From: N Whitcombe
To: Coffin Butte Landfill Appeals
Subject: VNEQS submission 01272026
Date: Tuesday, January 27, 2026 10:22:17 AM
Attachments: VNEQS_Odor_PEN_FINAL_01272026.pdf

File PDF VNEQS_Odor_PEN_FINAL_01272026

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N J Whitcombe

Valley Neighbors for Environmental Quality and Safety (VNEQS)

To: **Chair Malone**, Board of Commissioners members **Wyse and Shepherd**

CC: Petra Schuetz, Benton County Community Development Department
Winterbrook Planning (incl. Maul Foster Alongi, Kellar Engineering)

From: Valley Neighbors for Environmental Quality and Safety (VNEQS)
https:coffinbuttefacts.org
North Benton County
Oregon, 97330

Date: January 27, 2026

Re: LU-24-027 CUP application reconsideration after withdrawal – VNEQS Response to P.E.N.

Chair Malone, **Commissioner Wyse** and **Commissioner Shepherd**,

As a result of the DEQ November 6, 2025 Pre-Enforcement Notice (P.E.N.), Commissioners must conclude that Applicant's odor study[1] is materially deficient. It cannot be relied upon. The SCS odor study is only valid if 1) the facility is regulatorily compliant, 2) if the model works for conditions modeled, and 3) if inputs are correct.

1) So, is the facility regulatorily compliant? The P.E.N. says that it is not. The P.E.N. says that more gas emissions than regulations permit are escaping from decaying waste in the landfill. The SCS odor study did not account for this.

2) Does the model work in conditions in which odors are frequently offensive, up to five miles from the facility? The odor study itself says that it does not work in these conditions.

   Since complaints were analyzed in the SCS odor study, many odor complaints (perhaps hundreds of complaints) have been received, complaints which led to the EPA/DEQ investigation, &, ultimately, the P.E.N. Of those, many (like the 42 complaints received on January 13-14, 2026), have occurred on days with thermal inversion. When landfill odors permeate homes, farms, and businesses miles away from the landfill, that is serious interference in the character of those residential/agricultural/commercial areas.

   A residential area – where families live – should smell like cookies; it should not reek of rotting garbage.

[1] *Coffin Butte Landfill 2024 Expansion Application Odor Dispersion Modeling Study*, SCS, Feb 2025, rev. June 2025

Applicant's odor study acknowledges that the model "has limitations at low wind speeds" and "is not able to model thermal inversions" – which is to say that even if the correct data were to be used, the model cannot predict odor impacts during the frequent times when odors are reported as far as 5 miles distant from landfill operations.

3) Are inputs correct? They are not; records requests relating to the P.E.N. are forthcoming.

Applicant is likely to claim that it is working diligently to correct the seven Class 1 (most serious) violations in the Notice. But Commissioners have received no testimony that substantiates any such claim. Therefore, such a claim is speculative and cannot be relied on.

In any event, it is unreasonable to assume that a regulatory process that so far has taken four years – and is far from over -- will constrain an operation with a projected lifespan of only six years.

If Commissioners reject SCS odor study and give credence to community complaints, Commissioners may conclude that odor impacts in current operations are likely to continue in future operations, 1. Projected impacts are non-speculative, 2. Applicant's own use of current adverse impacts, and 3. Impossibility of correction:

1. <u>Projected impacts are non-speculative</u>

   Commissioners can rely on current adverse impacts as a reasonable proxy for future adverse impacts of future operations in the proposed airspace. This was articulated in LUBA's 2015 decision regarding the Riverbend expansion:

   "Initially, we note that in most cases where the significant change/cost test is applied to a proposed use, the nature and severity of the actual impacts are somewhat speculative, because the use does not yet exist. In the present case, the nature and severity of the future impacts of the expanded landfill are relatively well-known, because those impacts will likely be very similar to the impacts of the existing landfill."[2]

2. <u>Applicant's own use of current adverse impacts</u>

   Commissioners can also rely on the argument that the impacts of current operations are a reasonable way of estimating future impacts. Commissioners can rely on Applicant's own argument but discard Applicant's odor study as flawed, and instead rely on community odor complaints to project future impacts.

