistent with County records. An index of the material referenced in this Staff Report, and the respective Record IDs, are located in Section IX. Items submitted to the record will be available on the Benton County web page<sup>17</sup> for at least the duration of the BOC reconsideration hearing process.

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<sup>17</sup> <https://www.bentoncountyor.gov/lu-24-027-proposed-coffin-butte-landfill-expansion/>

CHAPTER 53 - GENERAL REVIEW CRITERIA AND PROCEDURES – CONDITIONAL USE

## CONDITIONAL USES

A conditional use permit is required for a landfill expansion in the LS zone and landfill use in the FC zone. The BCC Chapter 53 includes details of the requirements and criteria for an approved conditional use application.

*53.210 Permit Required. 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.*

**Staff Response, Planning:**

As stated in this standard, Benton County decision-makers must employ discretion when determining whether the Applicant meets the following requirements to receive a conditional use permit. Because the conditional use criteria contain words with a degree of ambiguity, analysis of the language is necessary before discussing how the text applies to the proposal. Generally, ambiguous terminology is to be interpreted by the text used, then the context, and then the legislative history.

In 2021, the BCTT LLU Subcommittee reviewed the BCC conditional use requirements for a landfill expansion and provided findings regarding their meaning, history, and typical practices. Direct quotes are located within text boxes. Regarding the first criterion (BCC 53.213.1) below, the subcommittee reviewed Staff-provided materials from the previous 25 years of Benton County conditional use-legislative history and presented summaries of their findings. Staff have used BCTT formal workgroup findings regarding these summaries (LLU F-9a – c) to inform this analysis.

In the Applicant’s September 12, 2025 memorandum on code interpretation ([Record ID. BOC1 A0003 Code Interpretation Memorandum from Miller Nash \(Exhibit E66\), p. 2](#)), Jeffrey Condit, the Applicant’s consultant land use legal representative, states:

“To determine the meaning of an enactment, a court applies the framework for statutory construction established in *PGE v. Bureau of Labor and Indus.*, 317 Or 606, 610-12, 859 P2d 1143 (1993) and *State v. Gaines*, 346 Or 160, 171-73, 206 P3d 1042 (2009). Under the PGE/Gaines framework, a court construes a statute based on its text, its context in the statutory scheme, and its legislative history. PGE and Gaines involve the construction of state statutes, but the courts have ruled that the same framework applies to construction of local enactments. See *Church v. Grant Cnty.*, 187 Or App 518, 527 n.4, 69 P3d 759 (2003), citing *Lincoln Loan Co. v. City of Portland*, 317 Or 192, 199, 855 P2d 151 (1993). Absent a special definition of a specific term used in enactment, the courts ordinarily resort to the dictionary definitions, assuming that the legislature (or, in this case, the Board) meant to use a word of common usage in its ordinary sense. Webster’s Third New International Dictionary of the English Language Unabridged, Merriam-Webster Inc., Publishers, Springfield, Massachusetts, USA (“Webster’s”) is the preferred dictionary of Oregon courts in such circumstance.

The Applicant analyzed BCC 53.215 in Section III of its Burden of Proof using this framework, relying on Webster’s to construe terms such as “adjacent” and relying on the historical interpretation of terms such as “seriously interfere” and “undue burden” as analyzed by Benton County Staff during the Benton County Talks Trash (“BCTT”) process. Benton County’s independent consultants concurred with this interpretation in the initial and amended Staff reports. The Planning Commission decision ignored these analyses and failed to offer a reasonable alternative interpretation. [...]

Comments from certain members of the Planning Commission suggested that they believed that they had unbridled discretion to interpret the code. That is error. The Commission’s

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interpretation of the Code must be consistent with the PGE/Gaines framework, and a planning commission’s decision is not entitled to deference on appeal. See *Gould v. Deschutes Cnty.*, 233 Or App 623, 227 P3d 758 (2010).

As the County governing body, the Board’s interpretation of its own enactments is entitled to deference under Oregon law. See *Siporen v. City of Medford*, 349 Or 247, 243 P3d 776 (2010). In order for deference to apply, however, the underlying criterion must be ambiguous or in conflict with another provision, and the governing body’s interpretation has to be plausible. Plausibility is determined in the context of the PGE/Gaines analysis and prior interpretations.

See, e.g., *Central Eastside Indus. Council v. City of Portland*, 74 Or LUBA 221 (2016). The Board has no authority to repeal provisions in the Comprehensive Plan and Development Code by interpretation.”

Staff concurs with the Applicant’s statement above. Staff considers these interpretations both understandable and legally defensible and can be used to effectively support a decision to Approve or Deny the application.

### 53.215 Criteria.

*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;*

#### Meaning of “Seriously interfere”

As discussed in Issues Overview (Interpretation of Ambiguous Language in the BCC) and immediately above in Staff Findings relating to discretionary language, interpretation of ambiguous language is critical to reviewing the application against code criteria.

The first important term used in BCC 53.215(1) relates to the meaning of the words “seriously interfere”. The Applicant developed their application narrative and evidence based on guidance from the BCTT Workgroup related directly to this term (BCTT LLU F-9a):

BCTT Formal  
Workgroup  
Polling

LLU F-9a

Unanimous

*“[...] In applying the term “seriously interfere”, Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered factors such as: does the proposed use make it difficult to continue uses on the adjacent property; would it create significant disruption to the character of the area; would it conflict, in a substantive way, with the purpose of the zone. [...] In the past, ‘seriously interfere’ has generally been applied as meaning more than an inconvenience or irritation but is a lesser threshold than rendering the uses on adjacent property impossible. Speculated effect on property values has not been a primary consideration in determining serious interference. [...]”*

In the June 2025 Staff Report, Staff concurred with this definition and prepared Staff findings in response to this definition.

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However, an attorney representing opposition to this application disagreed with using the BCTT definition, and the Planning Commission decision defined the words “seriously interfere” to mean “significant impact”. Relevant arguments presented by the Applicant and opposition are linked below.

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 25](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1618 – 1622](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 379 – 381](#))

Planning Commission Decision (Record ID. BC019 Planning Commission Decision, p. 4):

“As a preliminary matter, the planning commission interprets the word “seriously” in the phrase “seriously interfere” in BCC 53.215(1) to be synonymous with the phrase “significant” as discussed in *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341, 359 (2015):

“Because the term ‘significant’ is undefined, and of common usage, it is permissible to consult dictionary definitions. The most pertinent definition of ‘significant’ in Webster’s Third New International Dictionary (2002), 2116, appears to be ‘3 a: having or likely to have influence or effect : deserving to be considered[.]’ Because ORS 215.296(1) is framed in the negative (the Applicant must demonstrate that the proposed use ‘will not’ force a significant change, etc.), it seems appropriate to consider related antonyms such as the term ‘insignificant,’ which Webster’s defines in relevant part as ‘e: of little size or importance[.]’ Id. at 1169.”

Therefore, when the word seriously is used in these findings it means significantly and vice versa.”

### **Staff Response, Planning:**

Staff find that the language that Applicant used in their application materials is consistent with Staff’s understanding and matches that from the BCTT finding regarding the legislative history of the phrase.

Proposed development occurs in two zones: the LS Zone and the FC Zone. The Farm Impacts test applies to a conditional use in farm and forest zones. Under OAR 660-006-0025(4)(d), the proposed development in the FC zone is required to satisfy OAR 660-006-0025(5), which is identical to the Farm Impacts test in ORS 215.296. These rules are implemented in BCC 60.220. The Applicant proposes some development within the FC zone including an employee building and leachate ponds. For the proposed development in the FC zone, the Applicant is required to satisfy the Farm Impacts test.

Both Applicant and opposition testimony folded FC zone impact analysis into the overall proposed expansion. Due to this conflation, Staff noted in the April 2025 Staff Report that FC Zone standards were not met, because LS zone standards (noise and odor impacts on adjacent uses) were not met. Findings related to FC Zone standards are presented in the review of BCC Chapter 60 in this Staff Report.

However, the Farm Impacts test does not apply to development proposed in the LS zone. BCC 53.215(1) applies. The meaning of the phrase “seriously interfere” is a matter of local law, and the county is not bound to interpret the phrase to be synonymous with or apply the Farm Impacts test to the proposed development in the LS zone. Staff agrees with the Applicant that the words used (“seriously interfere”) in the LS Zone are different than the standard farm and forest impacts test language, derived directly from ORS 215.296, that applies to the FC Zone. Staff does not agree that the words used in LS Zone should be interpreted to mean the same thing as different words used in the FC Zone. Staff finds LS Zone conditional use requirements related to “seriously interfere” consistent with BCTT finding LLU F-9a quoted above.

## EXHIBIT A

### Meaning of “Adjacent property”

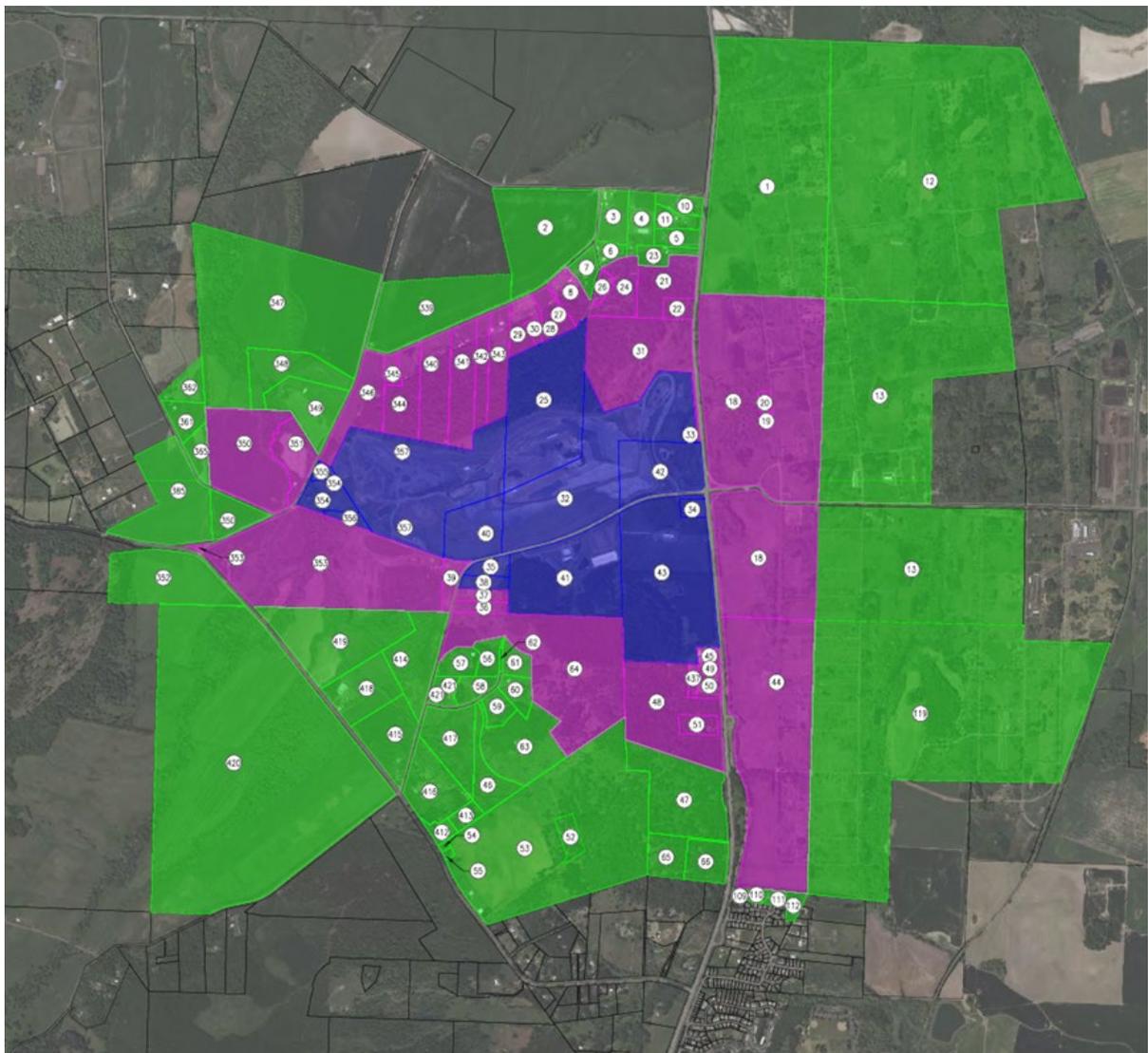
As discussed in Issues Overview (Interpretation of Ambiguous Language in the BCC) and above in Staff Findings relating to discretionary language, Staff’s interpretation of relevant criteria is critical to reviewing the application against code criteria.

The second important term used in BCC 53.215(1) relates to the meaning of the words “adjacent property”. This term was not addressed in the BCTT. The Applicant applied a definition from Webster’s Third New International Dictionary:

“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.)

Applicant prepared a map of “Adjacent and Nearby Properties”, defining “adjacent” as properties directly abutting tax lots with existing and proposed landfill operations, and “nearby” as properties abutting “adjacent” properties. See Applicant testimony cited below.

Figure 3. Applicant’s Map of Adjacent and Nearby Properties ([Record ID. BC016, p. 813-815](#))



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In the June 2025 Staff Report, Staff concurred with using the Webster's definition, but included as "adjacent" for the purpose of review all of the properties the Applicant identified as "adjacent" and "nearby". Staff prepared findings in response to this definition. See Figure 3 in this Staff Report.

However, an attorney representing opposition to this application disagreed with the extent of "adjacent" properties under review, and the Planning Commission decision redefined the words "adjacent properties" to include properties over 10 miles away from the proposed landfill expansion (e.g., Philomath, Independence). Relevant arguments presented by the Applicant and opposition are linked below.

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- Meaning of "adjacent" ([Record ID. BC016 Burden of Proof, p. 25](#))
- Description of the uses on "adjacent and nearby" properties ([Record ID. BC016 Burden of Proof, p. 26 – 28](#))
- [Record ID. BC016 Map and list of adjacent and nearby properties \(Exhibit E8\), p. 813 – 815](#)
- [Record ID. BC016 Benton County business database \(Exhibit E34\), p. 1523 – 1616](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1619](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 381](#))

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 27, 31](#)):

"Adjacent properties" for the purpose of this hearing related to criteria found in BCC 53.215, has been determined to far exceed the immediately adjacent by "shared property lines" property owners, with documented risks and impacts as far as North Albany, Airlie, Independence in Polk County, South Corvallis, Lewisburg, Philomath, and rural unincorporated areas of Benton County.

[...]

The "adjacent properties" in the past, often identified as sharing property lines with the landfill buffer zones and drawn by a line on a map, have now become Adair Village, Independence, Airlie, Lewisburg, South Corvallis and more, reporting landfill odors and other impacts of landfill operations. "Adjacent properties" has now become a regional definition and no longer a linear definition."

Applicant Response ([Record ID. BOC1\\_A0003 Code Interpretation Memorandum from Miller Nash \(Exhibit E66\), p. 2](#)):

"One of the Commissioners suggested during deliberations that "adjacent property" should include land in the surrounding counties. This ignores the dictionary definition of "adjacent" and ignores the context in BCC 53.215 that distinguishes between impacts on "adjacent property" and the character of the "area." In addition, it fails to articulate an alternative definition of adjacent, as a decisionmaker is required to do. See *Wilson Park Neigh. Ass'n v. City of Portland*, 24 Or LUBA 98, 101-02 (1992), aff'd, 117 Or App 620, rev denied, 316 Or 142 (1993)."

**Staff Response, Planning:**

Staff concurs with all parties that “adjacent property” is not defined in the code, and that the dictionary definition of “adjacent” provided by the Applicant indicates properties both touching and nearby the subject property would reasonably meet this definition. Staff also notes that “adjacent” would typically mean “abutting” for land use review purposes. Due to area ownership patterns and scale of the proposed development, an inclusive definition of “adjacent” is merited. Consistent with that view, Staff has evaluated properties identified as “nearby” as well as properties identified as “adjacent” in review of this standard.

Evaluation of impacts on “adjacent” properties includes all the properties identified as “adjacent” (purple) or “nearby” (green) in Figure 3 above. (Figure 1 of [Record ID. BC016 Burden of Proof, p. 26](#) (as well as in [Record ID. BC016 Map and list of adjacent and nearby properties \(Exhibit E8\), p. 813 - 815](#))). Staff concludes that this inclusive definition is sufficient to capture the intent of a code standard that evaluates impact on “adjacent” properties. As of the writing of this February 2026 Staff Report, the County received comments from seventeen addresses within the “adjacent” area (including during the PC review and since then); these are identified below in Table 0-1.

Staff finds that evaluation of impacts on “adjacent” properties be limited to properties identified as abutting the landfill site, as well as properties abutting those properties. This provides an area sufficiently inclusive to address the code standard consistent with what Staff would consider a reasonable interpretation of “adjacent”.

As noted by the Applicant above, BCC 53.215(1) also requires evaluation of serious interference with the “character of the area”. A “character of the area” evaluation extends to a significantly larger area and is addressed separately in analysis and findings in this and previous Staff Reports.

Adjacent Property Owner or Resident Comments:

Staff previously quoted or summarized adjacent testimony in the October 2025 and June 2025 Staff Reports, citations for which are compiled in Section IX.

As of February 3, 2026 (close of the BOC reconsideration responsive record period), the County received and reviewed additional comments from residents or owners of five adjacent properties. Staff Findings do not rely on this testimony or include summaries or quotes from this testimony because:

- Testimony could not be considered sufficiently relevant or responsive for the limited scope of the open record; and
- The DEQ PEN caused Staff to review previous adjacent record submissions and Staff finds sufficient evidence therein to support the recommendation for denial.

Testimony from adjacent properties reported ongoing visual, odor, and noise impacts from existing operations and expressed concern that the proposed expansion would worsen these conditions.

Key issues raised throughout adjacent owner and resident testimony include:

- **Air and Water Quality:** Alleged fugitive methane emissions, potential groundwater and well contamination from leachate, and lack of a County reserve fund for leachate management.
- **Construction Impacts:** Concerns that excavation and blasting affect groundwater flow, noise levels, and property damage.
- **Operational Impacts:** Ongoing issues with odor, noise, litter, and fire risks from regular landfill activities.

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- **Procedural Issues:** Claims that County oversight and Applicant analyses are inadequate or based on non-conservative assumptions.

Residents testified that the proposed expansion would likely increase existing environmental and livability impacts.

Table 0-1 . Comments received from owners or renters of adjacent property

RECORD ID	NAME	TLID
<b>Pre-Planning Commission Decision</b>		
<a href="#">BC015 p. 167 – 180</a>	E. and L. Bradley	104190000200
<a href="#">BC015 p. 181 – 186</a>	J. Searls	104190000401
<a href="#">BC015 p. 187 – 316</a>	J. Geier	104190000500
<a href="#">BC015 p. 317 – 320</a>	C. and P. Merrill	104190000600
<a href="#">BC015 p. 321 – 327</a>	J. and P. Morrell	104190000700
<a href="#">BC015 p. 328 – 329</a>	R. Wilson	104190001800
<a href="#">BC015 p. 330 – 334</a>	G. Carlin	10419B000400
<a href="#">BC015 p. 335 – 336</a>	L. A. Davis	10419B000500
<a href="#">BC015 p. 337 – 339</a>	I. Finn	10419B001300
<a href="#">BC015 p. 349 – 346</a>	A., C., and R. Holdorf	10419B001500
<a href="#">BC015 p. 347 – 353</a>	D. Hackleman	105130000200
<a href="#">BC015 p. 354 – 360</a>	B. Briskey	105130000400
<a href="#">BC015 p. 361 – 363</a>	D. and N. Johnson	105240000101
<a href="#">BC015 p. 364 – 365</a>	G. Lind Flak	105240000400
<b>Response to Appeal</b>		
<a href="#">BOC1 T0099</a>	R. Holdorf	10419B001500
<a href="#">BOC1 T0146</a> & <a href="#">BOC1 T0147</a>	J. and T. Morrell	104190000700
<a href="#">BOC1 T0152</a>	B. Briskey	105130000400
<a href="#">BOC1 T0155</a>	L. A. Davis	10419B000500
<a href="#">BOC1 T0173</a> & <a href="#">BOC1 T0174</a>	Ri. and Ro. Kipper	104190000402 & 104190000400
<a href="#">BOC1 T0196</a>	K. and S. Edwardsson	104190001800
<a href="#">BOC1 T0215</a>	J. Geier	104190000500

### Potential impacts on uses of adjacent property

The county received comments identifying nine general categories of impacts on adjacent properties:

- Noise
- Odor
- Traffic
- Water Quality and Well Water
- Visual Impacts
- Litter
- Fire Risk
- Wildlife
- Air Quality

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Each of these categories are discussed below. Each impact section begins with links to Applicant testimony and evidence, followed by links to adjacent property owner and opposition attorney testimony evaluated in the June 2025 Staff Report to the Planning Commission.

These links are followed by summaries of Applicant testimony provided in final rebuttal to the Planning Commission, then the Planning Commission decision, then summaries of Applicant testimony provided in their appeal package to the BOC. Comments from the county's third-party engineers, and the applicant's testimony relating to the reconsideration process, are then quoted or summarized.

Finally, Staff provides findings in response to the evidence presented by all of the above.

