

From: [Mark Henkels](#)
To: [Coffin Butte Landfill Appeals](#); [Mark Henkels](#)
Subject: Testimony regarding LU-24-027
Date: Monday, January 26, 2026 8:18:36 AM
Attachments: [Revised Testimony for Coffin Butte Reconsideration 2026.docx](#)

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Hello!

I have attached here testimony to be included for review in the LU-24-027 reconsideration process. I have also pasted the content below.

Please send me an acknowledgement that you received this.
I truly appreciate how much work the County is doing on this matter.
Thanks.
Wish you well.

Mark Henkels
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Benton County Board of Commissioners

January 25, 2026

Testimony Regarding the Oregon Department of Environment(DEQ) Pre-Enforcement Notice(PEN) Dated November 6, 2025 and its Relevance to Your Reconsideration of the Decision to Permit the Expansion of Coffin Butte Landfill, LU-24-027

Submitted by Mark Henkels <mphcorvallis@gmail.com>
7540 NE Pettibone Drive
Corvallis, OR 97330

Commissions Malone, Wyse, and Shepherd:

The DEQ's Pre-Enforcement Notice (PEN) that prompted your reconsideration of the 2025 decision favoring the expansion of Coffin Butte raises at least two points worthy of attention as you reconsider the issue. Knowing of, and greatly appreciating, your hard work on this issue, this will be as concise as possible.

Point 1: The PEN shows that the County deferred too much to Republic Services'

experts and information in the 2025 expansion decision.

The PEN demonstrates that many points argued by expansion opponents were more valid than those submitted by Republic Services. Consider the discrepancies between EPA and DEQ methane analyses and the information provided by Republic Service regarding the number and extent of exceedances, measurement problems, and the improper exclusion of surface areas for measurement. The PEN substantiates arguments raised by expansion opponents and should weaken your confidence in information provided by Republic Services. **In other words, the PEN justifies a rebalancing of how the County evaluates the quality of information provided by the two sides in favor of the critics of expansion.** Both sides have people with extensive experience with the issues, but Republic Service experts built their careers by advocating for corporate interests while the opponents' professional work required wider knowledge of hydrology, toxicology, and administrative processes.

Point 2: The PEN demonstrates that it is unreasonable for the County to rely on Republic Services to fulfill its responsibilities under the expansion proposal based on both its past performance and the impossibility of having the proper incentives for proper implementation.

The document that initially approved the expansion, which is now being reconsidered, assumes that Republic Services, the County, and federal and state regulators will all take an active and informed interest in the fulfillment of an extensive list of conditions of approval and performance standards. The PEN shows that Republic Services will not fulfill its obligations without strong external legal pressure, if that is even possible. This pressure hinges on federal and state agencies being motivated and able to rigorously oversee Coffin Butte's operation. As the Oregon DEQ indicates in the PEN and their follow-up letter regarding the Notice, the U.S. EPA is a critical player in enforcing environmental regulations but is increasingly dysfunctional. The EPA's problems are unfixable at this time so its competency and will to monitor and enforce future violations is eroding fast. The PEN also shows how the state depends on the EPA for key information and direction regarding enforcement. The DEQ's enforcement of Coffin Butte's environmental compliance has never been consistent. **The EPA's implosion and Oregon's impending budget crisis make reliance on DEQ enforcement unreasonable.** Therefore, the County will be increasingly responsible for monitoring and mitigating Coffin Butte's health and environmental impacts.

Even with some funding for monitoring, the County lacks the capacity to enforce the waiver's many conditions and standards since it has no clear enforcement mechanisms. There are no County provisions for shutting down the facility or to fine Republic Services. Furthermore, the County has no dedicated funds to enforce state and federal regulations through litigation.

Republic Services has not even fulfilled some fundamental elements of environmental regulations and existing agreements with the County. At the most immediate level, PEN lists of number of violations that indicate Republic Services cannot be trusted to follow its commitments or the law. Two examples will suffice here. Many more can be found in the PEN.

On page two of the PEN we see how Republic Services has consistently avoided doing proper surveys of surface emissions, the Oregon DEQ states: "Since at least 2022, VLI has failed to conduct SEM as required by Subpart AAAA and Division 239 by consistently excluding large areas of the landfill where SEM is required ..."

One other specific example from the PEN: “VLI has reported extensive downtime events for its flares. For example, in the first half of 2022 there were eight events where flare #1 was down for more than 100 hours during each event, with one of the events extending over 428 hours. The collection system was only down for an hour and thirty minutes during that same six-month time period in 2022. During the first six months of 2025, the new enclosed flare was offline intermittently for a total time period that adds up to over 15 calendar days.” (Page 6) This requirement is in state law.

It is impractical to expect Republic Services will do better at fulfilling its obligation under the formerly (2025) approved conditional use permit Section: *OP-2 Site Operations*. “(D) *Applicant shall keep all landfill infrastructure in good repair, and shall repair within 48 hours any disabled, damaged, or nonworking infrastructure.*”

The alleged violations found in PEN fit a pattern of behavior and should alert the Board to the impossibility of the regulatory measures of the expansion agreement to be successful. Even in this time of extremely close scrutiny, Republic Services has not yet submitted the 2024 annual report on Coffin Butte’s environmental impact. Evidently Republic Services finds it unfeasible to fulfill even relatively simple and clear requirements in a timely manner.

The PEN document demonstrates that the County cannot rely on Republic Services to provide timely and appropriate information regarding health, safety and the environment. The County also cannot reasonably rely on Republic Services to fulfill all the Conditions of Approval and standards without extremely close oversight backed up with coercive capacity. Such oversight and legal enforcement is not feasible. Furthermore, some problems are impossible to contain by the time they are identified, such as odor problems, underground toxic plumes, and surface run-off due to extreme weather events.

Thank you for your attention.

Mark Henkels

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