3. <u>Impossibility of correction</u>

   There is no Condition of Approval that will change atmospheric conditions in the Willamette Valley that result in pollution-trapping thermal inversions.

In the absence of a model that accounts for the facility's non-compliance, that performs in conditions where odor complaints are received (thermal inversions, low wind speeds, complex topography), and that uses correct data, Commissioners must consider discounting the Applicant's odor study in its entirety.

[2] Stop the Dump, LUBA No. 2015-036 (Final Opinion and Order, November 10, 2015)

The P.E.N. substantiates prior testimony submitted by VNEQS, which we restate and expand upon in the following pages.

VNEQS, in a June 10, 2025, submittal (Benton County Document T0803), critiqued several flaws in Applicant's SCS odor study (Benton County Document A0055). Both the original SCS study and SCS response to VNEQS critique (Benton County Document A0091) are invalidated by the November 6, 2025 DEQ Pre-Enforcement Notice.

Here is a brief recap of the flaws VNEQS highlighted, where applicable, the SCS response, and why the P.E.N. substantiates VNEQS position and invalidates both the SCS odor study and SCS later justifications for their assumptions in that study.

The takeaway is that the SCS odor study is, bluntly, of no value.

FLAW #1 IN CONSULTANT'S STUDY – **INCORRECT AMOUNT OF WASTE IN PLACE**
SCS Consultants used "inert" materials to calculate both yearly intakes and waste-in-place. As a result of issues raised in the P.E.N., DEQ is now running models with total yearly intakes and total waste-in-place. This will result in greater modelled gas generation (see letter from DEQ, verifying that future models will use total waste intake, not inert waste intake, attachment #1). [3]

FLAW #2 IN CONSULTANT'S STUDY – **INCORRECT CLOSURE YEAR**
The 2023 Coffin Butte Annual Report projected life remaining at 13.4 years (see attachment #2)[4]. The application projects that an expansion would add another 6 years of life (see attachment #3)[5]. That puts a projected end-of-life for the landfill in 2042. SCS Consultants used "inert" materials to calculate a closure year of 2052 -- off by a decade. As a result of issues documented in the P.E.N., there is no longer any justification for using this closure date.

FLAW #3 IN CONSULTANT'S STUDY – LANDFILL GAS **COLLECTION EFFICIENCY OVERESTIMATED**
SCS Consultants used the EPA model of 75% to model the amount of gas collected (so: 75% collected, 25% escapes as so-called "fugitive" emissions – only "fugitive" emissions are used to model odors). But this is only for landfill gas collection systems that are operating in compliance with DEQ/EPA regulations. The P.E.N. lists seven reasons why the landfill gas collection system at Coffin Butte Landfill is not operating per DEQ/EPA regulations. The landfill gas collection system at Coffin Butte is allowing significantly more gas to escape than are permitted by DEQ/EPA regulations (resulting in more odor). The current odor study is based on collection efficiencies that are demonstrably inaccurate as described in the P.E.N. (P.E.N., page 6-7: "…the 2021 design and subsequent installation and operation of the Coffin Butte landfill GCCS is undersized as compared with the maximum expected gas generation flow rate.")

[3] Email, Dylan Darling DEQ Public Affairs Specialist, to Nancy Whitcombe, January 16, 2026
[4] Coffin Butte 2023 Annual Report
[5] Coffin Butte Burden of Proof, Benton County Document A0030, page 4/84

FLAW #4 -- **INCREASED SURFACE AREA** WILL **INCREASE FUGITIVE EMISSIONS**

In their June 20, 2025 response, SCS Engineers write "Flaw #4 correctly notes that increased surface area will allow more area for fugitive gas to escape. This will be combated with additional gas collection wells in the new expansion area, as required under Federal and State air regulations." The November 6, 2025 P.E.N. lists as a violation that there is already too much surface area for the landfill operator to effectively maintain (P.E.N., page 7: "…EPA and DEQ inspectors observed many holes in the landfill cover and a significant number of trees growing through…").

FLAW #5 – **CHERRY-PICKED ODOR COMPLAINTS**.