### Noise

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- Original response to this criterion ([Record ID. BC016 Burden of Proof, p. 34 – 36](#))
- Original noise analysis ([Record ID. BC016 Noise study \(Exhibit E11\), p. 820 – 851](#))
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 116](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1619 – 1620](#)
- [Record ID. BC016 Response to VNEQS Odor Comments \(Exhibit E53\), p. 2250 – 2251](#)

Adjacent Property Owner/Resident Testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 168](#))
- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 185](#))
- C. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 318](#))
- G. Carlin ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 332 – 334](#))
- L.A. Davis ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 336](#))
- I. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338 – 339](#))
- R. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 341](#))
- C. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 343](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 349 – 353](#))
- G. Lind Flak ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 365](#))

Opponent testimony:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 383 – 385](#))

**Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 4 - 5](#)):**

“The Applicant responded in detail to the testimony in opposition regarding noise in Exhibit 65 on pages 13 and 14, and Applicant incorporates that response here.

- A. The proposed expansion will comply with the DEQ noise rule. As shown by the Applicant's analyses, modifying its on-site equipment to reduce noise by 10 dBA over 2023 levels will cause the noise from the expansion area to be well under the DEQ maximum noise level for the quietest hour at surrounding noise-sensitive uses. This will be true even though the 10 dBA reduction will not apply to truck and other traffic accessing the landfill.

- B. The DEQ Noise Rule is a generally accepted standard for determining noise impacts. Although DEQ does not enforce the Noise Rule, it continues to update it in response to the Noise Control Act and federal guidance. The original Staff Report and supplemental June 2025 Staff Report concur with application of the DEQ Noise Rule with regard to this application. Again, the County has not adopted its own noise regulations and, as noted above, cannot apply unadopted standards. The Noise Rule provides a generally accepted engineering basis for determining whether noise generated by a particular use—whether it is from a wind farm or a landfill—will substantially interfere with uses on adjacent property.
- C. The County will be able to enforce compliance with the noise conditions. Proposed condition OP-17 will enable the County to directly monitor ongoing compliance requirements.”

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):

“Blasting for landfill cell preparation: The planning commission finds that blasting activities for construction of the new cell will seriously interfere with uses on adjacent properties including harming livestock and pets, [...] The planning commission finds the Applicant’s consultants’ evidence and the county’s third party reviewers’ evidence regarding interference with wells on adjacent properties to be less credible than opponent testimony and evidence regarding the effects of blasting and regarding past dewatering of wells on adjacent properties.”

Planning Commission Decision ([Commissioner Lee Incorporated Findings, Record ID. BC019, p. 23](#)):

“[...] Noise levels already cause concerns. The Applicant proposes blasting and other construction noise to take place over the span of at least 4 years, on top of the noise levels already causing complaint.

[COA] OP-2 is intended to mitigate noise only after commercial operation begins, and specifically not during the construction phase. This is not adequate to respond to interference with uses on adjacent properties and the character of the area from the application. OP-2 relies on reporting noise. Enforcement of this COA would result in lots of reports, but no mitigation.”

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 46](#)):

“Undue Burdens and Serious Interference presented by the public in this process, include:  
[...]

The combined adverse impacts, undue burden and serious interference of the region due to the noise and traffic increases of the combined current operations and the expansion area were not addressed, including any reasonable mitigation to the region or surrounding properties proposals by Republic Services.”

Applicant Response ([Record ID. BOC1 A0003 Code Interpretation Memorandum from Miller Nash \(Exhibit E66\), p. 4 - 5](#)):

Summary: The Applicant argues that construction-related noise and traffic are not part of the “use” subject to conditional use review under the Benton County Code or the DEQ Noise Rule, which explicitly exempts construction noise. The Applicant cites a recent LUBA decision (*Cottrell Community Planning Org. v. Multnomah County, 2025*) affirming that construction impacts are not regulated as part of a land use review. Nonetheless, the Applicant voluntarily updated its traffic and noise analyses to include construction activity, and those studies found no undue burden or significant interference with nearby properties.

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[Applicant Response \(Record ID. BOC1\\_A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 7\):](#)

Summary: The Applicant contends that construction and blasting noise from the expansion will not create serious interference with adjacent agricultural or residential uses. Predicted sound levels for regular operations are generally lower than existing median daytime levels, and blasting is expected to be about half the allowable limit under OAR standards. Blasting vibrations are not anticipated to affect nearby structures within 675 feet. An updated construction noise assessment, including hauling and equipment activity, confirms that noise impacts are minor and do not constitute significant interference.

### **Staff Response, MFA - Engineering:**

In the June 2025 Staff Report, MFA concurred with the methodology used and conclusions reached by the Applicant and recommended Conditions of Approval to ensure consistent measurement of noise levels during operations. ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#))

For the October 2025 Staff Report, MFA provided additional comments in response to updated Applicant materials:

“As previously noted, due to the absence of a noise standard in Benton County code, the Oregon Department of Environmental Quality (DEQ) noise regulations are being utilized by the Applicant and the County as the standard. The DEQ noise rule (OAR 340-035-0035) limits the noise increase to no greater than 10 dB at the noise-sensitive property; the applicant has stated that construction noise will not exceed an increase of 5 dB. For blasting, the applicant has predicted blasting-related noise to be 10dB less than the allowed limit.

MFA agrees that the evidence provided by the Applicant indicates that the construction noise and blasting levels are expected to comply with more stringent standards than OAR criteria, and ongoing monitoring will allow the County to require improvements if future work fails to maintain sound levels below the OAR standard.” ([Record ID. BOC1\\_A0005, p. 2 – 9](#))

### **Staff Response, Planning:**

The Applicant identified the closest noise-sensitive properties (residential uses) and evaluated potential noise impacts on these uses ([Record ID. BC016 Burden of Proof, p. 29 – 35](#) and [Noise study, p. 831 – 834](#)). The Applicant did not evaluate noise impacts on other adjacent properties at greater distances. Staff concurs with the Applicant and the submitted expert testimony that if noise does not seriously interfere with close noise-sensitive uses, it will not seriously interfere with noise-sensitive uses farther away, as noise diminishes over distance.

In the April 2025 Staff Report, Staff originally recommended denial due to noise impacts on an adjacent property, the Applicant’s proposed essentially unlimited hours of operation, and an unclear path to mitigation of noise impacts. In updated materials, the Applicant proposed conditions limiting hours of operation and noise generation; these conditions would limit noise increase from existing conditions to below noise impact thresholds established by DEQ, and below existing conditions.

Staff notes that in the absence of established noise impact thresholds in the BCC, or identified impacts relating to an alternative noise level threshold, use of a noise impact threshold defined by DEQ is appropriate for County review of noise in the context of “serious interference”. Staff engineering review found the Applicant’s proposed conditions to be viable and added clarifying recommendations.

The Applicant provided additional analysis indicating that noise levels during construction will also be well within the DEQ impact threshold. Staff engineering review concurred with the Applicant’s methodology and conclusions.

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**Radio Telecommunications (Noise Floor).** While not classically related to noise production, Staff addresses the telecommunications noise floor issue here. Dr. Hackleman, an adjacent property owner, notes that the landfill must stay at least 50 feet below his lower property line to avoid impacts on telecommunication ([Record ID. BC016 Noise study \(Exhibit E11\), p. 822 – 826](#)). Staff presumes that Dr. Hackleman refers to the rear (southern) property lines located near the crest of Coffin Butte, though Dr. Hackleman did not specify the elevation below which the expansion would need to remain. The elevation across Dr. Hackleman’s rear property line ranges from approximately 620 to 740 feet above mean sea level (MSL). According to the Applicant ([Record ID. BC016 Cross Sections of Expansion Height \(Exhibit E45\), p. 2215 – 2218](#)), the top of waste of the proposed landfill expansion elevation is 450 feet MSL. Therefore, Staff understands this concern could be resolved with a condition limiting the landfill expansion height to the elevation proposed.

Staff finds that noise from the proposed landfill expansion could be mitigated through the Conditions of Approval originally-approved by the BOC on November 17, 2025, and would not “seriously interfere” with adjacent properties.

Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose conditions of approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

Odor

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- Original response to issue of odor ([Record ID. BC016 Burden of Proof, p. 36 – 39](#))
- Additional response ([Record ID. BC016 ADDENDUM to Burden of Proof, p. 93 - 95](#))
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1620](#)
- [Record ID. BC016 June 2025 Odor Study, p. 1644 – 1647](#)
- [Record ID. BC016 Odor Study Supplemental Information \(Exhibit E51\), p. 2244 – 2246](#)
- [Record ID. BC016 Response to VNEQS Odor Comments \(Exhibit E53\), p. 2250 – 2251](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 115 – 116](#)

Adjacent Property Owner/Resident Testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 168](#))
- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, 182, 185](#))
- C. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 318](#))
- P. Morrel ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 323](#))
- J. Morrel ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 326](#))
- L. A. Davis ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 336](#))
- I. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338](#))
- R. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 341](#))
- C. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 343](#))
- A. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 345](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 349 – 350, 353](#))
- B. Briskey ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 355](#))

Opponent testimony:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 386 – 387](#))

Applicant Response (Record ID. A0100 Applicant's Final Rebuttal, p. 4):

Summary: In response to opponent arguments, the Applicant contends that removing the franchise tonnage cap will not significantly increase landfill impacts, as waste volumes will grow only with regional population growth and demand. To address concerns, the Applicant proposes a new tonnage cap effective upon CUP approval and maintains that the CUP will not meaningfully change annual waste intake.

Applicant Response (Record ID. A0100 Applicant's Final Rebuttal, p. 5 - 6):

Summary: In response to opponent arguments, the Applicant maintains that odor and air quality impacts have been properly evaluated and mitigated. Using the AERMOD model—recognized by both the Applicant’s and County’s consultants, the revised analysis shows no nuisance-level odors at the property boundary. The Applicant explains that short-term odor increases may occur during gas well construction but lead to improved long-term gas collection and reduced emissions. Proposed conditions establish stricter monitoring, response, and enforcement measures to ensure effective odor control and County oversight.

Applicant Response (Record ID. A0100 Applicant's Final Rebuttal, p. 7):

Summary: In response to opponent arguments, the Applicant argues that it is improbable for odors from the landfill to reach locations more than seven miles away and that the claims lack sufficient detail for full evaluation. Monitoring and modeling indicate that odors are generally confined near the landfill. The Applicant also notes that all reported complaints were investigated quickly, no odors were detected during visits, and responses were documented and shared with DEQ.

Planning Commission Decision (Record ID. BC019 Planning Commission Decision, p. 4):

“The planning commission finds that testimony from occupants of adjacent properties and from opponents that odor from current landfill operations limits them from opening their windows and going outside supports a conclusion that odor from the proposed landfill use will seriously interfere with uses on adjacent property and with the character of the area. The planning commission finds the Applicant’s consultants’ odor studies and the third party reviewers evidence to be less credible than testimony from adjacent property owners and opponents because the locations of odor-sensitive adjacent uses were not clearly defined in the Applicant’s odor analysis or mapping, and the potential impact on these adjacent uses was not specifically evaluated”

Planning Commission Decision (Chair Fowler Incorporated Findings, Record ID. BC019, p. 9):

“As the model has not been verified with empirical results and not squared with the body of public testimony, I very much struggle with the proposed conditions. It is not obvious to me that the record demonstrates that proposed conditions will successfully mitigate odor to or below nuisance levels.”

Applicant Response (Record ID. BOC1 A0004 PC Decision Responses and Evidence (Exhibit E67), p. 4 - 5):

“The Commission’s conclusion overlooks significant, tangible, measures already implemented in 2025 to actively reduce odor emissions. Coffin Butte Landfill acknowledges sporadic odor events in the past. The Applicant is aggressively addressing these issues. In the last 12 months, Valley Landfills has constructed 21 new vertical gas collection wells and made improvements to 18 existing horizontal wells, supported by the installation of 16,835 feet of new gas piping to improve gas capture efficiency across the site and installed an enclosed flare to combust

99% more efficiently. These upgrades increase landfill gas collection rates, reducing the potential for fugitive emissions that could cause offsite odors.

To directly address concerns about ongoing and future odor impacts, Valley Landfills will commit to a phased closure plan of approximately five separate closure events with the last event occurring once final elevations have been reached. The first closure event will begin within the range of calendar year 2027 to 2029, dependent on landfill tonnage volumes. The last event will occur once all operations are moved to the expansion area. In addition, we will continue to enhance the existing gas collection system by installing new gas wells in areas with elevated emissions. Finally, we are prepared to adopt objective, enforceable mitigation triggers. For example, immediate operational adjustments will be made if nuisance-level offsite odors are verified through monitoring, thereby demonstrating our commitment to protecting neighboring properties.”

**Staff Response, MFA - Engineering:**

In the June 2025 Staff Report, MFA concluded:

“MFA generally agrees with the dispersion modeling techniques and methodologies used by SCS Engineers to produce the results presented in the revised Odor Study. The revised Odor Study is based on actual measured data, including actual flowrates for the flare, current waste acceptance volumes for the landfill, onsite meteorological data, onsite terrain data, and actual operating hours for the tipper engines, as well as Oregon Department of Environmental Quality (ODEQ)-approved emission rates for the eight highest odor-causing pollutants potentially emitted by the landfill. This represents the best available data for conducting an odor dispersion modeling assessment.” [...]

“The results of the revised Odor Study adequately demonstrates that Scenarios #1 and #2 are unlikely to exceed a nuisance D/T of 7. It is reasonable, for each scenario evaluated, that two odor pollutants (dimethyl sulfide and hydrogen sulfide) were predicted to be between the “no odor noticeable” D/T threshold of 1 and the “just noticeable” D/T threshold of 2, which aligns with the public’s experience that there are some detectable odors from the landfill. However, based on the results of the revised Odor Study, it is unlikely that potential odors from the landfill will rise to the level at which a nuisance condition will be created, as indicated by the two highest predicted odor pollutants, dimethyl sulfide and hydrogen sulfide, resulting in a maximum D/T of 1.45 and 1.38 in Scenario #1, and 1.34 and 1.28 in Scenario #2, both of which are well below the nuisance D/T of 7.” ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#))

For the October 2025 Staff Report, MFA also reviewed the Applicant’s supplemental material for the BOC hearing process. In response to these materials, MFA concluded:

“We agree that improving the LFG collection efficiency will help control LFG emissions and reduce the potential for offsite odors, while implementing enforceable mitigation measures via monitoring will help reduce and/or remedy nuisance conditions offsite. Phased closure of open landfill cells will also reduce the potential for release of odors from the landfill surface.” ([Record ID. BOC1 BC0005, p. 2 – 9](#))

**Staff Response, MFA - Engineering (Record ID. BOC4 BC0025):**

On January 27, 2026 (during the open record period for the BOC reconsideration) MFA concluded:

“The [November DEQ] PEN letter raises the question of whether the Odor Study provided accurate data based on reasonable assumptions given the documented violations. The PEN letter calls into question whether the inputs to the dispersion model used as the basis of the Odor Study were correct. The Applicant did not acknowledge the known issues that would later be identified in the PEN letter, or make an effort to justify the selected inputs (e.g., 75% collection efficiency, well maintained landfill cover with evenly distributed emissions, control devices working 100% of the time that landfill gas is collected, etc.) in light of the cited issues.

If the Applicant had provided evidence that it corrected each violation cited in the PEN letter and

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demonstrated that the gas collection and control system does capture 75% of landfill gas emissions, then the results presented in the June 2025 Odor Study would be considered accurate and reliable.”

Most notably, MFA concluded that the representation of the landfill in the model cannot be confirmed based on the applicants submittals to DEQ cited in the PEN:

“Failure to conduct monitoring as required under the permit calls into question the completeness of the emissions understanding and whether there are locations of high emissions on the landfill cover that are not known. As documented in the PEN letter, maps of the monitoring routes show large areas that are completely unmonitored as of the first quarter of 2025. While this does not indicate there are issues with the landfill cover or the even distribution of emissions through it, the monitoring does not provide assurance that the geographical allocation in the dispersion model can be supported.”

### **Applicant Final Written Response** ([Record ID. BOC4 A0011](#)):

Staff Summary: The Applicant maintains that the 2025 Odor Study remains valid, reliable, and conservative. The study relied on site-specific operational, meteorological, and emissions data and was reviewed and affirmed by county staff and the county’s third-party consultant. Modeled odor levels were well below nuisance thresholds and, for the purposes of the application, lower than those associated with the existing landfill. The Applicant emphasizes that the modeling assumptions—including a 75 percent landfill gas collection efficiency—were intentionally conservative and consistent with EPA defaults. The Applicant stated that recent DEQ-accepted annual greenhouse gas reports have showed actual collection efficiencies to be 90 to 92 percent.

The Applicant further argues that the November 6 PEN issued by DEQ is a preliminary, non-final action and does not constitute new evidence that undermines the odor analysis. The notice does not make findings that invalidate the odor study’s assumptions or conclusions and instead addresses unresolved compliance matters. The applicant also contends that recent odor complaints submitted during the open and responsive record periods are not reliable new evidence, as the complaints lack sufficient context and do not establish the landfill as the source when considered alongside historical data and regional odor conditions. Accordingly, the Applicant asserts that the existing record continues to support the conclusion that the proposed expansion will not result in significant odor impacts.

### **Staff Response, Planning:**

Staff acknowledges that odor impacts are difficult to evaluate. Staff appreciates the evolution and refinement of the Applicant’s odor analysis and findings over the past year in response to Staff concerns. Different people have different levels of sensitivity, weather systems produce different odor patterns, and there are many sources of odor. But there is a science-based method of evaluating odor, and odor levels can be quantified. Therefore, Staff places high value on technical analysis in relation to the odor produced by the proposed expansion. With a focus on technical analysis to evaluate this issue, Staff also places a high value on technical review of the Applicant’s methodology and results.

Prior to the BOC’s December 16, 2025 withdrawal of its decision for reconsideration, and the DEQ PEN entering into the record, the Board found (in concert with Staff recommendation) that, with detailed Conditions of Approval, the expansion’s odor impacts would not constitute serious interference with adjacent uses ([Record ID. BOC3 BC0013](#)). Key to this previous conclusion was the original Odor Study ([Record ID. BC016, p. 1623-1734](#)), which modeled a reasonable worst-case scenario, summarized by the Applicant (p. 38):

“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

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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.”

Staff has repeatedly noted that the Applicant has not provided a detailed analysis of adjacent uses and their sensitivity to impacts. That is:

1. Identifying land uses on adjacent properties;
2. Providing expert testimony relating to the level of identified impact (e.g., odor) that would “seriously interfere” with specific identified uses; and
3. Proposing specific mitigation, if needed, relating to specific uses.

Instead, the applicant relied on a model showing very little detectable odor at property boundaries and a generalized “nuisance” threshold far higher than the modeled odor levels.

However, the DEQ PEN identified several past violations of monitoring, measurement, and capture of methane over several years at the existing landfill. Those alleged violations are supported by the Applicant’s own submissions that demonstrate inadequate monitoring for the purpose of demonstrating that emissions are evenly distributed over the landfill. When the DEQ PEN was entered into the record for reconsideration, the county requested third-party review of odor conclusions in light of the violations identified in the DEQ PEN. The conclusions of the county’s third-party engineers (MFA) following review of the PEN indicate that foundational odor study inputs and assumptions may not be consistent with current practice or approved measurement methodology at the existing landfill. Essentially, the data used in the odor study is not reliable.

The Applicant, in final written response ([Record ID. BOC4 A0011](#)) stated that:

“Notwithstanding the preliminary nature of the PEN, the County’s third-party consultant, Maul Foster & Alongi (MFA) issued a supplemental memorandum dated January 27, in which it calls into question the validity of the previously reviewed odor study. MFA’s assertions are based solely on preliminary findings contained within the PEN. In fact, no actual evidence exists within the PEN that would change odor study’s underlying assumptions.”

However, as discussed in the MFA letter ([Record ID. BOC4 BC0025](#)), the PEN contains surface emissions monitoring figures provided by the Applicant and these figures demonstrate that large sections of the landfill were not surveyed as required. Based on these figures, the Applicant cannot assert that fugitive landfill gas emissions are evenly distributed through the landfill cover, which is a critical assumption in the odor dispersion model. While the PEN asserts that large discrete landfill cover leaks were detected by the EPA, the primary concern is that the Applicant’s surface emissions monitoring cannot prove otherwise.

The Applicant also stated in their final written response ([Record ID. BOC4 A0011](#)) that:

“Annual Greenhouse Gas (GHG) Reports from 2022, 2023, and 2024, submitted to and accepted by DEQ, demonstrate the calculated collection efficiency at Coffin Bute Landfill to be 92%, 92%, and 90%, respectively. While the calculated collection efficiency rates from the GHG Reports show a much higher collection efficiency than what has been historically used as a default for modelling purposes, for conservative assumptions, Coffin Butte elected to use the lesser value.”

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Staff notes that these GHG reports and percentages are referenced primarily by a link – not evidence in the record – and the Applicant did not explain how these percentages were derived, or how they are related to the odor model, previous evidence, or the DEQ PEN.

The identified DEQ PEN violations and potential inaccuracies in model inputs create substantial uncertainty regarding the reliability of the applicant’s Odor Study.

