

1 **BEFORE THE LAND USE BOARD OF APPEALS**
2 **OF THE STATE OF OREGON**

3 VALLEY NEIGHBORS FOR
4 ENVIRONMENTAL QUALITY
5 AND SAFETY, ROBERT KIPPER,
6 KRUEGER WEST CATTLE
7 COMPANY, ANGELA KRUEGER-
8 WILSON, RYAN WILSON, ROSE
9 HOLDORF, CATHERINE E.
HOLDORF, IAN FINN, BARBARA
FICK, JOEL GEIER, REBECCA
SHERMAN GEIER, and MARK
YEAGER,

Petitioners,

v.

BENTON COUNTY,

Respondent,

and

VALLEY LANDFILLS, INC.

Intervenor-Respondent.

LUBA No. 2025-082

MOTION FOR EXTENSION OF
TIME (DECISION ON
RECONSIDERATION)

(ORS 197.830(13)(b))

(OAR 661-010-0021)

18 **MOTION FOR EXTENSION OF DEADLINE**
19 **TO FILE DECISION FOR RECONSIDERATION**

20 On December 16, 2025, Respondent Benton County withdrew the
21 decision challenged in LUBA No. 2025-082 for reconsideration. ORS
22 197.830(13)(b) OAR 661-010-0021(1) require the county to file a copy of the
23 decision on reconsideration “within 90 days after the filing of the notice of

1 withdrawal or within such other time as the Board may allow.” This motion
2 requests that LUBA allow a short extension of the deadline in OAR 661-010-
3 0021(1).

4 ORS 197.830(13) or OAR 661-010-0021 do not establish any
5 requirements for local government proceedings after withdrawal of the decision
6 for reconsideration. *Tylka v. Clackamas County*, 28 Or LUBA 417, 425-26
7 (1994); *Eugene Clean Fuels LLC v. City of Eugene*, LUBA No 2025-007, July
8 23, 2025 (on reconsideration, a local government must follow any applicable
9 regulations under its local code and if there are no local provisions governing
10 local processes on reconsideration, then a local government may decide what
11 process to use on a case-by-case basis); *ONRC v. City of Seaside*, 26 Or LUBA
12 645 (1994) (a local government may withdraw a decision for reconsideration
13 under OAR 661-010-0021 and, absent local provisions to the contrary, limit its
14 reconsideration to adoption of adequate findings); *McDougal v. Lane County*, 78
15 Or LUBA 1016, 1018 (2018) (withdrawal of the decision for reconsideration for
16 the hearings officer to accept new evidence); *McElroy v. Corvallis*, 36 Or LUBA
17 185, 195, *aff’d* 162 Or App 390, 991 P2d 582 (1999) (withdrawal of the decision
18 for reconsideration to deliberate again).

19 On January 20, 2026, the Board of Commissioners reopened the
20 evidentiary hearing on the appeal to the Board of the planning commission’s
21 decision denying Intervenor-Respondent’s application.¹ The Board heard a
22

23 ¹ The delay between December 16, 2025, and the hearing on January 20, 2026
was due to the intervening holidays, staff and Commissioner scheduled

1 report from county planning staff regarding new evidence to potentially be
2 considered, along with a recommended schedule for the proceedings on
3 reconsideration. At the conclusion, the Board voted to reopen the written record
4 to address a limited issue. The Board voted to leave the written record open for
5 evidence and argument related to that limited issue until February 3, 2026, and
6 to allow Intervenor-Respondent until February 10, 2026, to submit final written
7 argument. *Fasano v. Washington Co. Comm.*, 264 Or 574, 507 P2d 23 (1973)
8 (participants in a quasi-judicial local government land use proceeding have a
9 right to rebut evidence); *Rice v. City of Monmouth*, 53 Or LUBA 55, 60 (2006),
10 *aff'd* 211 Or App 250, 154 P3d 786 (2007) (“there is no unlimited right to rebut
11 rebuttal evidence, and *Fasano* does not require endless opportunities to rebut
12 rebuttal evidence.”)

13 The Board scheduled its deliberations on the application for March 3,
14 2026, and scheduled March 17, 2026, to adopt the final written decision with
15 findings. March 17, 2026, is the 91st day after the date the Notice of Withdrawal
16 for Reconsideration was filed. In adopting the above schedule, the Board strove
17 to balance the rights of participants in land use proceedings to submit and rebut
18 evidence and argument with the requirement to file a copy of the decision on
19 reconsideration with LUBA within 90 days after the notice of withdrawal is
20 filed. Respondent requests that LUBA allow an extension of the deadline in
21 OAR 661-010-0021(1) of an additional eight days beyond March 16, 2026, to
22

23 absences, as well as a local code requirement for 14 days prior notice of the
hearing.

1 file a copy of the Board of Commissioners' decision on reconsideration not later
2 than March 24, 2026.

3 DATED January 23, 2026.

4 BATEMAN SEIDEL MINER BLOMGREN
5 CHELLIS & GRAM, PC

6 

7 By: _____

8 Melissa Ryan, OSB #983403

9 *Of Attorneys for Respondent*

1 **CERTIFICATE OF FILING AND SERVICE**

2 I certify that on January 23, 2026, I filed the original of this **MOTION**
3 **FOR EXTENSION OF TIME (DECISION ON RECONSIDERATION)**

4 with the:


5 Land Use Board of Appeals
6 201 High Street NE, Suite 600
 Salem Oregon, 97301-3398

7 By first-class mail, postage prepaid. On the same date, I served a true and
8 correct copy of the same, by first-class mail, postage prepaid, on the following
9 party:

10 Jeffrey Kleinman
11 1207 SW 6th Ave
12 Portland, OR 97204
 Attorney for Petitioners

 Steven Hultberg
 Radler White Parks & Alexander LLP
 111 SW Columbia Street, Ste 700
 Portland, OR 97201
 Attorney for Intervenor-Respondent

13
14 BATEMAN SEIDEL MINER BLOMGREN
15 CHELLIS & GRAM, PC

16 
17 By _____
 Melissa Ryan, OSB #983403
 Of Attorneys for Respondent