In their June 20, 2025 response, SCS Engineers write, "If additional complaints were recorded and not submitted to the Landfill's log, SCS is willing to perform a more expansive analysis if the complaint data can be submitted." That comment described analysis of odor complaints from 2024 at the latest. More than a year has passed since then, perhaps hundreds of additional odor complaints have been logged after 2024, but SCS has yet to perform any more expansive analyses. It is not convenient for SCS to validate odor complaints that disprove their model, which could explain both the extremely low rate of judging complaints to have been "likely" to have originated from the landfill (1 complaint total), and reluctance to analyze later complaints.

FLAW #6 – APPLICANT'S CONCLUSIONS ARE **CONTRARY TO REALITY** AND TO **COMMON SENSE**

Commissioners do not even need the P.E.N., or to be experts in Willamette Valley meteorology, to conclude that Applicant's odor study is deeply flawed. Look at the "Results" of the odor study (appended as Attachment 4). The results of the odor study are that in 2052 (the incorrect year the landfill reaches capacity, off by a decade), odors will be less detectable than they currently are. As a reminder, the landfill is only half full, so Applicant is saying that when there twice as much waste in the landfill, odors will be REDUCED[6]. That is an absurd conclusion and only highlights the other flaws in Applicant's study.

When VNEQS pointed out flaws in the SCS odor study, the Applicant might have provided a substantive response. But they did not; they obfuscated and stonewalled. This fits the pattern seen elsewhere, whether Applicant responds to community odor complaints with odor patrols that never detect odors; Applicant responds to EPA inspectors with disputes about how EPA regulations are supposed to be implemented; Applicant responds to DEQ with refusals to comply with requests for drone monitoring; Applicant responds to Benton County with over a year of delay of the 2024 Coffin Butte Annual report.

Please consider asking the County's odor consultant, Mr. Chad Darby: with regard to the P.E.N., Is the SCS model valid if collection efficiencies are estimated incorrectly? If waste intake and waste-in-place in the LandGEM was entered incorrectly? If the end date is incorrect? And so on.

[6] Exhibit 34, page 22/112 of the Applicant's odor study (Benton County Document T0803)

POTENTIAL CODE CITATIONS – FINDINGS FOR DENIAL, ODOR: As a result of issues raised in the P.E.N., Commissioners can discount Applicant's consultant's odor study and weigh the ample testimony that has been provided that current operations do produce odors that seriously interfere with uses on adjacent property. Commissioners can cite the following potential impacts as reasons to deny.

53.215 (1) ODORS WILL SERIOUSLY INTERFERE WITH USES ON ADJACENT PROPERTY – CAN NOT ENJOY BEING OUTSIDE

"People living in areas with poor air quality does pose serious interference with livability."[7] (FINDING OF LU 21-047 DENIAL, UNCHANGED IN CURRENT APPLICATION)

53.215 (1) ODORS WILL SERIOUSLY INTERFERE WITH USES ON ADJACENT PROPERTY -- RESPIRATORY AILMENTS, HEADACHES, DIZZINESS

"Risk of health concerns is likely with the landfill expansion…"[8] (FINDING OF LU 21-047 DENIAL, UNCHANGED IN CURRENT APPLICATION)

53.215 (1) ODORS WILL SERIOUSLY INTERFERE WITH USES ON ADJACENT PROPERTY -- AIRBORNE PFAS & OTHER CHEMICALS (HYDROGEN SULFIDE, VOC's, ETC)

Residents have submitted testimony that residents of the area surrounding the landfill worry about increased cancer risk. (FINDING OF LU 21-047 DENIAL, UNCHANGED IN CURRENT APPLICATION)

53.215 (1) ODORS WILL SERIOUSLY INTERFERE WITH USES ON ADJACENT PROPERTY -- FARMERS CAN'T RETAIN EMPLOYEES

"Some farmers have testified that getting workers to work in the stench has been an issue."[9] (FINDING OF LU 21-047 DENIAL, UNCHANGED IN CURRENT APPLICATION)

53.215 (1) ODORS WILL SERIOUSLY INTERFERE WITH CHARACTER OF THE AREA -- VINEYARD SALE FALLS THROUGH AS A RESULT OF LANDFILL ODOR

A thriving agricultural community (current character of the area) depends on farmers being able to sell their farms, not have sales fall through because of landfill odors