In addition, as explained in MFA’s January 2026 letter, the DEQ PEN provides a technical rationale and potential support for adjacent property owner odor complaints. Higher localized concentrations of landfill gas release, due to discrete, but significant, leaks through the landfill cover could result in poorer dispersion than the model assumes, resulting in higher odor levels. Testimony from adjacent properties has called into question the accuracy of the Odor Study results, claiming odors from the existing operations already seriously interfere with the use of their property.

- Bit By Bit equine horse therapy ([Record ID. T0773](#) & [BOC1 T0481](#))
- Residences
  - J. Searls ([Record ID. BC015, p. 185](#))
  - C. Merrill ([Record ID. BC015, p. 318](#))
  - J. Morrell ([Record ID. BC015, p. 326](#))
  - L.A. Davis ([Record ID. BC015, p. 336](#) & [BOC1 T0155](#))
  - I. Finn ([Record ID. BC015, p. p. 338](#))
  - D. Hackleman ([Record ID. BC015, 349 – 350, 353](#))
  - B. Briskey ([Record ID. BC015, p. 355](#) & [BOC1 T0152](#))

Without a reliable odor study, and without detailed analysis and expert testimony relating to adjacent uses and their sensitivity to odor impacts, Staff finds that the Applicant has not provided sufficient evidence to support a finding that adjacent uses will not be seriously interfered with by odor.

Due to the reasons above, Staff finds the applicant has not met their burden of proof in relation to odor impacts on adjacent land uses. Staff cannot recommend conditions that would resolve this basic and fundamental informational gap, and therefore recommends denial of the proposed landfill expansion.

### Traffic

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

##### Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 39 – 40](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Response to VNEQS Traffic Comments \(Exhibit E54\), p. 2252 - 2257](#)

##### Adjacent Property Owner/Resident Testimony:

- P. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 320](#))
- C. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 318](#))
- J. Morrell ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 325 – 326](#))

##### Opponent testimony:

- M. Yeager, R. Irish ([Record ID. BC015 Compiled Testimony from Opponents, p. 370](#))

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### Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):

“The planning commission finds that landfill uses will seriously interfere with uses on adjacent properties and with the character of the area because traffic from construction activities and landfill operations will seriously interfere with uses in the area. The planning commission considered the Applicant’s traffic consultant’s evidence and the third-party review of that evidence and considered testimony and evidence submitted by opponents.”

### Planning Commission Decision ([Commissioner Biscoe, Record ID. BC019, p. 43, 46](#)):

“Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

Traffic Impact Analysis submitted by Applicant does not include 3-4 years of construction traffic, increase of traffic from nearby housing developments traffic– witness accounts used in part to determine traffic impacts...leaving questions regarding modeling used and validity of report.

Traffic impact analysis that does not address remaining 35% increase of waste intake at current site, simultaneously as the blasting and development of proposed site, the filling of Cell 6 simultaneously or any impact from removal of tonnage cap – based on assumption traffic volumes will not change

[...]

Application offers no truck and traffic impacts assessment and comparison between expansion versus development of rail and transfer station”

### Applicant Response ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 5 - 6](#)):

Summary: In response to Incorporated Findings from Commissioner Biscoe, the Applicant contends that the traffic impact analysis accurately reflects current and future conditions. Traffic counts were collected at multiple points over several years, capturing both landfill and construction activity, including the quarry and expansion work, providing a comprehensive baseline. The study incorporates regional traffic growth but excludes individual housing developments that were not identified during the scoping process. The review by County Staff, ODOT, and the County’s consultant confirmed that the analysis reasonably assesses system impacts. The Applicant further explains that increases in tonnage do not directly translate to proportional increases in trips due to transfer station efficiencies and larger trucks, and that the proposed tonnage cap further limits potential impacts. Overall, the analysis indicates that even with future traffic increases, intersections will operate acceptably.

### Staff Response, Public Works ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 30 – 32](#)):

In the June 2025 Staff Report, County Public Works provided the following feedback:

Coffin Butte Road, and the easterly segment of Soap Creek Road carry the functional classification of Major Collector. Neither facility meets current standards for this classification as specified in the TSP. [...] Improvement of Coffin Butte Road to this standard will provide additional lane width and wide shoulders for vehicle stops and to accommodate bicycle, pedestrian, and emergency access where this function is currently very limited. [...]

Benton County Staff have cooperated with Kellar Engineering in this review process, and we concur with their findings and conditions regarding the Traffic Impact Analysis.”

### Staff Response, Kellar Engineering:

In the June 2025 Staff Report, Kellar Engineering provided feedback recommending that Transight Consulting respond to comments provided by opponent, Mark Yeager (April 21, 2025 - [Record ID. BC015, p. 368 – 372](#)), and respond to the claim the Knife River traffic is substantially different from landfill traffic. Kellar Engineering also confirmed that projected traffic levels are within typical rural collector parameters. ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 30 – 32](#))

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For the October 2025 Staff Report, Kellar Engineering reviewed the Applicant's updated traffic submission and provided additional responses:

- Kellar Engineering (KE) has reviewed [[Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 4 – 6](#)], Commissioner comment responses. KE does not have objections to the comment responses provided in the document.
- Kellar Engineering (KE) has also reviewed the formal response to transportation comments #1 and #2 in a P.E. stamped memorandum (memo) dated August 25, 2025, by Transight Consulting, LLC [[Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 42 – 44](#)]. KE does not have objections to the comment responses provided by Transight Consulting, LLC in the memorandum. The responses in the memo follow industry standard methods for traffic impact analysis.” ([Record ID. BOC1 BC0005, p. 10 – 11](#))

### **Staff Response, Planning:**

The Applicant has provided qualified expert responses to detailed issues raised by VQNES. The Applicant provided additional analysis to include construction impacts. Planning Staff concurs with Staff engineering and third-party transportation comments, as well as the Applicant's conclusion. Transportation impacts from the proposed landfill expansion are minimal and, with conditions of approval, would not be expected to “seriously interfere” with adjacent land uses. Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose conditions of approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### Water Quality and Well Water

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 40 – 41](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 117, 121](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1621](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 12th File Submissions, p. 129 – 130](#)
- [Record ID. BC016 Memorandum Re: Groundwater Testimony \(Exhibit E49\), p. 2241](#)
- [Record ID. BC016 Response to VNEQS Groundwater and Leachate Comments \(Exhibit E55\), p. 2258 - 2262](#)

Agency comments:

- ENRAC ([Record ID. BC015 Compiled Agency Comments, p. 50](#))

Adjacent Property Owner/Resident Testimony:

- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 183](#))
- C. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 318](#))
- I. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338 – 339](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 351](#))
- B. Briskey ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 356](#))

Opponent testimony:

- VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 442 – 445](#))

Applicant Response (Record ID. A0100 Applicant's Final Rebuttal, p. 6 - 7):

“VI. RESPONSE TO ARGUMENTS ABOUT GROUNDWATER AND WATER QUALITY

The Applicant responded in detail to the testimony in opposition regarding groundwater and water quality in Exhibit 65 on pages 3 to 4, pages 8 and 9 (Blasting), and page 9 (Liner Life), and the Applicant incorporates that response here.

A. Excavation, including blasting, for the expansion area will not dewater wells or increase arsenic levels.

1. The Applicant’s assessment of groundwater and stormwater impacts is based on conservative assumptions, relevant site-specific data, and years of experience and data at the existing landfill.
2. The proposed sentinel wells will alert the Applicant to any unexpected adverse conditions and the condition will require corrective action if a problem is documented.
3. The Applicant’s seismic study was conducted in compliance with EPA and DEQ standards.

B. The landfill liners will not leak. Concerns about liner failures and similar issues are based on outdated technology. The expansion will use high-density [polyethylene] (“HDPE”) geomembranes and geosynthetic clay liners (“GCLs”), which are each expected to last several hundred to over a thousand years without failure. (See citations to authorities in Exhibit 5 page 9.)

C. The County will be able to enforce compliance with the groundwater and water quality conditions. Proposed condition OP-17 will enable the County to directly monitor ongoing compliance requirements.”

Planning Commission Decision (Record ID. BC019 Planning Commission Decision, p. 5):

“The planning commission finds that landfill uses will seriously interfere with uses on adjacent property and the character of the area from groundwater contamination from leachate. The planning commission considered the Applicant’s consultants’ evidence and the county’s third-party reviewers’ evidence regarding groundwater contamination from leachate, and considered opponents’ evidence, including without limitation evidence submitted by VNEQS. The planning commission acknowledges DEQ’s regulatory authority over water quality but concludes that BCC 53.215(1) allows the planning commission to take into consideration whether groundwater contamination from leachate will seriously interfere with uses on adjacent properties or with the character of the area, and the planning commission concludes that it will.”

Planning Commission Decision (Commissioner Lee Incorporated Findings, Record ID. BC019, p. 15 - 17):

Summary: Commissioner Lee asserted that the Applicant did not meet the burden of proof under BCC 53.215(1) to demonstrate that groundwater interruption will not seriously interfere with uses on adjacent property. Commissioner Lee stated that the groundwater analysis relied on incomplete data from the north side of Coffin Butte Road, while comparable studies for the south side remain unavailable. Commissioner Lee also noted conflicting assumptions between the Applicant’s modeling and consultant reports.

Commissioner Lee further argued that construction-phase impacts, such as excavation for leachate ponds near Tampico Ridge, could dewater surface water features and fractured basalt zones, potentially

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affecting nearby wells. In this scenario, Commissioner Lee found that proposed mitigation measures, including Staff-proposed COA OP-13(A)(1), were inadequate because they relied on after-the-fact monitoring, lacked baseline data, and shifted the burden of proof onto neighboring property owners. The risks, according to the Commissioner, would be permanent and irreversible.

Applicant Response (Record ID. BOC1\_A0004 PC Decision Responses and Evidence (Exhibit E67), p. 2 - 4):

Summary: The Applicant responds to five quotes from Commissioner Lee's Incorporated Findings in the Planning Commission decision.

In response to the Commissioner's assertion that the Applicant presented incorrect assumptions about the bedrock on site, and that this could result in dewatering of nearby wells, the Applicant argues that the Commissioner ignored the expert opinions of the applicant and county consultants. The Applicant's modeling was intentionally conservative, and, regardless, COA OP-13 would satisfy legal and technical requirements for the prevention of harm.

**Staff Response, Public Works** ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 33 – 37](#)):

County engineering Staff provided feedback on the Applicant's submissions relating to groundwater in the June 2025 Staff Report:

"The project's disturbed area footprint exceeds one acre. [...]

Construction of the proposed improvements may require permitting through regulatory agencies including, but not limited to, the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), the Oregon Department of Fish & Wildlife (ODFW), the Oregon State Historic Preservation Office (SHPO), the Oregon Department of Geology and Mineral Industries (DOGAMI), U.S. Fish & Wildlife (USFW), the U.S. Army Corps of Engineers (COE), and the National Oceanic and Atmospheric Administration-National Marine Fisheries Service (NOAA-NMFS). [...]

Final engineering design for any public infrastructure improvements will be required after Conditional Use approval. Review and approval of those calculations, drawings, right of way adjustments, and specifications will be completed prior to start of construction."

**Staff Response, MFA - Engineering** ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#)):

MFA provided feedback on the Applicant's submissions relating to geotechnical explorations, well logs, environmental and operational considerations, and seismic design in the June 2025 Staff Report:

"In general, the scope of the field exploration, laboratory testing program, and analysis methods are appropriate for the geologic complexity and nature of the proposed development. The geotechnical report provides a thorough discussion of regional geology, local subsurface conditions, and relevant seismically-induced geologic hazards, as required by the Oregon Structural Specialty Code.

[...] We conclude that the existing geotechnical data and analysis presented in the geotechnical report (Exhibit 5) do not indicate that there are any geotechnical or geologic constraints that would adversely impact landfill development.

We note that additional geotechnical evaluation related to design of the landfill itself will be provided before landfill construction."

MFA provided updated feedback based on the Applicant's updated groundwater submission:

"Groundwater Supply

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The first topic is questions of groundwater supply, and specific concerns that excavation activities conducted during the construction of the landfill expansion will negatively impact nearby water supply wells.

Based on the information provided by the Applicant, as well as publicly available documents and professional judgement, MFA concludes that a preponderance of the evidence demonstrates that excavation in connection with construction is unlikely to seriously interfere with water supply wells on neighboring properties. MFA further concludes that the proposed condition of approval requiring the Applicant to conduct a hydrogeologic investigation of the proposed expansion area and install, monitor, and evaluate a system of sentry/monitoring wells to observe groundwater levels before, during, and after construction is a reasonable solution to identify possible impacts on adjacent well levels, and is likely to succeed in preventing serious interference with water supply wells on adjacent properties.

### Groundwater Quality

The second topic reviewed by MFA in Exhibit 67 is questions of groundwater quality and specifically questions of whether elevated arsenic concentrations observed in groundwater downgradient of the existing CBL footprint are the result of leachate releases from the landfill.

MFA has reviewed the Applicant's evidence and the responses to the opponents' questions and concludes that potential groundwater impacts from the existing CBL footprint are not an indication that future leachate releases or impacts to groundwater quality are likely to occur at the proposed CBL expansion. The design of the future landfill must be found to be protective of the environment (including groundwater) by meeting or exceeding the minimum design standards of the Oregon DEQ and the United States Environmental Protection Agency, which will be ensured through a design review process with DEQ landfill engineers. MFA also notes that prior to constructing the CBL expansion, an update to the landfill operating permit must be issued by DEQ, and all environmental safeguards must be demonstrated. During landfill operation the evaluation of groundwater data to determine if a release of leachate should be presented in comprehensive annual environmental monitoring reports and submitted to DEQ hydrogeologists, who have the relevant expertise and experience to assess potential impacts to groundwater resulting from landfill operations. DEQ is a state agency with the relevant expertise and experience to assess the engineering design, operating procedures, and groundwater monitoring and protection requirements for the site."

### **Staff Response, Planning:**

Staff understands that groundwater impacts have been and continue to be a controversial topic in landfill expansion applications in Benton County. As cited above, the June 2025 Staff Report included neighbor, opponent, and ENRAC testimony relating to water quality concerns. In addition, six owners or residents on adjacent property submitted related testimony into the BOC record<sup>18</sup>. However, the county is limited in its ability to evaluate and regulate groundwater impacts beyond the multiple levels of state and federal regulation applicable to the proposed landfill expansion. Those regulatory agencies provide a more appropriate venue to address groundwater quality impacts.

The Applicant has provided robust, qualified expert responses to concerns raised by opponent testimony ([Record ID. A0099 Responses to July 8-9 Evidence \(Exhibit E65\)](#)).

Concerns relating to potential water table and water quantity impacts were raised by some adjacent property owners, including expert testimony ([Record ID. T0776 J. Geier](#)). Qualified experts can and clearly do in this case disagree as to some of the details relating to hydrogeology with this project.

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<sup>18</sup> [Record ID. BOC1\\_T0099 R. Holdorf](#); [Record ID. BOC1\\_T0147 T. Morrell](#); [Record ID. BOC1\\_T0155 L. A. Davis](#); [Record ID. BOC1\\_T0174 Ri. Kipper](#); [Record ID. BOC1\\_T0196 K. and S. Edwardsson](#); [Record ID. BOC1\\_T0215 J. Geier](#).

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The Applicant provided supplemental evidence prepared by a hydrogeologist and a proposed approach to ensure groundwater quantity remains stable for adjacent properties during construction. Staff third-party engineers, also including a hydrogeologist, reviewed the evidence and recommended specific Conditions of Approval relating to pre-construction groundwater investigation, ongoing monitoring, specification on designed landfill bottom elevation, and observation during construction ([Record ID. BOC3 BC0013](#) & [BOC3 BC0014](#)).

Therefore, for purposes of County land use review, and in the context of additional required regulatory frameworks, the proposal is unlikely to “seriously interfere” with adjacent uses concerning groundwater impacts, and the proposed approach would be likely to succeed in ensuring there will be no interference with groundwater levels on adjacent properties.

Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### Visual Impacts

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 39 – 40](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1620](#)
- [Record ID. BC016 Cross Sections of Expansion Height \(Exhibit E45\), p. 2215 – 2218](#)

Adjacent Property Owner/Resident Testimony:

- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 185](#))
- E. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338](#))
- R. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 341](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 350 – 351](#))

Opponent testimony:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 387 – 388](#))

#### **Staff Response, Planning:**

Staff concurs with the Applicant’s argument and evidence in relation to visual impacts on adjacent properties. As cited above, some concerns regarding visibility of the expansion area from properties to the south, lack of tree screening, and tarp condition were raised by adjacent property owners or residents and opponents and quoted in the June 2025 Staff Report. In addition, one pair of owners or residents on adjacent property submitted related testimony into the BOC record ([Record ID. BOC1 T0196 K. and S. Edwardsson](#)). However, as shown in the submitted Landfill Cross Section ([Record ID. BC016 \(Exhibit E45\), p. 2215 - 2218](#)), the proposed landfill expansion is below the height of the Tampico ridgeline to the south, and areas to the south will be screened from the landfill by topography and mature vegetation.

Based on the evidence provided, the proposed expansion would be much less visible overall than the existing landfill. While some elements of the proposed expansion may be visible from the west or east, as of the writing of these findings, Staff has seen no evidence or reason to conclude that the visibility of some elements of the proposed landfill expansion from adjacent roadways would “seriously interfere” with uses on adjacent properties.

In its original November 17, 2025, approval, the BOC adopted Conditions of Approval which would limit the landfill expansion height, limit site lighting, and require installing and maintaining screening trees.

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Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

Litter

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 June 23 Cover Letter \(1/2\), p. 131 – 133](#)
- [Record ID. BC016 Proposed Conditions of Approval \(Exhibit E21\), p. 1203](#)

Adjacent Property Owner/Resident Testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 168](#))
- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 185](#))
- R. Wilson ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 329](#))
- I. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338](#))
- R. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 341](#))
- C. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 344](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 349 – 350, 352](#))
- G. Lind Flak ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 365](#))

Opponent testimony:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 381 – 383](#))

Applicant Response (Record ID. A0100 Applicant's Final Rebuttal, p. 7):

#### “VII. RESPONSE TO ARGUMENTS REGARDING LITTER

The Applicant responded in detail to the testimony in opposition regarding litter control in Exhibit 65 on page 2, and the Applicant incorporates that response here.

A. Litter control will be substantially more robust. Proposed Condition OP-15 requiring additional fencing and other operation modifications will be substantially more robust than current litter control efforts, adding additional layers of different fencing and additional litter patrol and control measures. These measures will substantially reduce off-site litter dispersion.

B. The Applicant has proposed a new condition requiring the Applicant to clean up litter on the adjacent properties at the request of the property owner. In its July 16, 2025, Submittal in Response to New Testimony, the Applicant has proposed modification to the OP-15(F) (Off-Site Litter Management) to require Applicant to clean up litter on any adjacent property at the request, and subject to the consent, of the property owner. Exhibit 65 at 16. If any litter makes it past the multiple protections and measures required by condition OP-15, the property owner will have direct recourse to the Applicant to remedy the issue.

C. The County will be able to enforce compliance with the litter control conditions. Proposed condition OP-17 will enable the County to directly monitor ongoing compliance requirements.”

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Planning Commission Decision (Record ID. BC019 Planning Commission Decision, p. 5):

“The planning commission finds that litter escape from the landfill will seriously interfere with uses on adjacent properties and with the character of the area because litter escape will harm livestock and pets.”

### **Staff Response, Planning:**

Staff included discussion of litter impacts into the June 2025 Staff Report, as it was raised numerous times in both adjacent property testimony and character of the area testimony. Staff also discussed litter in relation to “character of the area”. As with all discussion of impacts relating to BCC 53.215, Staff must determine if an identified impact rises to the level of a “serious interference”.

In relation to “uses on adjacent property”, Staff had trouble finding a direct evidentiary line between most of the testimony about seeing trash and how that would “seriously interfere” with an adjacent use. For example, during the PC review, opponent and representative for VNEQS, Mr. Kleinman, raised a hypothetical scenario of a hay farmer dealing with plastic entering their field – but he did not then link that scenario to a specific farm. Dr. Hackleman, an adjacent property owner or resident, identified the accumulation of plastic materials over the years as a “nuisance” but didn’t explain how this seriously interferes with his use of the property. Others testified they saw trash along roadways, or even on their property, but didn’t explain the impact of this trash in relation to the use of the property.

However, Mr. Wilson provided testimony that: 1. he raises cattle as a business; 2. plastic trash flies from the landfill onto his property; and 3. such trash could be ingested by and kill his cattle. Mr. Wilson wrote that “it is imperative that Republic Services is responsible for the care [of] the material they take into the landfill and should use methods to prevent airborne debris from leaving their site.” While not fully fleshed out in scale and evidence, this is a good example of a potential “serious interference” on an identified adjacent land use.

Additionally, the adjacent property resident, M. Bradley ([Record ID. T0774 Adjacent Property Testimony – M. Bradley](#)), provided testimony at the July 9, 2025, PC hearing that she raises and competitively shows livestock as a member of several 4-H clubs and is similarly affected by litter originating from the landfill.

The county received an Applicant response to litter impacts and Mr. Wilson and Ms. Bradley’s identified impact ([Record ID. BC016 June 23 Cover Letter \(1/2\), p. 131 – 134](#)). The Applicant describes a robust existing litter abatement program and proposes to improve that program for the landfill expansion.

Following the Applicant response and the conclusion of the PC decision, three owners or residents on adjacent property submitted litter-related testimony into the BOC record<sup>19</sup>.

Staff recognizes adjacent property owner testimony relating to litter concerns and potential impacts on livestock and pets from the existing landfill.

Staff finds that the Conditions of Approval previously adopted by the BOC ([Record ID. BOC3 BC0014](#)) would reasonably limit expected occurrences of air-blown trash and address identified concerns; the proposed expansion with Conditions of Approval would reduce litter impacts below a level that would “seriously interfere” with adjacent land uses, and below the level of the existing landfill. Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

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<sup>19</sup> [Record ID. BOC1 T0099 R. Holdorf](#) ; [Record ID. BOC1 T0152 B. Briskey](#); [BOC1 T0196 K. and S. Edwardsson](#)

Fire Risk

**Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Fire risk assessment of Coffin Butte Landfill and Addendum \(Exhibit E20\), p. 1182 - 1195](#)
- [Record ID. A0052 Applicant Presentation Slides to Planning Commission](#)
- [Record ID. BC016 Memorandum RE: Fire Risk Testimony \(Exhibit E44\), p. 2212 – 2214](#)
- [Record ID. BC016 Response to VNEQS Fire Risk Comments \(Exhibit E56\), p. 2263 – 2269](#)

Adjacent Property Owner/Resident Testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 169](#))
- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 171, 176 – 180](#))
- P. Morrell ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 323](#))

Opponent Testimony:

- VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 452 – 453](#))

Applicant Response ([Record ID. A0099 Responses to July 8-9 Evidence \(Exhibit E65\), p. 12 - 13](#)):

“Jeffrey L. Kleinman, on behalf of Valley Neighbors for Environmental Quality, asserts that the history of landfill fires at Coffin Butte is significant. Past fires and future fire risks impose serious interference to adjacent property and the character of the area. Monitoring and logging of landfill fires is deficient. (Jeffrey L. Kleinman Memorandum dated July 8, 2025).

- With the exception of the 1999 landfill fire that occurred with the prior operator, no fire has risen to a level of significance, nor has it ever run the risk of migrating off-site. The 1999 fire cannot possibly reoccur at anywhere near that size with the way Republic Services operates Coffin Butte today.
- Republic Services will compile a log and description of any and all landfill fires going forward, no matter how small, and report them to DSAC and ODEQ. The risks of fires at Coffin Butte going forward cannot and will not impose serious interference to adjacent property nor to the character of the area.
- Historical facts on the written record, along with the professional opinion of the landfill fire consultants, both for P&Z Staff and Coffin Butte.”

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 12](#)):

“Ken Eklund contends that under ODEQ regulation, Republic Services should have replaced landfill gas open flares with an enclosed flare earlier than when they did so. An enclosed flare would have prevented the open flare from causing a grass fire that posed a danger to at least one off-site resident. (Ken Eklund Testimony dated July 9, 2025)

- The open flare was replaced with an enclosed flare timely enough to comply with ODEQ regulations. The grass fire was small and limited in size. It never posed a threat to any off-site

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properties. Shortly after the grass fire occurred, the grass around the open flare was immediately replaced by gravel, so that a fire like this could not reoccur.

- Facts on written record.”

### Applicant Response (Record ID. A0100 Applicant's Final Rebuttal, p. 7 - 8):

#### “VIII. RESPONSE TO ARGUMENTS THAT THE LANDFILL IS A FIRE RISK

The Applicant responded in detail to the testimony in opposition regarding fire risk in Exhibit 65 on pages 11-13, and the Applicant incorporates that response here.

A. The fire history at the landfill does not support the argument that the expansion presents a significant fire risk. With the exception of the 1999 landfill fire that occurred under the prior operator, no fire has risen to a level of significance, nor has it ever run the risk of migrating off site. As noted by the Applicant’s fire expert, Jim Walsh, that type of fire is not possible given current operations, including the smaller size of the working face and the daily cover requirement.

[...]

C. A second water truck will be required. In response to concerns about the availability of the water truck to fight fires if it is off site refilling or involved in dust control, the Applicant has proposed an amendment to OP-12(A) that will require the Applicant to maintain two water trucks at the site and impose a requirement that at least one of the trucks be on the landfill property at all times. Exhibit 65 at 16. The Applicant notes that soil cover is the primary method of fighting landfill fires as outlined in the Applicant’s fire studies, but the second truck will provide an added layer of protection.

D. The County will be able to enforce compliance with the fire protection conditions. Proposed condition OP-17 will enable the County to directly monitor ongoing compliance requirements.”

### Planning Commission Decision (Commissioner Lee Incorporated Findings, Record ID. BC019, p. 18 - 19):

“Whether a fire that started at CBL or a fire that engulfed the region, any fire that included the CBL footprint would seriously impact adjacent uses and the character of the area and be an undue burden on local services.

I am concerned that BC and the Applicant do not seriously consider and plan for the risks associated with fire at CBL, risks that the expansion will enlarge proportionally.”

### Planning Commission Decision (Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 52 - 53):

“[...] Republic Services application and testimony regarding fire management and risk, failed to be consistent, responses to Planning Commissioner questions for clarity were evasive or incomplete at times, and the expansion proposal does not adequately address large fire risk, hazardous materials health risks and adverse impacts experienced by first responders, was unable to address response to a methane driven, deep well or gas explosion fire, unable to address mitigations for wind driven sparks from large fires and response capacity to respond to fires larger than the basic grass fire, an inability to monitor fires that are currently dependent on reports by drive-bys and neighbors, and lack of adequate training for Coffin Butte Landfill employees.”

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Applicant Response (Record ID. BOC1\_A0004 PC Decision Responses and Evidence (Exhibit E67), p. 4):

Summary: In response to Incorporated Findings from Commissioner Biscoe, the Applicant disputes claims of frequent fire incidents, noting that Adair Rural Fire & Rescue records from 2013 through July 2025 show only eight fires requiring suppression; eleven additional calls were determined to involve false alarms. This averages to fewer than one “suppression-required fire” per year, all promptly managed without injury or property damage. The Applicant emphasizes that occasional small fires are typical at landfills, are generally manageable, and do not indicate that the landfill poses a significant fire risk.

**Staff Response, MFA – Engineering** ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#)):

MFA provided feedback on the Applicant’s Fire Risk Response and Fire Risk Assessment in the June 2025 Staff Report. MFA did not identify technical concerns and recommended best industry practices for fire risk management. Of note, MFA strongly recommended that:

“[...] landfill operations prioritize the proper maintenance of LFG management systems and closely monitor for subsurface fire activity, particularly in cases of system failure or interruption.”

**Staff Response, Planning:**

As cited above, some concerns regarding fire risks were raised by adjacent property owners or residents and opponents and quoted in the June 2025 Staff Report. In addition, one owner or resident on adjacent property submitted related testimony into the first BOC record ([Record ID. BOC1\\_T0173 Ro. Kipper](#)).

Public comment on the subject of methane and fire risk was submitted during the BOC reconsideration. This Staff Report does not address those public comments because they were not able to be reviewed by MFA during the limited time period that the record was open during reconsideration.

Staff reviewed testimony and concerns, the Applicant’s Fire Risk Assessment Report, and the Applicant’s responses to fire risk concerns.

The Applicant proposes a fire control plan and risk management plan following best practices. The Applicant has responded to opponent testimony with expert testimony. Staff finds that the Conditions of Approval previously adopted by the BOC ([Record ID. BOC3\\_BC0014](#)) would reasonably limit expected fire risks. Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

## Wildlife

Applicant Response (Record ID. A0099 Responses to July 8-9 Evidence (Exhibit E65), p. 10 - 11):

Summary: In response to opponent arguments, the Applicant asserts that the proposed fencing and other mitigation measures will not meaningfully disrupt wildlife. The fenced areas are limited to active landfill operations, which are not major wildlife corridors, and do not block the movement of elk, deer, or their predators through Forest Conservation lands. The Applicant also contends that the landfill does not significantly increase predatory bird populations and may help divert them away from sensitive species, including protected herons. Surveys of heron rookeries have followed approved protocols, and any new or relocated rookeries will be appropriately monitored. The project is not expected to interfere

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with heron flight paths to foraging areas, and additional studies will be conducted if mitigation is needed.

Planning Commission Decision (Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 43):

“Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

Ongoing disturbance to Great Blue Heron nesting colony – disparate reporting between public Subject Matter Experts and Applicant’s consultant testimony”

### **Staff Response, Planning:**

Due to neighbor and opposition testimony, the June 2025 Staff Report took a closer look at wildlife impacts as well as Benton County’s Goal 5 (Natural Resources) protection program and code implementation. The June 2025 Staff Report included a section addressing BCC Chapter 87 Fish and Wildlife Habitat and provided detailed responses to address concerns related to heron rookeries. The Applicant addressed opposition testimony relating to heron rookeries and included expert testimony concluding that the proposal will not seriously interfere with active rookeries.

The Applicant’s proposed wildlife protection program is consistent with forest practices, ODFW requirements, and County code requirements relating to wildlife protection. Staff incorporates the findings for BCC Chapter 87 in Section VI here.

Staff finds that the Conditions of Approval previously adopted by the BOC ([Record ID. BOC3 BC0014](#)) would reasonably limit expected wildlife impacts. Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### Air Quality

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 116 – 120](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1620](#)
- [Record ID. BC016 Memorandum Re: Beyond Toxics May 6th Testimony \(Exhibit E37\), p. 1735 – 1737](#)

Agency comments:

- ENRAC ([Record ID. BC015 Compiled Agency Comments, p. 50](#))

Adjacent Property Owner/Resident testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 168](#))
- P. Morrell ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 323](#))
- C. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 343](#))
- B. Briskey ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 355](#))
- G. Lind Flak ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 365](#))

Applicant Response (Record ID. A0099 Responses to July 8-9 Evidence (Exhibit E65), p. 5 - 6):

Summary: In response to opponent testimony, the Applicant explains that the large methane plume observed on April 18, 2025, coincided with active drilling of new gas wells on April 14–15, 2025, as part of routine gas collection system improvements. The early installation of wells—well before the regulatory 60-month timeline—demonstrates a proactive approach to

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capturing landfill gas and reducing emissions. By April 25, 2025, Carbon Mapper data showed the plume had largely dissipated and remained within the landfill footprint. Daily Construction Quality Assurance reports document these activities.

**Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):**

“The planning commission finds that landfill uses will seriously interfere with uses on adjacent properties and the character of the area due to the presence of methane gas plumes and PFAS emissions into the air. The planning commission considered the Applicant’s consultants’ evidence and the county’s third-party reviewers’ evidence and considered the evidence submitted by opponents, including but not limited to VNEQS and Beyond Toxics.”

**Planning Commission Decision ([Commissioner Lee Incorporated Findings, Record ID. BC019, p. 23](#)):**

“Poor air quality poses serious interference with livability. Additional health concerns are likely with the landfill expansion; enough so nearby residents speak out about it. Some residents point to increasing cancer clusters in their neighborhood and suggest that poor air quality may be responsible.”

**Applicant Response ([Record ID. BOC1\\_A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 8](#)):**

“Some residents point to increasing cancer clusters in their neighborhood and suggest that poor air quality may be responsible.”—Commissioner Lee Opening Statement. This assertion is entirely unsupported by any evidence in the record. No studies, reports, or data were introduced during the proceedings to substantiate the claim, nor is there any indication that public health authorities have identified or confirmed such a phenomenon in proximity to Coffin Butte Landfill. Moreover, the vagueness of the statement, offered without reference to location, timeframe, or affected population renders it impossible to meaningfully confirm or rebut. Introducing unsubstantiated and undefined allegations of serious public health impacts not only falls outside the evidentiary record but also risks misleading the public and improperly influencing the decision-making process. The Commission’s findings must be based on credible, record-based evidence, not conjecture or generalized fears.”

**Staff Response, MFA – Engineering ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#)):**

MFA did not identify any technical concerns with the Applicant’s Environmental Methane Compliance Report in the June 2025 Staff Report.

**Staff Response, Planning:**

As cited above, the June 2025 Staff Report included testimony from adjacent neighbors, opponents, and ENRAC relating to air quality. In addition, five owners or residents on adjacent property submitted related testimony into the BOC record<sup>20</sup>.

Staff understands opponent concerns about landfill gas emissions. However, Staff concurs with the Applicant that County land use review is not the appropriate forum to evaluate and control air quality in relation to concerns such as methane concentrations or public health risk. The landfill must comply with DEQ air quality regulations, which directly address these concerns. DEQ reviews air quality complaints and can require enforcement action in cases of violations. Staff also notes recent legislation (2025 SB 726 directing changes to ORS 468A with an

<sup>20</sup> [Record ID. BOC1\\_T0147 T. Morrell](#); [Record ID. BOC1\\_T0152 B. Briskey](#); [Record ID. BOC1\\_T0155 L. A. Davis](#); [Record ID. BOC1\\_T0173 Ro. Kipper](#); [Record ID. BOC1\\_T0196 K. and S. Edwardsson](#).

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operative date of January 1, 2027) that requires additional rulemaking and air quality monitoring specific to municipal solid waste landfills in Benton County.

Staff finds that the Conditions of Approval previously adopted by the BOC ([Record ID. BOC3 BC0014](#)) would reasonably limit air quality concerns within the authority and current technical capacity of the county. In particular, Condition P1-6(C) required the Applicant to obtain an approved DEQ air quality permit for the expansion site prior to commencement of solid waste disposal south of Coffin Butte Road. As indicated in the November 6, 2025, DEQ PEN and SB 726, the Coffin Butte Landfill is under ongoing scrutiny for air quality by appropriate review bodies.

Furthermore, previously adopted Condition OP-11 required that, upon satisfaction with Phase 1 and 2 Conditions and with the start of commercial operations at the expansion site, the Applicant must comply with all applicable DEQ and EPA regulations. At that point, a DEQ PEN such as the one issued in November 2025, may be considered a violation of a Condition of Approval and grounds for revocation of the conditional use approval.

Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### Meaning of “Character of the area”

As discussed in Issues Overview (Interpretation of Ambiguous Language in the BCC) and above in Staff Findings relating to discretionary language in BCC 53.210, Staffs’ interpretation of ambiguous language is critical to reviewing the application against code criteria.

The third important term used in BCC 53.215(1) relates to the “character of the area”. This term was addressed in BCTT LLU F-9b:

BCTT Formal  
Workgroup  
Polling

LLU F-9b

Unanimous

*“ [...] Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered these factors in determining the character of the area and its extent include:*

- The particular attributes of the geographic setting (including existing operations in the vicinity.)*
- Is there a distinct change in the area's physical characteristics beyond a certain point (such as a change from flat land to hills or from one river basin across a ridgeline into another)?*
- What features or elements give the area its character? Is it a homogenous or heterogeneous character (is there a high degree of similarity, or is it mixed)?*
- How far are the effects of the proposed land use likely to extend? This may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa). [...]”*

Applicant prepared an analysis area map based on the BCTT definition above. The area to be evaluated for “character of the area” was based on the extent of mapped effects of the existing use – in this case, the largest area of mapped effects was logged odor complaints (Figure 2 in [Record ID. BC016 Burden of Proof, p. 30](#)). The Applicant prepared findings and evidence based on this area (approximately 90 square miles).

In the June 2025 Staff Report, Staff concurred with this area definition, and prepared findings in response to this definition.

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Of particular note relating to the definition of the “character of the area” was how to address the existing landfill in the context of the area. See also discussion of “Context of Existing Use vs Proposed Expansion” in the Issues Overview.

Applicant included the existing landfill as an element of the existing character of the area and prepared their application materials consistent with this definition. Staff also considered existing uses to be part of the character of the area, and prepared findings consistent with this definition.

However, Mr. Kleinman, disagreed with considering the existing landfill as part of the “character of the area” analysis, and the Planning Commission decision provided additional interpretation of the area context in relation to the landfill. Relevant arguments presented by the Applicant and opposition are linked below.

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- Establishing the “area” ([Record ID. BC016 Burden of Proof, p. 28 – 31](#))
- Establishing the area’s character ([Record ID. BC016 Burden of Proof, p. 31 – 33, 42 – 43](#))
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1617](#)

Opponent evidence:

- Establishing the area’s character (J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 377, 387](#))
- Establishing the “area” (J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 388 – 389](#))

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 4](#)):

“The planning commission finds the character of the area to include urban and rural residential uses with the expansion of those uses northward from the city of Corvallis towards the existing landfill in recent decades, and places more importance on those urban and rural residential uses and less to no importance on the existing landfill use in the area.”

Planning Commission Decision ([Chair Fowler Incorporated Findings, Record ID. BC019, p. 8](#)):

“The landfill has been in operation for more than 50 years so is to be accepted within the character of the area. I do accept and agree that a landfill is a component of the character of the area. However, I do not believe that the current tempo of operations was anticipated or reviewed as a land use action and by extension, the public. The record shows approved CUP for ancillary activities of power generation, stockpiling, transfer, etc. with the last Conditions of Approval in 2015 for stormwater treatment. This was the last successful test of BCC 53.215 but at an operating tempo less than half of today and that of what is proposed going forward. I readily accept the landfill as a part of the character of the area, but I do not accept that all current impacts, especially those correlated to tempo of operations, must be considered as baseline and grandfathered in.”

### **Staff Response, Planning:**

Staff recommends that an evaluation of “character of the area” include the existing uses within the area, including the existing landfill. Staff finds that evaluation of “serious interference” to that character must be focused on the effects of the proposed expansion.

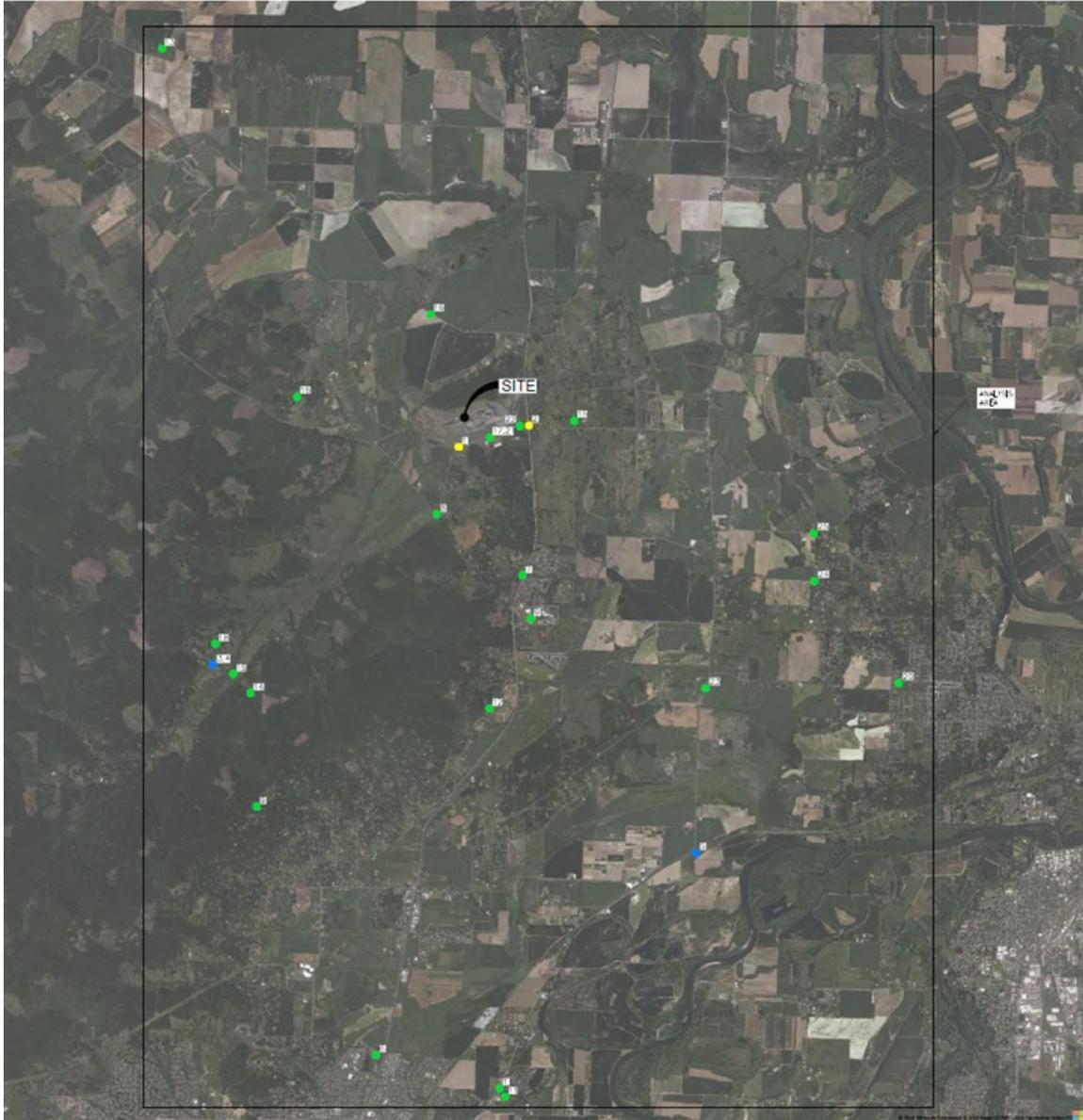
Staff was willing to accept the Applicant’s interpretation that, in the context of this application, the “area” in this criterion can be defined by the extent of the effects of the existing landfill use (the “base case”) as well as the effects of the proposed landfill expansion.