53.215 (1) ODORS WILL SERIOUSLY INTERFERE WITH CHARACTER OF THE AREA -- HOMES, FORESTS, AND FARMS SHOULDN'T SMELL LIKE ROTTING GARBAGE

"Many residents of the area testified that the odor and noise have continually gotten worse over the years. Some testified that they have to seek shelter inside to avoid the noise and smell. They warn that the levels expected in the future will affect their rural residential uses."[10] (FINDING OF LU 21-047 DENIAL, UNCHANGED IN CURRENT APPLICATION)

[7] FINDINGS LU 21-047, page 2
[8] FINDINGS LU 21-047, page 2
[9] FINDINGS LU 21-047, page 2
[10] FINDINGS LU 21-047, page 2

53.215 (1) CURRENT ODOR MITIGATION DOES NOT WORK, APPLICANT DOES NOT PROPOSE ANY CHANGE IN ODOR MITIGATION

"The same mitigation is proposed for the expansion and if it currently does not mitigate the odor then it cannot be used as a mitigation for the future and be expected to minimize the concern."[11] (FINDING OF LU 21-047 DENIAL, UNCHANGED IN CURRENT APPLICATION)

53.215 (1) NO ABILITY FOR THE COUNTY TO ENSURE THAT DEQ STANDARDS ARE ADEQUATE TO PREVENT THE PROPOSED USE FROM SERIOUSLY INTERFERING WITH USES ON ADJACENT PROPERTY

"Much of the applicant's response to these issues is to rely on subsequent review and approval by Oregon Dept. of Environmental Quality (DEQ); however, there is no ability for the Planning Commission to review the situation after DEQ's approval to ensure that DEQ's standards were adequate to prevent the proposed use from seriously interfering with uses on adjacent property."[12] (FINDING OF LU 21-047 DENIAL, UNCHANGED IN CURRENT APPLICATION)

53.215 (1) ODOR IMPOSES UNDUE BURDEN ON ADJACENT PROPERTY -- PHILLIPS HOME

The Phillips' home at 38691 Soap Creek Road is less than 200 yards from the face of the new proposed landfill south of Coffin Butte Road. So less than 200 yards away from the Phillips home and business (Cheryl's Garden, listed on Dun & Bradstreet), where there is currently a forested hillside, the Applicant proposes to locate a 150' wall of garbage, 10,000,000 cubic yards of waste that will include sewage sludge, industrial waste, and rotting animal carcasses. It is easy to imagine that this may render the Phillips property uninhabitable as a result of odor.

[11] FINDINGS LU 21-047, page 2
[12] FINDINGS LU 21-047, page 2

ATTACHMENT 1

Gmail

N Whitcombe <nwhitcombe@gmail.com>

DEQ response RE: LandGEM runs, Coffin Butte landfill

DARLING Dylan * DEQ <Dylan.DARLING@deq.oregon.gov> Fri, Jan 16, 2026 at 9:01 AM
To: Nancy Whitcombe <nwhitcombe@gmail.com>

Nancy,

Thank you for your email.

The prior LandGEM runs did not include total waste, with non-degradable waste excluded from the model. DEQ is requiring total waste for inclusion in the LandGEM runs for the updated permit that will go out on public notice. The data has not yet been finalized and reviewed, so is not available for sharing at this time.

Dylan

Dylan Darling

he/him

Public Affairs Specialist

Oregon Department of Environmental Quality

Western Region – Eugene

Cell: 541-600-6119

dylan.darling@deq.oregon.gov

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ATTACHMENT 2 **2023 + 13.4 YEARS = mid March, 2036**

Landfill Capacity

Coffin Butte Landfill has permitted airspace of 39,006,573 cubic yards (including what has already been consumed by waste disposal). During 2023 the landfill accepted 1,032,214 tons of solid waste. Based on historical aerial fly-over data, the average effective density of the in-place waste at the Coffin Butte Landfill is 0.98 tons/cy (1,965 lbs/cy – 2023 Operational Density).* Therefore, an estimated 1,051,134 cubic yards of airspace was used for the year. A total of 24,013,893 cubic yards has been consumed as of December 31, 2023, leaving a remaining capacity of 14,992,680 cubic yards of permitted air space.