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Staff concurs with opponent testimony that the character of the area covers considerably more territory than adjacent properties.

Staff accepts the Applicant's proposed analysis area, which, at approximately 90 square miles, is much larger than a typical "character of the area" analysis in conditional use review. Staff finds this large area inclusive and sufficient for evaluating compliance with this standard.

Figure 4. Map of Analysis Area ([Record ID. BC016 Burden of Proof, p. 22](#))



Staff does not agree with opponent testimony that the existing landfill should not be considered in a review of the character of the area. See also Context of Existing Use vs Proposed Expansion discussion in Issues Overview. All existing developments and uses, including the existing landfill, define the character of the area. Staff agrees with BCTT findings referenced by the Applicant regarding past interpretation of the factors considered in determining the character of the area.

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The character of the area, when considered as a whole, is heterogeneous (there are a mix of characteristics throughout). Nevertheless, common attributes of the geographic setting include – as the Applicant noted in their response – areas with:

- Rural development - Including rural residential land, the Coffin Butte Quarry, and the Coffin Butte Landfill.
- Resource Land – Including land zoned and used for farm and forest.
- Urban development – Including Adair Village and portions of Corvallis and North Albany.
- Varying topography and natural habitats – Features or elements include Coffin Butte, Tampico Ridge, the E.E. Wilson Wildlife Area, and open spaces. In the southwest and central parts of the area (on the edge of which the Coffin Butte Landfill is located), the terrain includes a concentration of steeper slopes and higher altitudes compared to the remaining area.
- “[O]ccasional odors, sounds, noises, and trips from the existing landfill operation and surrounding resource-extraction uses”. As part of the review immediately below this, Staff evaluates the Applicant’s narrative and evidence regarding the current extent of those conditions.

These characteristics make up what Staff considers to be the character of the area. Staff notes that most of the opposition testimony relating to impacts on the character of the area identifies characteristics of the existing landfill. Staff evaluates whether the proposed landfill expansion will change the character of the area enough to “seriously interfere” with it. Due to the existing landfill, this is a relatively high bar.

### Relationship between the character of the area and potential impacts

The majority of testimony received that referenced code criteria identified “character of the area” impacts. These findings classify testimony into eight general categories of impacts on the “character of the area”:

- Noise
- Odor
- Traffic
- Water Quality
- Visual Impacts
- Litter
- Wildlife
- Air Quality

Each of these categories are discussed below. Each impact section begins with links to Applicant testimony and evidence, followed by links to adjacent property owner and opposition attorney testimony evaluated in the June 2025 Staff Report to the Planning Commission, where applicable.

These links are followed by summaries of Applicant testimony provided in final rebuttal, then the Planning Commission decision, and summaries of Applicant testimony provided in their appeal package, where applicable.

Finally, Staff Findings respond to the evidence presented by all of the above. Staff notes that most of the evidence and testimony relating to “character of the area” mirrors testimony relating to impacts on adjacent properties.

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### Noise

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)

#### **Staff Response, Planning:**

Due to the presence of existing landfill operations in the immediate vicinity of the proposal, Staff notes that noise from landfill operations is an existing element of the character of the area. Therefore, the question becomes whether the change in noise proposed through this application will “seriously interfere” with the character of the area. As noted in the Applicant’s noise study, noise impacts from the proposed expansion are limited to adjacent properties and do not extend to a larger area. Essentially, noise produced in one area of the landfill zone will decrease, and noise produced in another area of the landfill zone will increase. The overall character of the area would experience a slight reduction in noise near the current active cell and a slight increase in noise adjacent to the proposed expansion cell.

Staff concurs with the Applicant’s reasoning that if the proposed change in noise does not seriously interfere with the closest noise-sensitive uses, it would not seriously interfere with the character of the area. As discussed under adjacent land uses, the Applicant’s revised noise management proposal and the originally adopted Conditions of Approval could reduce expected noise volumes below existing conditions. This would be sufficient to not “seriously interfere” with adjacent uses. There is no evidence that the noise impacts relating to the proposed landfill expansion would extend beyond one adjacent property. Noise impacts of the proposed landfill expansion are not expected to interfere in any way with the “character of the area”.

Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose conditions of approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### Odor

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)

#### **Staff Response, Planning:**

The Applicant’s Odor Study and expected impacts from the expansion are more thoroughly reviewed under adjacent property impacts in BCC 53.215(1) above. Those findings are incorporated here. In summary, Staff recommends denial because :

1. The DEQ PEN identified potentially unreliable or inaccurate foundational assumptions in the applicant’s Odor Study; and
2. The applicant did not provide a detailed analysis of odor-sensitive adjacent uses.

Given the above, the applicant has not met their burden of proof regarding “serious interference” from odor on adjacent uses. When evaluating character of the area, Staff notes the DEQ PEN indicates that the landfill is currently operating with several violations relating to landfill gas emissions. This means the odor produced from the current operation may not be appropriate to use as a base case for evaluation of existing area character.

Due to the large scale of evidentiary uncertainty relating to odor, Staff could not determine appropriate conditions and therefore recommends denial.

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### Traffic

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)
- [Record ID. BC016 Traffic Report and Addendum \(Exhibit E15\), p. 984 – 1099](#)

Planning Commission Decision (Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 46):  
“Noise pollution and heavy truck and waste hauling traffic has been a persistent complaint topic regarding current operations of the Coffin Butte Landfill. The expansion application did not address noise concussions, increased heavy truck traffic to remove 2.1 million cubic yards of blast material from the expansion site, and other heavy equipment noises and impacts for the construction of the expansion area, including removal and mitigation of the current leachate ponds. The combined adverse impacts, undue burden and serious interference of the region due to the noise and traffic increases of the combined current operations and the expansion area were not addressed, including any reasonable mitigation to the region or surrounding properties proposals by Republic Services.”

#### **Staff Response, Planning:**

The Applicant’s traffic analyses, including those cited above and responses to the PC decision ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\)](#)) have been evaluated by county engineering and a third-party contract engineer. In response to concerns relating to construction traffic, the Applicant provided evidence that traffic impacts relating to the proposed expansion, even including construction traffic, are expected not to impact the transportation system and will not “seriously interfere” with the character of the area. Staff finds the applicant’s analysis sufficient to find that traffic impacts related to the proposed expansion would not seriously interfere with the character of the area.

Anticipated transportation impacts from the proposed landfill expansion are minimal and, with conditions of approval, would not be expected to “seriously interfere” with adjacent land uses. Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose conditions of approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### Water Quality

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)

Planning Commission Decision (Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 43, 46):  
“Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

PFAs in both leachate and in air borne gases; in particular the bio-accumulations in surrounding environment, found in groundwater, surface water, soil aggregates, air that is breathed, equally important is the bioaccumulations in plant materials, in livestock, in wildlife and has not been considered in the application for expansion. (Mary’s River Grange written testimony)

[...]

Environmental Regulation Concerns Noted in the Record

[...]

Leachate and PFAs – The Willamette River is a public facility and provides public services and a source of drinking water for thousands of Oregonians. The current and proposed leachate disposal method is an undue burden and creates a serious interference to surrounding communities and those downstream and regionally adjacent properties of Adair Village, Independence, Sherwood, Wilsonville, Tualatin Valley as regional.”

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### **Staff Response, Planning:**

As discussed under Staff Findings on water quality impacts on adjacent properties, concerns relating to regulation of landfill water quality impacts are generally beyond the county's ability to evaluate or regulate but are directly within the regulatory authority of several state and federal agencies.

Therefore, for purposes of County land use review, and in the context of additional required regulatory frameworks, the proposal is unlikely to "seriously interfere" with the character of the area concerning groundwater impacts.

Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### Visual Impacts

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)
- [Record ID. BC016 Aerial renderings of Coffin Butte Landfill \(Exhibit E18\), p. 1175 - 1179](#)

Opponent evidence:

- J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 389 – 340](#)

### **Staff Response, Planning:**

Staff review and discussion of visual impacts is provided in more detail in the adjacent properties discussion earlier. The proposed expansion area – at full build-out and with their proposed screening or maintenance of existing plantings– may be visible from Coffin Butte Rd, Hwy 99W, and properties "at a higher elevation". Many opposition comments were submitted to the County relating to the presence of an unattractive landfill on this site. The standard calls for an evaluation of whether the proposal will "seriously interfere" with the character of the area. There has been an active landfill between significant topographical features along Coffin Butte Road for decades; it is highly visible from nearby roadways. For this application, the Board must evaluate the impact of the expansion on the character of the area, not the impact of previously approved elements of the existing landfill.

Staff is receptive to the idea that visual impact can be as or more relevant to the character of the area than to adjacent properties. However, the proposal is for an operation that maintains lower elevation than the existing landfill, and at a lower elevation than the surrounding Tampico ridgeline. Moving the active face to the expansion area, as proposed, would result in less visibility to the surrounding area than the existing landfill.

While the proposal includes additional development within the landfill zone that would also be visible, major surrounding topographical features would remain and the general views into the landfill area could include slightly less landfill activity than exist today; therefore, Staff concurs with the Applicant that this change would not "seriously interfere" with the character of the area.

In its original November 17, 2025, approval, the BOC adopted Conditions of Approval which would limit the landfill expansion height, limit site lighting, and require installing and maintaining screening trees.

## EXHIBIT A

Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### Litter

Planning Commission Decision (Commissioner Lee Incorporated Findings, Record ID. BC019, p. 23):  
“Litter from the expansion may increase due to the increased transport of trash across CB Road from the North side to the South side as part of the new process. The potential increase in annual tonnage is unclear. The application acknowledges serious interference by addressing it specifically in the COA. Litter on the roadside degrades the environment and the visual impact seriously interferes with the character of the area.”

#### **Staff Response, Planning:**

Litter is addressed in greater detail in relation to impacts on adjacent properties. Those findings are incorporated here.

Staff finds that the Conditions of Approval previously adopted by the BOC ([Record ID. BOC3 BC0014](#)) would reasonably limit expected occurrences of air-blown trash and address identified concerns; the proposed expansion with Conditions of Approval would reduce litter impacts below a level that would “seriously interfere” with the character of the area, and below the level of the existing landfill. Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### Wildlife

#### **Staff Response, Planning:**

Comments and concerns relating to heron rookeries and regulated wildlife impacts are addressed under Chapter 87 in this Staff Report.

### Air Quality

Planning Commission Decision (Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 43):  
“Undue Burdens and Serious Interference presented by the public in this process, include:

PFAs in both leachate and in air borne gases; in particular the bio-accumulations in surrounding environment, found in groundwater, surface water, soil aggregates, air that is breathed, equally important is the bioaccumulations in plant materials, in livestock, in wildlife and has not been considered in the application for expansion. (Mary’s River Grange written testimony)”

#### **Staff Response, Planning:**

Air quality concerns are described in detail in the Air Quality impacts section relating to impacts on adjacent properties. Those findings are incorporated here.

As noted in relation to adjacent properties, Staff understands the testimony and concern about landfill gas emissions. However, Staff concurs with the Applicant that County land use review is not the appropriate forum to evaluate and control air quality in relation to issues such as methane concentrations or public health risk. The landfill must comply with SB 726 and DEQ air quality regulations, which directly address these concerns. As evidenced by the November DEQ PEN, DEQ reviews landfill impacts on air quality and can require enforcement action in cases of violations.

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Staff finds that the Conditions of Approval previously adopted by the BOC would reasonably limit air quality concerns within the authority and current technical capacity of the county. Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

### “Purpose of the zone”

Finally, BCC 53.215(1) requires that the landfill expansion not seriously interfere with the **Zone's purpose**. As the development area is within the LS and FC zones, the responses regarding each zone's purpose are detailed below.

#### CHAPTER 60 – FOREST CONSERVATION (FC)

##### 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 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.*

#### Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 44](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1621](#)

Opponent evidence:

- J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 392 – 393](#)

Planning Commission Decision (Commissioner Lee Incorporated Findings, Record ID. BC019, p. 24 - 25):

“Forest Conservation Zone wildlife (migration):

The construction and operating conditions on FC zone result in changes in grazing habitat and migration corridor used by a variety of wildlife species. The Applicant proposes use of fencing around the expansion area with no evidence of the impact of the fencing.

The GBH [Great Blue Heron] analysis relies on the assumption of the birds' habituation to noise.

[COA] P2-3 states that the Applicant will identify a buffer of 300 ft. but does not specify if it is a buffer of 300 ft surrounding the sensitive area or in a specific direction

The COA includes no mitigation for GBH during the operation of the landfill.

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The Applicant only addresses Great Blue Heron concerns. Either that condition should be expanded to include other wildlife or additional conditions should be added. Testimony from the public indicates numerous other potential wildlife impacts.

The Applicant has not met the burden of proof that the proposal will not interfere with the purpose of the Forest Conservation Zone for protection of the wildlife resources.”

### **Staff Response, Planning:**

Landfills are specifically identified as a conditional use in the FC zone and therefore any argument that landfills are inherently incompatible with the FC zone is a collateral attack on the zoning, which has already been decided by the county in adopting the allowed uses in the zone. The standards contained within the Forest Conservation zone directly implement the purpose of the FC zone by evaluating and limiting impact on forest uses, addressing fire risk, and regulating site development to limit impacts on forest resources. Staff evaluates the application’s consistency with FC Zone requirements under Chapter 60 findings below.

The FC zone conditional use criterion BCC 60.220(1)(c) requires consistency with BCC 53.215. As discussed above, the proposal does not meet BCC 53.215 requirements. As discussed under the full Chapter 60 findings later in this Staff Report, the proposal can meet some, but not all, FC zone standards. Therefore, the application would “seriously interfere” with the purpose of the FC zone.

Additionally, there is no evidence or argument in the record identifying other mapped wildlife resources within the FC zone that might be impacted by the landfill uses on the FC zoned property.

## CHAPTER 77 – LANDFILL SITE (LS)

### *77.005 Purpose.*

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

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 44](#)

### **Staff Response, Planning:**

Landfill expansion onto land in the Landfill Site Zone is directly consistent with the stated purpose of the LS Zone and would not seriously interfere with that purpose.

### **53.215 (1) Conclusion:**

### **Staff Response, Planning:**

As detailed in Staff Findings above, Staff evaluated whether the proposal would “seriously interfere” with “adjacent property”, the “character of the area”, and the “purpose of the zone”.

- **Adjacent Property:** Staff finds that the proposal can be conditioned to not “seriously interfere” with adjacent uses when evaluating noise, traffic, water quality, well water impacts, visual impacts, litter, fire risk, wildlife, and air quality. However, as discussed in detail under Odor Impacts on Adjacent Land Uses, the Applicant has not met its burden of proof to demonstrate that odor impacts will not seriously interfere with adjacent uses. For this reason, **Staff recommends denial of the application.**
- **Character of the Area:** For the same reasons as for adjacent uses, Staff finds the proposal can be conditioned to not “seriously interfere” with the character of the area when evaluating all discussed

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impact types except odor. Due to potential serious interference from odor impacts, **Staff recommends denial of the application.**

- Purpose of the Zone: The FC zone conditional use criterion BCC 60.220(1)(c) requires consistency with BCC 53.215. As discussed here, the proposal cannot meet this requirement. In its inability to meet the conditional use requirements of the zone, the application would “seriously interfere” with the purpose of the FC zone. Therefore, **Staff recommends denial of the application.**

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

### Meaning of “Undue Burden”

As discussed in Issues Overview (Interpretation of Ambiguous Language in the BCC) and above in Staff Findings relating to discretionary language in response to BCC 53.210, finding a common understanding of language is critical to reviewing the application against code criteria.

BCC 53.215(2) uses the words “undue burden” in relation to public improvements, facilities, utilities or services available to the area. The Applicant developed their application narrative and evidence based on guidance from the BCTT Workgroup related directly to this term (BCTT LLU F-9c):

BCTT Formal  
Workgroup  
Polling

LLU F-9c

Unanimous

*“[...] Staff has stated that in past CUP applications the Planning Official, Planning Commission or Board has considered a “burden” on public infrastructure and service is likely “undue” if it overloads the system or causes significant degradation in terms of quality, effectiveness or timeliness of infrastructure or service. Lesser burdens may also be “undue” if the effect jeopardizes people’s health, safety, or welfare. Burdens that the County has typically not considered “undue” include those that can be mitigated through planned improvements, that are incremental service additions[footnote] consistent with that generated by other uses in the area or that fall below an established threshold (such as road classification standards). For planned improvements to be relied upon in determining that a burden is not undue, the implementation of those improvements must be certain, such as through a condition of approval specifying the improvement and the timeline for implementation.”*

In the June 2025 Staff Report, Staff concurred with this definition and prepared Staff findings in response to this definition.

However, the Planning Commission disagreed with using the BCTT definition, and the Planning Commission decision redefined the words “undue burden” to mean:

“A situation where a requirement or action is excessively difficult, costly, or impractical to fulfill, effectively preventing or significantly hindering someone from exercising a right or fulfilling an obligation”.

Relevant arguments presented by the Applicant and opposition are linked below.

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 45](#)

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### Planning Commission Decision (Record ID. BC019 Planning Commission Decision, p. 5):

“Preliminarily, the planning commission interprets the undefined phrase “undue burden” in BCC 53.215(2) to mean “A situation where a requirement or action is excessively difficult, costly, or impractical to fulfill, effectively preventing or significantly hindering someone from exercising a right or fulfilling an obligation” as proposed by Commissioner Fulford.”

### Applicant Response (Record ID. BOC1 A0003 Code Interpretation Memorandum from Miller Nash (Exhibit E66), p. 2):

“The Applicant analyzed BCC 53.215 in Section III of its Burden of Proof using [the BCCT] framework, relying on Webster’s to construe terms such as “adjacent” and relying on the historical interpretation of terms such as “seriously interfere” and “undue burden” as analyzed by Benton County Staff during the Benton County Talks Trash (“BCTT”) process. Benton County’s independent consultants concurred with this interpretation in the initial and amended Staff reports.

The Planning Commission decision ignored these analyses and failed to offer a reasonable alternative interpretation.”

### **Staff Response, Planning:**

Staff recommends use of the guidance on terminology established in the BCTT workgroup, as it is contextually appropriate to the code criterion, as well as logical, carefully crafted, and defensible for either approval or denial of the application.

## Traffic

### **Pre-Planning Commission Decision, evidence cited by Staff:**

#### Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1621](#)
- [Record ID. BC016 Response to VNEQS Traffic Comments \(Exhibit E54\), p. 2252 - 2257](#)

#### Agency comments

- ENRAC ([Record ID. BC015 Compiled Agency Comments, p. 51](#))
- ODOT Region 2 ([Record ID. BC015 Compiled Agency Comments, p. 109](#))

#### Opponent evidence:

- J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 393 – 394](#)

### Planning Commission Decision (Record ID. BC019 Planning Commission Decision, p. 5):

“The planning commission concludes that the landfill use, and in particular traffic from construction activities associated with construction of the new cell, will unduly burden transportation facilities. The planning commission considered the Applicant’s traffic consultant’s evidence and the county’s third party reviewer’s evidence and considered the evidence and testimony submitted by opponents.”

### Planning Commission Decision (Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 45):

“Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

Hidden costs vs benefits of lower cost waste services – (emissions, leachate, groundwater contamination, transportation, regulations, testing, real estate values, livability, TBD. (Jan Napack, April 21, 2025)”

**Staff Response, Public Works** ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 30 – 32](#)):

In the June 2025 Staff Report, County Public Works provided the following feedback:

“Coffin Butte Road, and the easterly segment of Soap Creek Road carry the functional classification of Major Collector. Neither facility meets current standards for this classification as specified in the TSP. [...] Improvement of Coffin Butte Road to this standard will provide additional lane width and wide shoulders for vehicle stops and to accommodate bicycle, pedestrian, and emergency access where this function is currently very limited. [...]

Benton County Staff have cooperated with Kellar Engineering in this review process, and we concur with their findings and conditions regarding the Traffic Impact Analysis.”

**Staff Response, Kellar Engineering:**

In the June 2025 Staff Report, Kellar Engineering provided feedback recommending that Transight Consulting respond to comments provided by Mark Yeager (April 21, 2025 - [Record ID. BCO15, p. 368 – 372](#)) and respond to the claim the Knife River traffic is substantially different from landfill traffic. Kellar Engineering also confirmed that projected traffic levels are within typical rural collector parameters. ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 30 – 32](#))

For the October 2025 Staff Report, Kellar Engineering reviewed the Applicant’s updated traffic submission and provided additional responses:

- Kellar Engineering (KE) has reviewed [[Record ID. BOC1\\_A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 4 – 6](#)], Commissioner comment responses. KE does not have objections to the comment responses provided in the document.
- Kellar Engineering (KE) has also reviewed the formal response to transportation comments #1 and #2 in a P.E. stamped memorandum (memo) dated August 25, 2025, by Transight Consulting, LLC [[Record ID. BOC1\\_A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 42 – 44](#)]. KE does not have objections to the comment responses provided by Transight Consulting, LLC in the memorandum. The responses in the memo follow industry standard methods for traffic impact analysis.” ([Record ID. BOC1\\_BC0005, p. 10 – 11](#))

**Staff Response, Planning:**

The Applicant’s traffic analyses, including those cited above and responses to the PC decision ([Record ID. BOC1\\_A0004 PC Decision Responses and Evidence \(Exhibit E67\)](#)) have been evaluated by county engineering and a third-party contract engineer.

The Applicant has provided qualified expert responses to the detailed issues raised by VQNES and public testimony<sup>21</sup>. Staff concurs with engineering and transportation comments, as well as the Applicant’s evidence. Transportation impacts from the proposed landfill expansion are minimal, do not reach a threshold of impact to the transportation system and, with conditions of approval, would not be expected to cause an “undue burden”. Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose conditions of approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

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<sup>21</sup> [Record ID. BOC1\\_A0003 Code Interpretation Memorandum from Miller Nash \(Exhibit E66\)](#); [Record ID. BOC1\\_A0004 PC Decision Responses and Evidence](#).

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### Water Quality

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

##### Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 117](#)

##### Opponent evidence:

- VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 448](#)

##### Planning Commission Decision (Record ID. BC019 Planning Commission Decision, p. 6):

“Water Facilities: The planning commission concludes that the proposed use will be an undue burden on the City of Adair Village’s water facilities, due to transmission into the Willamette River of leachate processed by the Corvallis wastewater treatment plant . The planning commission considered the Applicant’s consultants’ evidence and the third party reviewers’ evidence and considered the evidence and testimony of opponents.

Wastewater Treatment Facilities: The planning commission concludes that the proposed use will be an undue burden on the city of Corvallis’ wastewater treatment plant, which currently treats the landfill’s transported leachate under an agreement that expires at the end of this year. The planning commission considered the Applicant’s consultants’ evidence and the third party reviewers’ evidence and considered the evidence and testimony of opponents.”

##### Planning Commission Decision (Chair Fowler Incorporated Findings, Record ID. BC019, p. 9):

“PFAS is an emergent issue that we must consider in protection of our water quality. Coffin Butte leachate is processed at the Corvallis municipal water treatment center that expels into the Willamette River, a source of drinking water for many downstream communities, and we have no evidence that such treatment mitigates PFAS. Does treatment of PFAS represents an undue burden on facilities? The proposed Conditions of Approval do not mitigate PFAS. The natural surface drainage for Coffin Butte is Calloway Creek that also flows into the Willamette. Wash off, aerosol deposits, and storm overflows migrate to the Willamette. Submitted evidence indicates there is no safe level of PFAS. I do not see sufficient Conditions of Approval around risk of PFAS contamination to our watersheds.”

##### Planning Commission Decision (Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 41, 45):

“Discharge of leachate into wastewater treatment plants is not regulated by DEQ (Mark Yeager, May 29, 2025) – Salem and Corvallis wastewater treatment plants are unable to adequately treat leachate...which is then passed through to the Willamette River as effluent.

[...]

Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

Future liability of leachate estimated at 40-60m gallons/year - - insufficient bonding to cover this unknown cost (Keith Lembke GOP chair)”

##### Applicant Response (Record ID. BOC1 A0004 PC Decision Responses and Evidence (Exhibit E67), p. 9):

“The Conditional Use Permit review is not the forum for regulating PFAS treatment technology at municipal wastewater facilities. Instead, PFAS monitoring and treatment are governed under state and federal water quality regulations through the Department of Environmental Quality and the Clean Water Act’s permitting framework. The Applicant’s responsibility under this proceeding is to demonstrate compliance with Benton County Code criteria—specifically, that landfill operations will not create undue adverse impacts to surrounding uses.

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The record demonstrates that leachate is properly managed, transported, and treated under valid permits, and there is no evidence of noncompliance. For this reason, Commissioner Fowler’s assertion that “we have no evidence” of PFAS treatment is not relevant evidence under the law: Land use decisions must rest on competent, material evidence, not conjecture about matters already regulated under separate environmental programs.”

**Staff Response, MFA – Engineering** ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#)):

MFA provided feedback on the Applicant’s Leachate Management Summary in the June 2025 Staff Report and recommended that the County be copied on the ODEQ submittal and noted that Coffin Butte Landfills currently has agreements with Corvallis and Salem wastewater treatment plants to dispose of leachate.

**Staff Response, Planning:**

Staff understands concerns raised in opposition to the proposed expansion regarding leachate and groundwater quality. All parties agree that past practices relating to leachate, under different management, were inconsistent with current best practices. However, technical review of the proposal indicates consistency with current best practices for leachate management, and the evidence provided by the Applicant in the form of expert testimony addresses the concerns that were raised. In addition, and more importantly, DEQ is the regulatory agency that addresses, through permit review and enforcement, public health concerns relating to groundwater and leachate.

Staff concurs with the Applicant that this land use proceeding is not an appropriate forum to evaluate whether the Applicant’s proposed leachate disposal methods are consistent with the regulatory framework currently in place. Further, there is no evidence that proposed leachate disposal methods are inconsistent with best practices or any adopted regulation.

### Fire Risk

**Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Memorandum RE: Fire Risk Testimony \(Exhibit E44\), p. 2212 - 2213](#)
- [Record ID. BC016 Response to VNEQS Fire Risk Comments \(Exhibit E56\), p. 2263 - 2269](#)

Agency Response:

- Adair Rural Fire District ([Record ID. BC015 Compiled Agency Comments, p. 74 – 76](#))

Opponent evidence:

- VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 454 – 455](#))

**Applicant Response** ([Record ID. A0099 Responses to July 8-9 Evidence \(Exhibit E65\), p. 11 - 12](#)):

Summary: In response to opponent testimony, the Applicant maintains that the proposed expansion will not increase fire risk beyond current conditions and that existing fire prevention and response measures are sufficient. Landfill Staff have an established cooperative relationship with the Adair Fire Department, reaffirmed in a March 2025 meeting where both parties agreed to continue coordinated efforts. At that meeting, Adair Fire expressed no concerns about its capability to support the proposed expansion. The Applicant has also committed to maintaining a comprehensive log of all fire incidents—regardless of size—and to submitting these reports to DSAC and ODEQ for ongoing oversight.

Applicant Response (Record ID. A0100 Applicant's Final Rebuttal, p. 8 - 9):

“VIII. RESPONSE TO ARGUMENTS THAT THE LANDFILL IS A FIRE RISK

The Applicant responded in detail to the testimony in opposition regarding fire risk in Exhibit 65 on pages 11-13, and the Applicant incorporates that response here.

[...]

B. The expansion will have no impact on the Adair Fire Protection District’s tax base. The Adair fire chief’s concern about the property-value impact of the landfill reducing the Fire District’s tax base is unsupported by citation to the fire chief’s authority, making it difficult for the Applicant to address or substantiate the argument. The Applicant notes that there is a 70-year history of a landfill at this location and expansion will not change that situation.

The Applicant has always had a good working relationship with Adair Fire and hopes to continue that relationship.”

Planning Commission Decision (Record ID. BC019 Planning Commission Decision, p. 5 - 6):

“The planning commission concludes that the landfill use will unduly burden fire services provided by the Adair Rural Fire District, which is small and comprised largely of volunteers. The planning commission considered the testimony of the Fire Chief and the evidence and testimony of opponents and considered the Applicant’s consultants’ evidence and the third party reviewers’ evidence.”

Planning Commission Decision (Commissioner Lee Incorporated Findings, Record ID. BC019, p. 19, 25):

Summary: Commissioner Lee contends that the proposed landfill expansion would significantly increase fire risk, creating an undue burden on public services and infrastructure. The Commissioner mentions testimony from nearby property owners expressing concern that a fire on the expanded site could threaten schools, cultural resources, and emergency access routes. Commissioner Lee further argues that the landfill’s steep slopes and canyon-like design would make firefighting hazardous and amplify fire intensity. The Commissioner references former Adair Fire Chief Kevin Higgins’ testimony and Adair Fire’s recommendation to deny the expansion based on inadequate fire protection and potential health impacts.

Planning Commission Decision (Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 42, 44, 52):

“Undue Burdens and Serious Interference presented by the public in this process, include:

August 2024? – Republic Services reported to Board of Commissioners that they do not have a way to monitor for fires after hours...(Virginia Scott, May 8, 2025) – noting that fire risk occurs 24 hours at the landfill which exists 24 hours a day.

[...]

- Coffin Butte Landfill is not assessed or inventoried in Benton County’s Community Wildfire Protection Plan (CWPP) and in testimony is reported as being intentionally left from this document and planning process. (McClelland Fields, May 6, 2025 as read by Ken Ekland)”

**Staff Response, MFA – Engineering (Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24):**

MFA provided feedback on the applicant’s Fire Risk Response and Fire Risk Assessment in the June 2025 Staff Report. MFA did not identify technical concerns and recommended best industry practices for fire risk management. Of note, MFA strongly recommended that:

“[...] landfill operations prioritize the proper maintenance of LFG management systems and closely monitor for subsurface fire activity, particularly in cases of system failure or interruption.”

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### **Staff Response, Planning:**

Staff has reviewed opposition testimony in relation to this standard, as well as Applicant responses. Staff notes there is considerable overlap between concerns related to fire risk on adjacent property uses, and on public services. Please also see discussion of fire risk on adjacent properties.

Staff notes that the Adair Rural Fire District (ARFD) is a public service agency, and, as mentioned above, its Chief, Harris, provided comments during the PC review process that are discussed below.

- **Property tax impacts:** Land identified as adjacent to (or nearby) the landfill expansion area is already adjacent to or nearby the existing landfill. Staff notes that the proposed expansion would be less visible than the existing landfill due to topography and could be required a conditioned limit on height. It is not clear why this proposal would create a greater impact on property values than the existing landfill.  
**Increase in truck trips:** The Applicant has provided expert analysis and evaluation of expected traffic volumes in relation to roadway capacity and safety. With Conditions of Approval, traffic impacts would remain consistent with TIS assumptions related to the proposed expansion.
- **Fire risk:** Chief Harris asked if the county had evaluated fire safety south of Coffin Butte Road. Staff engineers evaluated the fire plan and it is consistent with best practices. Staff incorporates the findings under the fire risk discussion under adjacent property impacts.
- **Volunteer fire fighters:** Chief Harris notes volunteer fire fighters have been dropping in number from over 20 to the current 12. However, that testimony does not take the position that 12 volunteers is an insufficient number for firefighting purposes or explain the significance of the drop in volunteers to the approval criterion. The connection between the landfill expansion proposal and the fluctuating number of volunteer fire fighters is not clear from the testimony.

Staff third-party engineers have conducted an independent review of engineering evidence submitted. Planning Staff concurs with Applicant expert testimony and engineering review findings and concludes that, with the originally adopted November 17, 2025, Conditions of Approval, the proposed use would not cause an undue burden on fire services.

### County Monitoring and Enforcement

This issue was raised during the Planning Commission decision, as a basis for denial in Planning Commissioner Lee's Incorporated Findings (see below). Therefore, this was not a section in the June 2025 Staff Report.

#### Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 3](#)):

"The County has powerful enforcement tools up to and including revocation of the CUP if the Applicant fails to comply with the Conditions of Approval. As Planning Director Petra Schuetz testified, the County currently relies on a complaint-based enforcement mechanism and is planning to hire a code enforcement officer. But, as she noted, enforcement is always an allocation-of-resources issue. As part of its July 16, 2025, Response to Evidence, the Applicant proposed a new condition OP-17 which will require the Applicant to reimburse the County up to \$80,000 per year for the cost of consultants to monitor compliance with the CUP approval. See Applicant's Exhibit 65 at 17. This proposed condition is powerful evidence of the Applicant's commitment to comply with the Conditions of Approval and will give the County the resources and access to the expertise it needs to ensure compliance.

For these reasons, the conditions will ensure compliance with the applicable criteria, as concluded by the County's third-party experts

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### Planning Commission Decision (Record ID. BC019 Planning Commission Decision, p. 6):

“The planning commission concludes that the proposed use will be an undue burden on county services because the county lacks monitoring and enforcement personnel, and that the Applicant’s proposed condition to provide \$80,000 to the county in annual funding for monitoring and enforcement personnel is insufficient to mitigate that burden.”

### Planning Commission Decision (Chair Fowler Incorporated Findings, Record ID. BC019, p. 9):

“Unless the county and regulatory authorities can fund regular monitoring and have enforcement resources, my confidence is very low that the proposed 80 something Conditions of Approval will actually achieve mitigation of the risks. The risks to land quality, water and air quality, and even public health are too great not to regularly monitor and have the capacity for enforcement. Evidence in the record indicates state and federal regulators neither have the resources or expertise to effectively monitor the landfill.”

### Planning Commission Decision (Commissioner Lee Incorporated Findings, Record ID. BC019, p. 20 - 22):

Summary (of arguments not already raised above):

Commissioner Lee argues that the conditional use application and the review process are evidence of existing undue burden to county resources, and that the actual proposed landfill expansion will continue to cause undue burden.

Commissioner Lee argues that the application is an undue burden given the county’s lack of resources and capacity to:

- Internally monitor or enforce COAs
- Enforce BCC 77.401
- Internally process the conditional use application
- Involve or require regional government support, and
- Legislatively implement environmental protections

### **Staff Response, Planning:**

Staff understands concerns raised by the public and Planning Commission. The Applicant has proposed (and accepted Staff and Board modifications to) a direct solution to these concerns – funding for the County to monitor and ensure landfill conditions are met. Staff finds that Condition of Approval P1-9 previously adopted by the BOC ([Record ID. BOC3 BC0014](#)) would constitute an improvement over existing conditions and, without “undue burden” would reasonably limit expected impacts on county monitoring and enforcement services.

Staff notes that funding for compliance review of landfill activities would also provide benefits to the County, adjacent land owners, and area residents in relation to complaints about the existing landfill, which may be a greater concern than the proposed expansion application.

Nevertheless, Staff recommends denial of the application regarding odor impacts and therefore does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

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

### **Staff Response, Planning:**

This Staff Report and Staff Findings herein include review and response to all other relevant criteria for this conditional use review. Staff finds that the application does not satisfy BCC 53.215(1), nor BCC 60.220(1)(c) by association. Therefore, Staff also finds that the above criterion is not met.

## 53.220 Conditions of Approval.

*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. A limit on height is unnecessary.*
- (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.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 46 – 47](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1617 – 1618](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 377](#))

Planning Commission Decision (Commissioner Lee, Incorporated Findings, Record ID. BC019, p. 26):

“Generally, the application’s COA are hollow gestures that require extensive work to assure they can be enforced to assure mitigation of the serious interference or undue burden. Monitoring is not enforcement. Reporting is not mitigation.”

Applicant Response (Record ID. BOC1 A0003 Code Interpretation Memorandum from Miller Nash (Exhibit E66), p. 5 - 6):

“Almost every land use decision includes at least some Conditions of Approval. An assumption that conditions will be ignored or not enforced is speculative and is not an appropriate basis for denial. These Conditions of Approval will give the County the means and methods to ensure that the expansion will not have negative impacts on the adjacent properties or the area.”

### **Staff Response, Planning:**

Staff concurs with BCTT guidance quoted below. Staff recommended and drafted the Conditions of Approval originally adopted by the BOC on November 17, 2025 ([Record ID. BOC3 BC0014](#)). However, Staff currently recommends denial of the application in regard to odor impacts and, therefore, does not propose Conditions of Approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

BCTT Formal  
Workgroup  
Polling

LLU F-4



Unanimous

*“[...] Conditions of approval must relate to approval criteria. To be approved, an applicant must demonstrate compliance with all discretionary approval criteria. Conditions of approval cannot substitute for compliance with applicable criteria but may be imposed to ensure the criteria are met. The county may find compliance with approval criteria by establishing that compliance is feasible, subject to compliance with a specific condition(s) of approval. A preponderance of the evidence must support a finding that the condition is “likely and reasonably certain” to result in compliance. [...]”*

BCTT Formal  
Workgroup  
Polling

LLU F-21



Unanimous

*“[...] Generally, the new proposal must be evaluated on its own merits relative to the approval criteria. However, the current non-compliance of an existing land use condition could provide information that the Planning Commission considers in developing a condition on a new application. If an application is made to expand an existing land use that is currently out of compliance with a condition of approval of a previous decision, and that noncompliance is causing issues for surrounding land uses, noncompliance of the original land use decision is not in itself grounds to deny the new application. However, the decision-maker could potentially look at the fact of existing noncompliance in evaluating whether that noncompliance is causing the existing land use to “seriously interfere” with uses on surrounding properties. That fact can then be used as evidence in evaluating whether the proposed land use complies with the review criteria because the same land use in a similar location was seriously interfering with surrounding uses even though it was subject to conditions of approval. If the language in a condition of a past decision was unclear or insufficient to ensure compliance with an approval criterion, in evaluating a new application the decision maker could craft and impose a condition on a new decision that more clearly describes the measures necessary to ensure compliance. Past conditions superseded by subsequent decisions or changes in the law could not form a basis for such analysis.”*

*53.230 Period of Validity. 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.*

**Staff Response, Planning:**

Staff recommends denial of this application. Therefore, this standard does not apply. Should this application be approved, Staff would propose a validity timeframe of four years from the date of decision to begin construction activities on the site.

## VI. OTHER APPLICABLE STANDARDS

Staff findings from the June 2025 Staff Report for BCC Chapters 60, 77, 87, and 99 have not significantly changed, aside from the removal of proposed Conditions of Approval in this Staff Report and references to staff recommendation for denial due to odor impacts addressed in 53.215 findings within Section V above.

Staff did not substantively revise these findings because:

- The Planning Commission did not discuss them as a basis for denial
- Neither the Applicant nor members of the public submitted consequential new material into the record during the Board hearings process

To provide context, Staff included the code text and pre-PC decision evidence citations, in addition to Staff Findings. For additional information – including the full Applicant and opponent responses – refer to the June 2025 Staff Report ([Record ID. BC014 June 2025 Supplemental Staff Report](#)).

### CHAPTER 60 - FOREST CONSERVATION (FC)

#### APPLICATION OF THE ZONE

*60.020 Application. 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.*

*60.050 Notice of Pending Action. 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 10 days prior to the date of decision or permit issuance. The information shall contain the information set forth in BCC 51.615.*

#### **Staff Response, Planning:**

As noted by the Applicant ([Record ID. BC016 Burden of Proof, p. 59](#)) proposed development within the FC zone includes: “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 [building] to support the landfill.” Staff reviews proposed development within the FC zone below.

#### CONDITIONAL USES

*60.215 Conditional Uses Subject to Review by the Planning Commission.*

[...]

*(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.*

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 58](#)

## EXHIBIT A

### **Staff Response, Planning:**

Proposed development is identified as a conditional use within the FC zone. Staff reviews the proposal against FC zone conditional use criteria below.

### 60.220 Conditional Use Criteria.

*(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;*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 59](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 111 - 114](#)
- [Record ID. BC016 June 23 Cover Letter \(1/2\), p. 133 – 134](#)
- [Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 6, p. 148](#)
- [Record ID. A0052 Applicant Presentation Slides to Planning Commission](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1621 – 1622](#)
- [Record ID. BC016 Memorandum Re: Groundwater Testimony \(Exhibit E49\), p. 2223 – 2242](#)
- [Record ID. BC016 Response to VNEQS Groundwater and Leachate Comments \(Exhibit E55\), p. 2258 – 2262](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 395 – 396](#))

### **Staff Response, Planning:**

Staff concurs with the Applicant that farm and forest uses have operated on and adjacent to an active landfill use on this site for decades. Staff concurs with opponent, representative for VNEQS, Mr. Kleinman, that the language of the FC zone reflects 215.296(1), because FC is a resource zone. Staff notes that development within the FC zone should be reviewed against FC zone standards. Staff is not aware of opponent testimony that has clearly defined concerns specifically relating FC-zone development with expected farm impacts. However, proposed leachate ponds are within the FC zone and subject to this test, and leachate has been a major topic of concern. The Applicant responded to leachate concerns raised in testimony in multiple exhibits prior to the issuance of the June 2025 Staff Report (as cited above). The Applicant responded specifically to leachate ponds in the FC Zone as cited from [Record ID. BC016 June 23 Cover Letter \(1/2\)](#) above, and proposes best management practices for leachate storage on site.

The Applicant has provided sufficient expert testimony and evidence to respond to raised concerns and show that proposed development within the FC zone will not force a significant change in, or significantly increase the cost of, accepted farm and forest practices.

*(b) Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 60](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#)
- [Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 6, p. 148](#)

**Staff Response, Planning:**

Staff concurs with the Applicant's findings and conclusion, as supported by third-party engineering review findings ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 - 37](#)). Staff did not identify fire risk concerns raised with the development proposed within the FC zone (i.e., leachate ponds, employee building, shop/maintenance area, driveways, etc.). See also discussions of Fire Risk under BCC 215(1) and (2) above. FC zone siting requirements are discussed below;

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

**Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 60](#)

**Staff Response, Planning:**

This standard refers to conditional use and Conditions of Approval criteria referenced in BCC Chapter 53. The applicant did not prepare BCC 53.215 responses specific to the FC zone, instead opting for one set of BCC 53.215 responses for both the FC and LS zone. BCC 53.215 criteria were addressed earlier in Section V. Staff finds that the application has not demonstrated compliance with BCC 53.215(1) nor (3) relating to odor impacts. Therefore, this sub-criterion also cannot be met.

**60.220 (1) Conclusion:**

**Staff Response, Planning:**

Staff finds that the limited development within the FC zone could be conditioned to meet some, but not all of the above sub-criterion requirements. Until the application can meet the criteria set forth in BCC 53.215, this criterion will not be met.