What does that mean in terms of remaining life at Coffin Butte? At the end of 2023, we projected the Landfill had 13.4 years of life remaining. As of today (June 2024), we project about 12.9 years of life remaining – 95 percent of which is in the Quarry and is still being excavated.

As noted in the executive summary of this report, we are proposing an expansion that would add six years of life to Coffin Butte. When the proposed expansion airspace is combined with the not-yet-accessible airspace in the Quarry, the total estimated life at Coffin Butte is anticipated to be about 18.5 years.

We are actively depositing waste in a cell on the northern side of the Landfill, known as Cell 5E. We estimate that that cell will be completely full by February 2025. As you are aware, we have been working aggressively to construct a new cell in the eastern corner of the Quarry to ensure that the county's waste disposal needs can be met without service disruptions. That new cell, called 6A, will begin accepting waste in early 2025, based on current estimates, and we anticipate it will be full by September 2026.

*Effective density incorporates the effects of daily and intermediate soil cover usage. It is calculated by measuring the amount of airspace occupied between successive aerial flyovers using photogrammetric maps and dividing that volume into the number of tons of waste received at the gate.

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

When the Development Site is ready for waste disposal operations, the working face[6] of the landfill will move from north of Coffin Butte Road to the Development Site. Disposal of waste will not be occurring north of Coffin Butte Road during the operation of the Development Site. The size of the working face at the Development Site will be roughly the same as the existing operation, and there will be only one working face operating at a time.

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

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

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

[4] "Airspace" is essentially the measure of the volume of solid waste that can be disposed on a site.

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

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

ATTACHMENT 4

4.0 RESULTS

dimethyl sulfide as they have the same driving source.

Table 6. Scenario #1: 2023 Model Results

CUYD consumed: 24,013,893

Odor Pollutant	Max Impact (ug/m3)	Odor Threshold (ug/m3)	Max D/T	Driving Source	Max Impact Easting UTM Zone 10 (m)	Max Impact Northing UTM Zone 10 (m)
Dimethyl sulfide (methyl sulfide)	**3.51**	**2.54**	**1.38**	**FUG**	**481,595**	**4,949,280**
Ethyl benzene	3.85	8.68	0.44	FUG	481,595	4,949,280
Ethyl mercaptan (ethanethiol)	1.03	2.54	0.41	FUG	481,595	4,949,280
Hydrogen sulfide	**9.52**	**6.55**	**1.45**	**FUG**	**481,595**	**4,949,280**
Methyl mercaptan	0.87	4.13	0.21	FUG	481,595	4,949,280
NOx (as NO2)	769.18	1,881.62	0.41	TIP2 and TIP3	481,845	4,950,455
Toluene	28.54	97.99	0.29	FUG	481,595	4,949,280
Xylene (mixture)	10.11	52.10	0.19	FUG	481,595	4,949,280

Table 7. Scenario #2: 2052 Model Results

CUYD consumed: 48,726,573

ALL ARE LESS!

Odor Pollutant	Max Impact (ug/m3)	Odor Threshold (ug/m3)	Max D/T	Driving Source	Max Impact Easting UTM Zone 10 (m)	Max Impact Northing UTM Zone 10 (m)
Dimethyl sulfide (methyl sulfide)	**3.41**	**2.54**	**1.34**	**FUG**	**480,620**	**4,949,730**
Ethyl benzene	3.39	8.68	0.39	FUG	480,620	4,949,730
Ethyl mercaptan (ethanethiol)	1.01	2.54	0.40	FUG	480,620	4,949,730
Hydrogen sulfide	**8.36**	**6.55**	**1.28**	**FUG**	**480,620**	**4,949,730**
Methyl mercaptan	0.85	4.13	0.21	FUG	480,620	4,949,730
NOx (as NO2)	511.58	1,881.62	0.27	TIP2 and TIP3	481,920	4,950,530
Toluene	25.03	97.99	0.26	FUG	480,620	4,949,730
Xylene (mixture)	8.84	52.10	0.17	FUG	480,620	4,949,730

CONCLUSION OF SCS ENGINEERS ODOR STUDY:

ODORS WILL BE LESS IF AN EXPANSION IS APPROVED AND WASTE-IN-PLACE VOLUMES ARE DOUBLE WHAT THEY CURRENTLY ARE