*(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: [...]*

**Staff Response, Planning:**

This standard requires that final approval of this conditional use application must include a COA requiring the above statement from the Applicant. No conditions of approval are proposed since Staff recommends denial of the application.

## CREATION OF NEW PARCELS OR LOTS; PROPERTY LINE ADJUSTMENTS, BCC 60.305 through 330

### **Staff Response, Planning:**

The standards within these sub-sections of BCC Chapter 60 apply to the creation of new lots or proposed parcels. This application does not propose any such activity. Therefore, **these standards do not apply.**

## SITING STANDARDS

*60.405 Siting Standards and Requirements. 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.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 62](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#)
- [Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 6, p. 148](#)

### **Staff Response, Planning:**

Staff concurs with the Applicant that the proposed structures shown on Sheets 5 and 6 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 147 – 148](#)) provide the opportunity for a feasible firebreak. This standard could be met with the Conditions of Approval originally adopted on November 17, 2025 .

*(2) Non-residential structures shall be located at least 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 3 feet if the structure:*

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

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 62](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#)
- [Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 6, p. 148](#)

### **Staff Response, Planning:**

Staff confirms the proposed employee building and maintenance building are shown over 20 feet away from all property lines on Sheets 5 and 6 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 147 – 148](#)).

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*(3) A structure which is not a water dependent use shall be placed at least 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 25 feet from the ordinary high water line.*

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 63](#)

### **Staff Response, Planning:**

Staff concurs with the Applicant; no water-dependent use is proposed, nor do river or stream water features exist within the proposed development area. Therefore, this standard does not apply.

*(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. The plan shall address:*

- (a) Emergency access to the local water supply in the event of a wildfire or other fire-related emergency;*
- (b) Provision of an all-weather road or driveway to within 10 feet of the edge of identified water supplies which contain 4,000 gallons or more and exist within 100 feet of the driveway or road at a reasonable grade (e.g. 12% or less); and*
- (c) Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign.*

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 63](#)

### **Staff Response, Planning:**

Staff concurs with the Applicant's findings and evidence provided in the Applicant's Fire Risk Assessment Report ([Record ID. BC016 Fire risk assessment of Coffin Butte Landfill and Addendum \(Exhibit E20\), p. 1182 - 1195](#)). This standard is met.

*(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).*

### **Staff Response, Planning:**

The Applicant has not included detailed plans for the proposed employee building nor the proposed maintenance building. Following a conditional use approval, the Applicant would be required to receive approved building permits prior to their construction. At that time, Benton County Building Division reviews the submitted plans to ensure compliance with BCC Chapter 11. Benton County Building Code.

The Applicant has stated that they would finalize the building plans and ensure that the roof design conforms to these requirements. Staff considers this feasible; this standard can be met.

*(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 evidence:

- [Record ID. BC016 Burden of Proof, p. 63 – 64](#)

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### **Staff Response, Planning:**

The Applicant identified two “structures” proposed within the FC zone. Staff determined that “structure” is not defined within the BCC. Benton County has commonly determined “structure” to mean “building”, and Staff concurs with continuing that approach for review of the proposal.

The proposed employee building is on Tax Lot 1101. As described by the Applicant, the existing uses on adjacent lots (not including other Tax Lots in the Development Area) include:

- Tax Lot 1104 (FC zone) has existing landfill areas or accessory uses, as well as vacant or residential and farm or forest uses
- Tax Lot 1105 (EFU zone) is leased to Agri-industries for farm and forest uses

As shown on Sheet 6 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 148](#)), the proposed employee building and associated parking are proposed adjacent to the west of the existing building on the lot, in a somewhat central location on the lot. The location is farther away from forested lands to the east, and closer to farmed lands to the west. However, Tax Lot 1101 is not large, and Staff concurs with the Applicant that the location of the employee building efficiently located on the lot and not likely to impact nearby farm or forest uses.

Figure 5. 2023 Aerial Imagery of Tax Lot 1101



The proposed maintenance building is located on Tax Lot 1200. As described by the Applicant and residents or owners of the property, the existing uses on adjacent lots (not including other Tax Lots in the Development Area) include:

- Tax Lot 1000 (FC zone) has existing landfill areas and accessory uses
- Tax Lot 100 (OS zone) is part of the E. E. Wilson Wildlife Area, open to the public year-round for birding, hiking, limited hunting, and fishing, and managed for wildlife habitat
- Tax Lot 200 (RR zone) is described by the Applicant as vacant or residential. Testimony from the owner/resident ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 167 – 180](#)) includes discussion of their use of their Rural Residential zoned property that includes a

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dwelling, a barn, and hobby livestock. Staff notes that this is not considered an “accepted farm use” as this only applies to resource zone (EFU and FC).

- Tax Lot 500 (RR zone) is vacant or residential
- Tax lot 401 (RR zone) is vacant or residential. Testimony from the owner/resident ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 181 – 186](#)) includes discussion of their use of the Rural Residential zoned property that includes a dwelling and farming of perennial and annual crops. Staff notes that this is not considered an “accepted farm use” as this only applies to resource zone (EFU and FC).
- Tax Lot 402 (RR zone) is vacant or residential
- Tax Lot 600 (RR zone) is vacant or residential

Therefore, Tax Lot 1200 does not directly border any EFU or FC lots not owned by the Applicant. The closest EFU or FC lot not owned by the Applicant is Tax Lot 1103, approximately 2,000 feet west of the proposed maintenance building, across the proposed landfill expansion cell. Therefore, Staff concurs with the Applicant that the location of the maintenance building is efficiently located on the lot and not likely to impact nearby farm or forest uses.

Figure 6. 2023 Aerial Imagery of Tax Lot 1200



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

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 58](#)

### **Staff Response, Planning:**

The proposed employee building is on Tax Lot 1101. As described by the Applicant, there are no forest operations or farm activities on the lot nor adjacent Applicant-owned properties.

The proposed maintenance building is on Tax Lot 1200. As described by the Applicant, 20 acres in the center of the lot are leased by Agri-Industries, Inc. for farming grass and row crops ([Record ID. BC016 Burden of Proof, p. 14 – 17](#)). In their response above ([Record ID. BC016 Burden of Proof, 63 – 64](#)), the Applicant stated that approximately eight acres will remain available for farming on Tax Lot 1200 and that the impact would be mitigated by the fact that Agri-Industries, Inc. leases other properties over three quarters of a mile away. Due to the relatively small footprint of the proposed 10,000 square-foot maintenance building and its siting near the west property line of Tax Lot 1200, Staff finds that it would play an insignificant role in this impact to these farming practices. As described by the Applicant, there are no other forest operations or farm activities on the Applicant-owned lots adjacent to Tax Lot 1200.

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

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 64 – 65](#)

### **Staff Response, Planning:**

Staff concurs with the Applicant. As shown on Sheet 5 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 147](#)), proposed locations of access roads, service corridors, and the employee building structure provide for efficient use of land with very little impact on forested areas. As shown on Sheet 6 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 148](#)), proposed leachate ponds, the scale house, and the maintenance building provide for efficient land use and Staff finds no reason to doubt the Applicant's argument that the development is appropriately sized.

*(d) The risks associated with wildfire are minimized.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 65](#)

### **Staff Response, Planning:**

The Applicant provided a fire risk assessment ([Record ID. BC016 Fire risk assessment of Coffin Butte Landfill and Addendum \(Exhibit E20\), 1182 – 1195](#)); this was reviewed by third-party fire experts ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 – 37](#)). Both confirmed that the proposed Fire Mitigation Plan is sufficient to minimize fire risk for the proposed development. This criterion can be met.

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(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.

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 65](#)

### **Staff Response, Planning:**

As discussed above, Staff finds that the proposed employee building structure is separated from forested areas and included in a robust fire mitigation plan for the site. Furthermore, Staff finds that the siting of the proposed maintenance building is sufficient to meet the criteria of BCC 60.405(6).

## CHAPTER 77 - LANDFILL SITE (LS)

*BCC 77.010 Application. 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.*

*BCC 77.105 Permitted Uses. 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.*

*[...]*

*(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.*

### **Staff Response, Planning:**

Chapter 77 applies to development in the LS zone, and the permitted uses are limited to landfill operations and uses accessory to a landfill, so long as approved uses comply with the requirements of DEQ permits, the BCC Chapter 23 (Solid Waste Management), and an approved site development plan.

The Applicant stated in the BOP ([Record ID. BC016 Burden of Proof, p. 49](#)) that the current development in the zone operates under Oregon DEQ permit #306 and, upon approval, they will seek to modify this permit to include the development area.

**This chapter is applicable to the application.**

*BCC 77.305 Conditional Uses Approved by the Planning Commission. 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.*

### Benton County Environmental Health Division recommendations

BCC 77.305 is a procedural requirement that was adopted in 1990. It does not contain substantive criteria for reviewing the Site Development Plan Map and narrative.

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At the time BCC 77.305 was adopted, administration of solid waste programs was housed in the Environmental Health Division of the Benton County Health Department.

Sometime in 2020 or 2021, Benton County transferred its solid waste program to its Community Development Department. Environmental Health no longer has any involvement in the solid waste programs, review of land use applications involving the landfill, or administration of the landfill or collection franchise agreements. Because those responsibilities have been moved to the Community Development Department, Environmental Health cannot provide a recommendation to the Planning Official.

### ENRAC (in lieu of SWAC) recommendations

This standard requires the county SWAC provide recommendations to the Planning Official and Planning Commission regarding the application narrative and site plan. As detailed in the Findings of Fact (Section I) and Agency Comments (Section IV) of this Staff Report, the Benton County Board of Commissioners delegated this duty to the county Environmental and Natural Resource Advisory Committee (ENRAC) through Order #D2024-048 in July of 2024.

April 16, 2025, ENRAC Chair Jason Schindler submitted a letter ([Record ID. BC015 Compiled Agency Comments, p. 50 – 72](#)) in which the Chair states that the committee recommended that the Planning Commission deny LU-24-027. Furthermore, the letter included a list of the major topics that informed the ENRAC recommendation. These topics broadly included air pollution, methane emissions, water pollution, leachate, impact on local residents and community, economics, and regional impacts and coordination. Citing that the existing landfill already has an overestimated lifespan, the committee urged that end-of-life planning and closure strategies be addressed before any expansion is approved.

Finally, the Chair refers to an attached report, which includes supplemental documentation and statements or comments from individual members.

The ENRAC recommendation for denial did not include hypothetical (COAs) should the Benton County Planning Commission ultimately recommend approval<sup>22</sup>.

### DEQ comments

The County provided notice of this application to DEQ on March 20, 2025 ([Record ID. BC015 Benton County Notice to Outside Agencies, p. 114 – 118](#)). The County did not receive a response from DEQ pertaining to the application while the record was open.

### **Staff Response, Planning:**

Any proposed expansion to the landfill in the LS zone – such as this application – may be approved as a conditional use by the Planning Commission. In addition to the general review standards and criteria for conditional use applications set forth in BCC Chapter 53, this standard requires that the Benton County Environmental Health Division and the Solid Waste Advisory Committee (SWAC) provide recommendations and the Oregon DEQ are given opportunity to provide comment. Staff reviewed the standards and criteria of BCC Chapter 53 in this Staff Report. Staff finds that conditional use standards have not been met; therefore, Staff recommends denial of the proposed landfill expansion.

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<sup>22</sup> In the attached notes (“ENRAC Deliberations for CUP Expansion Application”), individual committee members used a work sheet to note their thoughts on potential conditions of approval (COAs). However, as stated at the beginning of the document regarding these notes, “No effort was made to aggregate language or find consensus per topic.”

## 77.310 Conditional Use Review.

[...]

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

(a) *Adjacent land use and impacts upon adjacent uses;*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 51](#)

### **Staff Response, Planning:**

The Applicant provided narrative findings addressing adjacent land uses; Staff responds to the Applicant's submission on adjacent land uses in this Staff Report under Chapter 53 and Chapter 60.

(b) *Future use of site as reclaimed, and impacts of that reclamation on adjacent uses;*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 51](#)

### **Staff Response, Planning:**

The Applicant's Reclamation Plan is provided in [Record ID. BC016, p. 1206 – 1217](#); in the absence of contradictory testimony relating to impacts on adjacent uses from the reclamation plan, Staff concurs with the Applicant's conclusion that the proposed reclamation will not impact adjacent uses.

(c) *Provisions for screening of the site from public roads and adjacent property;*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 51 – 52](#)

### **Staff Response, Planning:**

This section requires the Applicant to describe provisions for screening, which the BOP ([Record ID. BC016 Burden of Proof](#)) provides. This standard is met.

(d) *Egress and ingress; and*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 52](#)

### **Staff Response, Planning:**

Staff Transportation comments by County and Contract engineers are provided in [Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 – 37](#). Staff concurs with the Applicant and engineering responses; the proposed egress and ingress are feasible as proposed.

## EXHIBIT A

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

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 52](#)

### **Staff Response, Planning:**

Staff finds that the Planning Official conducted a careful review of submitted materials and provided multiple rounds of completeness and evidentiary feedback resulting in numerous additional materials submissions by the Applicant from July of 2024 through June of 2025, as shown by the record.

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

### **Staff Response, Planning:**

BCC 77.310(2) and (3) have been provided as [Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 142 – 170 and Vesting deeds to the tax lots contained in the Development Site, p. 171 – 185](#). BCC 77.310(4) only applies to changes to a site plan map and reclamation plan; the proposal provides a new site plan and reclamation plan and therefore BCC 77.310(4) does not apply.

## CHAPTER 87 – GOAL 5 RESOURCES

### **SENSITIVE FISH AND WILDLIFE HABITAT OVERLAY (/FW)**

*87.200 - Purpose. 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.*

*[Ord. 91-0080; Ord. 93-0098]*

## EXHIBIT A

### 87.210 - Application.

- (1) *The Sensitive Fish and Wildlife Habitat Overlay Zone shall be applied to all Northern Bald Eagle nests and roosts, Spotted Owl nests, Osprey nests, Great Blue Heron rookeries, and Band-tailed Pigeon mineral springs.*
- (2) *Unless alternatively identified by using cultural boundaries, waterways, topography, or through a site specific evaluation of significant habitat components, an established Sensitive Fish and Wildlife Habitat Overlay Zone shall include the area:*
  - (a) *Within 600 feet of a Great Blue Heron rookery or Band-tailed Pigeon mineral spring.*
  - (b) *Within ¼ mile of a Northern Bald Eagle nest or roosting site, Spotted Owl nest, or Osprey nest; or The County shall initiate a review of the application of this zone at the request of the property owner or ODFW if a significant change in habitat has occurred.*

### 87.220 - Development Permit Review Required.

*Within the Sensitive Fish and Wildlife Habitat Overlay Zone, the removal of trees, except for public safety or erosion control, or any development activity which requires a permit shall be subject to the review procedure and evaluation criteria set forth in BCC 87.230. The provisions of this chapter do not apply to land use actions that are under the jurisdiction of the Oregon Forest Practices Act.*

#### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 66, 85](#)
- [Record ID. BC016 Wildlife habitat assessment and surveys \(Exhibit E4\), p. 192 – 193, 280](#)

Agency comments:

- ODFW ([Record ID. BC015 Compiled Agency Comments, p. 45 – 48](#))

Adjacent Property Owner/Resident Testimony:

- D. and N. Johnson ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 362](#))

#### **Staff Response, Planning:**

Staff finds that the **text** of BCC Sections 87.200 and 210, which has been acknowledged as complying with Statewide Planning Goal 5, states that heron rookeries identified by ODF or ODFW as having a significant nesting or roosting site are protected by the Sensitive Fish and Wildlife Habitat Overlay.

“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. [...] (1) The Sensitive Fish and Wildlife Habitat Overlay Zone shall be applied to all Northern Bald Eagle nests and roosts, Spotted Owl nests, Osprey nests, Great Blue Heron rookeries, and Band-tailed Pigeon mineral springs.”

In response to the proposal, ODFW provided a letter to this effect ([Record ID. BC015 Compiled Agency Comments, p. 47 – 48](#)). Therefore, Staff evaluates compliance with relevant provisions of BCC Sections 87.220 through 230 below.

### 87.230 - Review Procedure and Evaluation Criteria.

- (1) *The County shall notify Oregon Department of Forestry (ODF) and Oregon Department of Fish and Wildlife (ODFW) of any permit proposal or tree removal within the Sensitive Fish and Wildlife Habitat Overlay Zone within 7 days of the permit request. ODF and ODFW shall review the request and submit a determination of impact report to the County within 14 days of the date of notification. The report shall include conclusions regarding the consequences of allowing the proposed use to occur. If ODF and ODFW provide a finding of no*

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*impact, or if no response is received by the end of the 14-day comment period, the provisions of this section do not apply.*

- (2) Submittal of a report concluding that a significant impact may occur from the proposed use shall be supported by findings that either: (a) The proposed use would be located within 600 feet of Northern Bald Eagle nest or roosting site, Spotted Owl nest, or Osprey nest or within 300 feet of a Great Blue Heron rookery or a Band-tailed Pigeon mineral spring; or (b) Due to unique site conditions such as topography, a proposed use located outside the area established in BCC 87.210(2) but within the overlay zone will impact the habitat. ODFW shall provide the basis for such a finding in its determination of impact report.*
- (3) A site specific habitat management plan shall be submitted to the County by ODF or ODFW within 14 days of the determination of impact report. The plan shall consider nesting trees, critical nesting periods, roosting sites, buffer areas, and any other relevant factors and shall also identify measures that would specifically limit the proposed use in a manner consistent with BCC 87.200. ODF and ODFW shall consult with the permit applicant, site landowners, and other persons and agencies in developing the management plan.*
- (4) If a determination of impact is made, the County shall review the applicant's development plan, the habitat management plan, and other relevant information. The County shall impose conditions on the proposed use in order to ensure that it will not destroy the sensitive habitat or result in abandonment of the area. The County shall deny the application if such impacts of the proposed use can not be mitigated and that the development may lead to destruction or abandonment of the sensitive habitat.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

#### Applicant evidence:

- [Record ID. BC016 Wildlife habitat assessment and surveys \(Exhibit E4\), p. 197 – 198](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Memorandum RE: Wildlife and Habitat Testimony \(Exhibit E43\), p. 2210 - 2211](#)
- [Record ID. BC016 Response to VNEQS Traffic Comments \(Exhibit E54\), p. 2252 – 2254](#)

#### Agency comments:

- ODFW ([Record ID. BC015 Compiled Agency Comments, p. 45 – 48](#))

#### Adjacent Property Owner/Resident Testimony:

- J. Geier, Ph.D. ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 311](#))

### **Staff Response, Planning:**

The County provided notice to ODFW regarding the landfill expansion proposal on March 20, 2025. This notice stated that comments from ODFW were due no later than April 11, 2025.

In a letter dated April 11, 2025, Joe Stack of ODFW responded to the notice provided by the County and confirmed that the two heron rookeries are identified on ODFW and ODF maps and therefore are subject to the County Sensitive Fish and Wildlife Overlay. Mr. Stack determined that (a) the landfill could have a significant impact on the heron rookeries, and (b) described the regulatory standards of preparation of a mitigation plan. Upon learning that the Applicant had prepared a mitigation plan, Mr. Stack provided a positive review of the plan and recommended monitoring of the eastern rookery to confirm that it had been abandoned. Thus, Staff concludes that the Applicant, in coordination with ODFW and with the Conditions of Approval previously adopted by the BOC ([Record ID. BOC3 BC0014](#)), would meet the substantive requirements of BCC Section 87.230.

CHAPTER 99 - GENERAL DEVELOPMENT STANDARDS

SENSITIVE LAND

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.

**Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 67](#)

**Staff Response, Planning:**

The subject property contains sensitive land; geotechnical review of the proposal was provided by the Applicant and reviewed by third-party engineers.

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.

**Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 68](#)

**Staff Response, Planning:**

This standard does not apply, as the proposal is not an application for a land division or building permit.

99.225 *Development Activities in Wetlands.*

(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.

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

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 69](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1622](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 397](#))

### **Staff Response, Planning:**

On-site are a Freshwater Emergent Wetland, a Freshwater Pond, and Freshwater Forested/Shrub Wetland. Benton County notified DSL of the complete application on March 20, 2025, following the 58-day extension requested by the Applicant ([Record ID. BC015 Benton County Notice to Outside Agencies, p. 114 – 118](#)). The County did not receive a response from DSL. No further action is required, since Staff recommends denial of the application.

## PARCEL AND LOT DESIGN

### **Staff Response, Planning:**

The standards in BCC 99.305 through 315 apply to applications proposing the creation of new lots or parcels or lot adjustments. This application proposes no new parcels or lots. Therefore, the **standards in this section do not apply.**

## FRONTAGE

*99.405 General Rule of Frontage.*

*(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 25 feet of frontage along an improved public road.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 62, 70](#)
- [Record ID. BC016 Cover Letter for Jan 15th Supplemental Materials, p. 97](#)

### **Staff Response, Planning:**

As shown on the Development Plan cited in the Applicant Responses above ([Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 5, p. 147](#)), the proposed employee building is located on Tax Lot 1101, which has over 25 feet of frontage on both Coffin Butte and Soap Creek roads. The proposed shop/maintenance area is located on Tax Lot 1200, which has over 25 feet of frontage on Coffin Butte. This standard is met.

## ROADS AND DRIVEWAYS

*99.510 Road Approach Permits.*

*(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*

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*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.*

### *99.515 Road Design and Construction Standards.*

- (1) Schematic layout of proposed public and private roads or streets shall adhere to the following general guidelines:*
  - (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 1-foot-wide strip of public road right-of-way adjoining private land for the purpose of controlling access.*
- (i) Development containing more than 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.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 71 – 73](#)

Agency comments:

- ODOT Region 2 ([Record ID. BC015 Compiled Agency Comments, p. 109](#))

### **Staff Response, Planning:**

Staff concurs with County and third-party engineering review indicating feasibility of the proposed access point ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 - 37](#)). Furthermore, ODOT had no comment on the proposal (see [Record ID. BC015 Compiled Agency Comments, p. 109 – 111](#)). Staff finds that, with Conditions of Approval, the above standards can be met. Nevertheless, Staff recommends denial of the application in regard to odor impacts and, therefore, does not propose conditions of approval. Should the BOC approve the application, Staff will recommend conditions in support of the decision.

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*(2) All roads within existing or proposed public rights-of-way located outside 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.*

*(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.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 73 – 74](#)

### **Staff Response, Planning:**

Staff concurs with county and transportation engineering review comments ([Record ID. BC015, p. 34 – 36](#)); the proposed roadway improvements are feasible and consistent with county standards.

### *99.520 Improvements in a Public Right-of-Way.*

*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 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.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 75](#)

### **Staff Response, Planning:**

As noted by the Applicant in the submitted BOP ([Record ID. BC016 Burden of Proof, p. 75](#)), the Applicant understands that it would be responsible for design and installation of all improvements, and that these improvements must be inspected and approved by the County Engineer.

## FIRE PROTECTION

### *BCC 99.605*

### **Staff Response, Planning:**

The standards in BCC 99.605 apply to applications proposing the creation of new lots or parcels or lot adjustments. This application proposes no new parcels or lots. Therefore, the **standards in this section do not apply.**

## STORMWATER MANAGEMENT

### *99.660 Erosion and Sediment Control*

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

*(3) Activities Requiring Erosion and Sediment Control Permit.*

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*(a) The responsible party shall obtain an Erosion and Sediment Control (ESC) Permit from Benton County prior to initiation of ground-disturbing activities, if both (A) and (B) are met. Ground-disturbing activities listed in subsection (4) of this section are exempt from ESC permitting requirements.*

*(A) The ground-disturbing activities are associated with:*

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

*(ii) Any of the following:*

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

*(b) Site preparation, associated installations (such as a septic system drainfield, ground-source heat pump, or tennis court), landscaping, and other ground-disturbing activities related to such construction.*

*(B) The total area disturbed will be 0.25 acre (10,890 square feet) or more.*

*(b) All activities shall comply with the Benton County Illicit Discharge Detection and Elimination Code, whether or not the activity requires an Erosion and Sediment Control Permit.*

*(c) The responsible party shall also comply with other local, state and federal erosion control regulations that may apply. Ground disturbance that is part of a common plan of development is required to comply with DEQ permitting even if the ground disturbance alone is below the threshold for requiring a Benton County ESC Permit.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 76](#)

### **Staff Response, Planning:**

Erosion and sediment control permits are not required for the current conditional use application review, but would be required prior to site development.

### *99.670 Post-Construction Stormwater Management*

*(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. [...]*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 81 – 82](#)

### **Staff Response, Planning:**

Staff concurs with Applicant and engineering comments relating to stormwater management ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 - 37](#)). With the Conditions of Approval originally adopted November 17, 2025, the proposed use would comply with the above standards.

## SEWAGE DISPOSAL

### *99.705 Sewage Disposal.*

*Each proposed dwelling, parcel, lot, or place of public occupancy shall be served by a sewage disposal system which complies with the requirements of the Oregon Department of Environmental Quality requirements.*

## EXHIBIT A

### Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 82](#)

### Staff Response, Planning:

The Applicant states in the BOP ([Record ID. BC016 Burden of Proof, p. 17](#)) that the existing VLI offices (on TL 1101) are served by a septic system and the planned new employee building would be served by a holding tank that would not be connected to the existing septic system. The Applicant states that the proposed maintenance building on Tax Lot 1200 would be served by a 400-gallon septic tank (shown in [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#)).

Staff has recommended denial of the application. Should the application be approved, the Benton County Environmental Health would be notified of the approval and, at the time of building permit application, would review, comment, and provide conditions for commercial sewage disposal. Furthermore, if the use warrants it, DEQ would review and approve new holding tanks. This standard is not applicable.

## WATER SUPPLY

*BCC 99.800 through 99.850*

### Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 82](#)

### Staff Response, Planning:

The Applicant states in the BOP ([Record ID. BC016 Burden of Proof, p. 17](#)) that the landfill is not served by a domestic water service and that it is not needed for the proposed landfill expansion. They state that the existing VLI offices (on TL 1101) are served by a well, as would be the planned new employee building. The details of the two wells used for water production at the landfill are attached to the application as [Record ID. BC016 Well logs for PW-2 and Berkland wells \(Exhibit E6\), p. 595 – 601](#).

Staff recommends denial of the application. Should the application be approved, the Benton County Environmental Health would be notified and would require standard testing for the wells prior to connection. Ultimately, DEQ is the primary governing agency for potable water at facilities like Coffin Butte Landfill. This standard is not applicable.

The Applicant states in [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#) that there is no well or other water source on Tax Lot 1200 and that Applicant will truck in potable water for the proposed maintenance building.

## IMPROVEMENTS AGREEMENT

*BCC 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. [...]*

*99.915 Performance Guarantee.*

*(1) The applicant shall file with the County Engineer a performance guarantee to assure full and faithful performance. [...]*

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*(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.*

### **Pre-Planning Commission Decision, evidence cited by Staff:**

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 84](#)

### **Staff Response, Planning:**

As noted by the Applicant, a standard improvement agreement would be required prior to development. However, Staff recommends denial of the application.

## VII. RECOMMENDATION

Based on findings in the Staff Report and information in the record, Staff concludes that odor analysis and evidence provided by the Applicant does not sufficiently demonstrate that the proposal will not “seriously interfere” with uses on adjacent properties, the character of the area, or the purpose of the Forest Conservation zone. Therefore, **Staff recommends that on reconsideration, the Board of Commissioners deny the application.**

## VIII. MOTIONS

I move that the Conditional Use Permit for expansion of the Coffin Butte Landfill be:

**A) APPROVED**, based on evidence in the record, and subject to Conditions of Approval [define conditions if identified by BOC].

OR,

**B) DENIED**, based on evidence in the record, recommendation from the Staff Report, and findings in opposition and conclusions developed at the public hearing.

## IX. INDEX OF MATERIAL REFERENCED

Applicant submissions, agency comments, public testimony, and Benton County material make up the record, which was open during the PC review process, for the BOC review, and again for the BOC reconsideration. Throughout the findings in this Staff Report, Staff uses a “Record ID” consistent with County records to cite material. An index of the material referenced in this Staff Report, and the respective Record IDs, are located below. Items submitted to the record will be available on the Benton County web page for at least the duration of the BOC reconsideration hearing process.

## PC RECORD MATERIALS

TITLE	PC RECORD ID	PAGE IN RECORD (IF APPLICABLE)	DATE
June 2025 Staff Report	<a href="#">BC014</a>		6/26/2025
June 2025 Staff Report - <u>Compiled Applicant Exhibits</u>	<a href="#">BC016</a>	1-2272	6/26/2025
Cover Letter for Jan 15th Supplemental Materials	<a href="#">BC016</a>	96-110	1/15/2025
Burden of Proof	<a href="#">BC016</a>	1-90	1/15/2025
ADDENDUM to Burden of Proof	<a href="#">BC016</a>	91-95	3/14/2025
Application form and fees (Exhibit E1)	<a href="#">BC016</a>	138-141	10/30/2024
Engineering Plans (Exhibit E2)	<a href="#">BC016</a>	142-170	3/14/2025, 04/29/2025 addendum
Vesting deeds to the tax lots contained in the Development Site (Exhibit E3)	<a href="#">BC016</a>	171-185	10/30/2024
Wildlife habitat assessment and surveys (Exhibit E4)	<a href="#">BC016</a>	186-286	10/30/2024
Phase II geotechnical exploration report narrative (Exhibit E5N)	<a href="#">BC016</a>	287-338	10/30/2024
Appendix A to phase II geotechnical exploration report (Exhibit EA)	<a href="#">BC016</a>	339-427	10/30/2024
Appendix B to phase II geotechnical exploration report (Exhibit E5B)	<a href="#">BC016</a>	428-478	10/30/2024
Appendix C & D to phase II geotechnical exploration report (Exhibit E5CD)	<a href="#">BC016</a>	479-496	10/30/2024
Appendix E to phase II geotechnical exploration report (Exhibit E5E)	<a href="#">BC016</a>	497-588	10/30/2024
Appendix F to phase II geotechnical exploration report (Exhibit E5F)	<a href="#">BC016</a>	589-594	10/30/2024
Well logs for PW-2 and Berklund wells (Exhibit E6)	<a href="#">BC016</a>	595-601	10/30/2024

## EXHIBIT A

Letter from CEC regarding Oregon DEQ permits and regulations (Exhibit E7)	<a href="#">BC016</a>	602-812	10/30/2024
Map and list of adjacent and nearby properties (Exhibit E8)	<a href="#">BC016</a>	813-815	10/30/2024
Map defining analysis area and showing odor complaints (Exhibit E9)	<a href="#">BC016</a>	816-817	10/30/2024
Aerial image of topography and roads surrounding the landfill area (Exhibit E10)	<a href="#">BC016</a>	818-819	10/30/2024
Noise study (Exhibit E11)	<a href="#">BC016</a>	820-851	10/30/2024
Findings on odor (Exhibit E12)	<a href="#">BC016</a>	852-858	10/30/2024
Memorandum regarding odor, methane, and hydrogen sulfide control at Coffin Butte Landfill (Exhibit E13)	<a href="#">BC016</a>	859-926	10/30/2024
2024 Odor study (Exhibit E14)	<a href="#">BC016</a>	927-983	10/30/2024
Traffic Report and Addendum (Exhibit E15)	<a href="#">BC016</a>	984-1099	4/29/2025, 10/30/2024 addendum
Environmental and operational considerations (Exhibit E16)	<a href="#">BC016</a>	1100-1116	3/14/2025
Preliminary drainage report (Exhibit E17)	<a href="#">BC016</a>	1117-1171	3/14/2025
Aerial renderings of Coffin Butte Landfill (Exhibit E18)	<a href="#">BC016</a>	1172-1179	10/30/2024
Site lighting summary (Exhibit E19)	<a href="#">BC016</a>	1180-1181	10/30/2024
Fire risk assessment of Coffin Butte Landfill and Addendum (Exhibit E20)	<a href="#">BC016</a>	1182-1195	09/24/2024, 01/15/2025 addendum
Proposed Conditions of Approval (Exhibit E21)	<a href="#">BC016</a>	1196-1205	6/13/2025
Reclamation plan for expansion area (Exhibit E22)	<a href="#">BC016</a>	1206-1217	10/30/2024
Oregon DEQ permit #306 materials (Exhibit E23)	<a href="#">BC016</a>	1218-1245	10/30/2024
Oregon DEQ permit work plan (Exhibit E24)	<a href="#">BC016</a>	1246-1353	10/30/2024
Oregon DEQ approval of work plan (Exhibit E25)	<a href="#">BC016</a>	1354-1355	10/30/2024
Archaeological report (Exhibit E26)	<a href="#">BC016</a>	1356-1358	10/30/2024
Leachate management summary (Exhibit E27)	<a href="#">BC016</a>	1359-1361	1/15/2025
Republic Services letter to the Benton County Board of Commissioners regarding methane emissions and Addendum (Exhibit E28)	<a href="#">BC016</a>	1362-1367	10/30/24, 1/15/2025 addendum
Republic Services letter to the Benton County Board of Commissioners relating to arsenic and Addendum (Exhibit E29)	<a href="#">BC016</a>	1368-1371	10/30/24, 1/15/2025 addendum
Proposed Coffin Butte Landfill seismic design (Exhibit E30)	<a href="#">BC016</a>	1372-1374	10/30/2024

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Farm Lease between VLI and Agri-Industries, Inc. (Exhibit E31)	<a href="#">BC016</a>	1375-1382	1/15/2025
Photos of farm and forest uses on adjacent properties (Exhibit E32)	<a href="#">BC016</a>	1383-1407	1/15/2025
2025 Odor study (Exhibit E33)	<a href="#">BC016</a>	1408-1522	3/14/2025
Benton County business database (Exhibit E34)	<a href="#">BC016</a>	1523-1616	3/14/2025
Cover Letter from Miller Nash RE: New Materials and Staff Report responses	<a href="#">BC016</a>	111-114	4/29/2025
Applicant Presentation to Planning Commission – April 29, 2025	<a href="#">A0052</a>	1 - 51	4/29/2025
Cover Letter from Miller Nash RE: June 6th File Submissions	<a href="#">BC016</a>	115-128	6/16/2025
Legal Arguments Memo from Miller Nash (Exhibit E35)	<a href="#">BC016</a>	1617-1622	6/6/2025
June 2025 Odor Study (Exhibit E36)	<a href="#">BC016</a>	1623-1734	6/6/2025
Memorandum Re: Beyond Toxics May 6th Testimony (Exhibit E37)	<a href="#">BC016</a>	1735-1737	6/6/2025
Memorandum Re: Proposed Noise Mitigation (Exhibit E38)	<a href="#">BC016</a>	1738-1740	6/6/2025
ODEQ 2019 Memorandum Re: CAOPR (Exhibit E39)	<a href="#">BC016</a>	1741-1745	6/6/2025
Employee Exposure Report of Findings (Exhibit E40)	<a href="#">BC016</a>	1746-1956	6/6/2025
Environmental Methane Compliance Report of Findings (Exhibit E41)	<a href="#">BC016</a>	1957-2205	6/6/2025
Memorandum RE: Traffic Testimony (Exhibit E42)	<a href="#">BC016</a>	2206-2209	6/6/2025
Memorandum RE: Wildlife and Habitat Testimony (Exhibit E43)	<a href="#">BC016</a>	2210-2211	6/6/2025
Memorandum RE: Fire Risk Testimony (Exhibit E44)	<a href="#">BC016</a>	2212-2214	6/6/2025
Cross Sections of Expansion Height (Exhibit E45)	<a href="#">BC016</a>	2215-2218	6/6/2025
May 2025 Aerial Image of Existing Tarps (Exhibit E46)	<a href="#">BC016</a>	2219	6/6/2025
Memorandum Re: Construction Sequencing Testimony (Exhibit E47)	<a href="#">BC016</a>	2220-2221	6/6/2025
Memorandum Re: Dry Climate Landfill Testimony (Exhibit E48)	<a href="#">BC016</a>	2222	6/6/2025
Cover Letter from Miller Nash RE: June 12th File Submissions	<a href="#">BC016</a>	129-130	6/12/2025
Memorandum Re: Groundwater Testimony (Exhibit E49)	<a href="#">BC016</a>	2223-2242	6/12/2025
Map of Groundwater Monitoring Network (Exhibit E50)	<a href="#">BC016</a>	2243	6/23/2025
June 23 Cover Letter (1/2)	<a href="#">BC016</a>	131-134	6/23/2025

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Odor Study Supplemental Information (Exhibit E51)	<a href="#">BC016</a>	2244-2246	6/23/2025
June 23 Cover Letter (2/2) on VNEQS Comments	<a href="#">BC016</a>	135-137	6/23/2025
Response to VNEQS Noise Comments (Exhibit E52)	<a href="#">BC016</a>	2247-2249	6/23/2025
Response to VNEQS Odor Comments (Exhibit E53)	<a href="#">BC016</a>	2250-2251	6/23/2025
Response to VNEQS Traffic Comments (Exhibit E54)	<a href="#">BC016</a>	2252-2257	6/23/2025
Response to VNEQS Groundwater and Leachate Comments (Exhibit E55)	<a href="#">BC016</a>	2258-2262	6/23/2025
Response to VNEQS Fire Risk Comments (Exhibit E56)	<a href="#">BC016</a>	2263-2269	6/23/2025
Response to VNEQS Wildlife Comments (Exhibit E57)	<a href="#">BC016</a>	2270-2272	6/23/2025
<b>June 2025 Staff Report - <u>Compiled Benton County Exhibits</u></b>	<a href="#">BC015</a>	1-510	6/26/2025
Compiled County Engineering and Public Works Comments	<a href="#">BC015</a>	1-37	6/26/2025
Compiled Agency Comments	<a href="#">BC015</a>	38-111	6/26/2025
Map of Testimony from within Analysis Area	<a href="#">BC015</a>	112-113	6/26/2025
Benton County Notice to Outside Agencies	<a href="#">BC015</a>	114-118	6/26/2025
Benton County Reviewing Consultants' Credentials	<a href="#">BC015</a>	119-161	6/26/2025
Property Zoning Map	<a href="#">BC015</a>	162-163	6/26/2025
Compiled Testimony from Adjacent Property Owners/Residents	<a href="#">BC015</a>	164-365	6/26/2025
Compiled Testimony from Opponents	<a href="#">BC015</a>	366-510	6/26/2025
Planning Commission Decision	<a href="#">BC019</a>		7/30/2025
Adjacent Property Testimony - M. Bradley	<a href="#">T0774</a>		7/9/2025
Applicant Presentation to Planning Commission – July 8, 2025	<a href="#">A0096</a>		7/8/2025
Cover Letter from Miller Nash RE: July 16 Submittal	<a href="#">A0097</a>		7/16/2025
Responses to July 8 – 9 Evidence (Exhibit E65)	<a href="#">A0099</a>		7/16/2025
Applicant's Final Rebuttal	<a href="#">A0100</a>		7/21/2025

### APPEAL TO BOC RECORD MATERIALS

TITLE	BOC RECORD ID	PAGE IN RECORD (IF APPLICABLE)	DATE
Appeal Submission	<a href="#">BOC1_A0001</a>		8/12/2025
Cover Letter from Miller Nash RE: September 12 Submittal	<a href="#">BOC1_A0002</a>		9/12/2025
Code Interpretation Memorandum from Miller Nash (Exhibit E66)	<a href="#">BOC1_A0003</a>		9/12/2025

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PC Decision Responses and Evidence (Exhibit E67)	<a href="#">BOC1 A0004</a>	9/12/2025
Groundwater Modeling Memorandum (Exhibit E68)	<a href="#">BOC1 A0005</a>	10/7/2025
Adjacent Property Testimony - R. Holdorf	<a href="#">BOC1 T0099</a>	10/3/2025
Adjacent Property Testimony - J. Morrell	<a href="#">BOC1 T0146</a>	10/5/2025
Adjacent Property Testimony - T. Morrell	<a href="#">BOC1 T0147</a>	10/5/2025
Adjacent Property Testimony - B. Briskey	<a href="#">BOC1 T0152</a>	10/6/2025
Adjacent Property Testimony - L. A. Davis	<a href="#">BOC1 T0155</a>	10/6/2025
Adjacent Property Testimony - Ro. Kipper	<a href="#">BOC1 T0173</a>	10/6/2025
Adjacent Property Testimony - Ri. Kipper	<a href="#">BOC1 T0174</a>	10/6/2025
Adjacent Property Testimony - K. and S. Edwardsson	<a href="#">BOC1 T0196</a>	10/7/2025
Adjacent Property Testimony - J. Geier	<a href="#">BOC1 T0215</a>	10/7/2025
Opponent Testimony - M. Yeager	<a href="#">BOC1 T0244</a>	10/7/2025
Opponent Testimony - M. Yeager	<a href="#">BOC1 T0245</a>	10/7/2025
Adjacent Testimony – E. Bradley, Bit By Bit	<a href="#">BOC1 T0481</a>	
October 2025 Staff Report	<a href="#">BOC1 BC0004</a>	10/15/2025
October 2025 Staff Report Attachments	<a href="#">BOC1 BC0005</a>	10/15/2025
BOC Approval – Exhibit A, Board Findings	<a href="#">BOC3 BC0013</a>	11/13/2025
BOC Approval – Exhibit B, Conditions of Approval	<a href="#">BOC3 BC0014</a>	11/13/2025
BOC Approval – Signed Order	<a href="#">BOC3 BC0015</a>	11/17/2025
Notice of Intent - Appellant Submission	<a href="#">BOC3 BC0018</a>	12/08/2025
Notice of Withdrawal – Board Reconsideration	<a href="#">BOC3 BC0019</a>	12/16/2025

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### BOC RECONSIDERATION RECORD MATERIALS

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TITLE	BOC RECORD ID	PAGE IN RECORD (IF APPLICABLE)	DATE
Legal Guidance for Decision on Reconsideration	<a href="#">BOC4 BC0020</a>		01/20/2026
November 6 2025 DEQ PEN	<a href="#">BOC4 BC0022</a>		01/20/2026
Agency Comment - January 2026 DEQ Statement	<a href="#">BOC4 BC0023</a>		01/22/2026
Engineering Third-Party Review – Odor and 2025 DEQ PEN	<a href="#">BOC4 BC0025</a>		01/27/2026
Legal Guidance Response to First Open Record Period	<a href="#">BOC4 BC0027</a>		02/02/2026
Applicant’s Final Written Response	<a href="#">BOC4 A0011</a>		02/10/2026