

From: [Joel Geier](#)
To: [Coffin Butte Landfill Appeals](#)
Cc: [Joel Geier](#)
Subject: Testimony for LU-24-027 Reconsideration Hearing on DEQ Pre-enforcement Notice
Date: Tuesday, January 27, 2026 11:53:33 AM
Attachments: [BOCreconsiderationComments_JoelGeier.pdf](#)

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Dear County Staff:

Please enter the attached PDF (titled BOCreconsiderationComments_JoelGeier, 7 pages in length) into the public record for the Reconsideration Hearing. My address is included in the document.

Thank you for your work on behalf of the residents of Benton County.

Yours sincerely,
Joel Geier

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Dear Chair Malone, Commissioner Wyse and Commissioner Shepherd:

Thank you for the opportunity to provide additional testimony in response to the Oregon Department of Environmental Quality (DEQ) Pre-Enforcement Notice (PEN) which was served on Valley Landfills Inc. (VLI) on November 6, 2025.

I appreciate that you have taken this opportunity to reconsider your previous decision in light of this significant new evidence regarding the applicant's operational competence and veracity. Once again I urge you to **uphold the previous unanimous decision of your Planning Commission to deny this application**, in keeping with the recommendations of your Energy and Natural Resources Advisory Council (ENRAC).

The DEQ PEN lists seven Class I violations – the most serious category of violations according to DEQ – arising from VLI's failure to comply with state and federal regulations in their management of Coffin Butte Landfill. Four of the seven violations involve failures to conduct monitoring as prescribed by regulations.

1. These violations demonstrate an ongoing failure by VLI to meet their obligations to monitor, repair, and report on systems that are required by state and federal statutes, to protect public health and the environment in the vicinity of Coffin Butte Landfill.

DEQ's notice of these violations is germane to Benton County's deliberations in the current land-use proceeding, specifically in relation to BCC 53.215(1) (Adjacent Properties and Character of the Area – Water Quality, Air Quality), BCC 53.215(2) (Water Quality), and BCC 60.220(1)(a) (Farm Impacts).

For all of these issues, County staff and their outside consultants have acknowledged a likelihood that the proposed new landfill development will have adverse impacts on existing uses of adjacent properties. The likelihood of significant impacts was cited by the Benton County Planning Commission in their decision to deny LU-24-027.

During the subsequent appeal to the Board of Commissioners, County staff proposed a long list of Conditions of Approval (COAs), many of which depend on VLI to conduct monitoring and corrective actions where motivated.

2. Due to their failure to comply with state and federal regulations for relatively simple monitoring, as enumerated in the DEQ PEN, VLI's ability to comply with Benton County conditions of approval requiring more complex types of monitoring cannot be assumed.

The DEQ PEN shows that Oregon DEQ and the US EPA have not been able to ensure compliance with existing state and federal regulations, despite having much more significant tools and capacity for enforcement than Benton County.

As one basis for Violation (1), DEQ notes (PEN p. 4) that VLI excluded large areas of the existing landfill from emissions monitoring without approval from DEQ. The stated reasons for failing to monitor these areas amounted to difficulty of access, namely high vegetation (which resulted from VLI's failure to control vegetation heights) and steep slopes (which are a consequence of VLI's own design). As one basis for Violation (6), DEQ notes (PEN p. 6-7) that VLI "failed to monitor 8 wellheads; some of the wellheads were not monitored for multiple months during January-June 2025."

Although DEQ has not at this time cited VLI for failures in their groundwater monitoring program, the Benton County Disposal Site Advisory Committee (DSAC) has identified multiple deficiencies in the groundwater monitoring system for the existing landfill (DSAC July 2025 subcommittee report, previously submitted into the record for LU-24-027 as BOC1_T0459 - Oct 18, 2025). These deficiencies include (i) inadequate density of monitoring wells, (ii) inadequate depth of monitoring wells such that they do not penetrate the underlying basalt aquifer, and (iii) possibly deficient maintenance of existing wells. DEQ has not yet responded to DSAC's findings regarding deficiencies in VLI's groundwater monitoring, at least from the information currently on record for this proceeding.

Additionally, in VLI's Annual Environmental Monitoring Reports (AEMRs) for multiple years at least back to 2021, VLI have acknowledged problems in sampling compliance-boundary wells, in particular well MW-27, but they have failed to resolve the problem.

Thus Benton County has ample information to suggest that the Applicant's demonstrated pattern of failures in environmental monitoring, as identified in the DEQ PEN for gas monitoring, may also extend to groundwater monitoring.

Conversely, VLI has not demonstrated competence for characterization of groundwater flow paths in fractured basalt bedrock, which is the key issue of relevance for COAs P1-1, P2-4, and OP-5.¹

Although the AEMRs produced by VLI's consultants through 2024 show a few "quarry piezometers" installed in Coffin Butte north of the existing landfill, these reports have presented neither any analysis of groundwater flow north of the ridge line, nor any analysis of groundwater flow in the bedrock of Tampico Ridge to the south. In their calculations intended to demonstrate that impacts of the new excavation on neighboring wells would be limited, VLI's consultants inappropriately employed a simplistic model ("Dupuit solution") that did not account for the presence of heterogeneity (in the form of fractured zones) in the bedrock. The boundary conditions for this model also contradict VLI's own prior interpretations regarding the direction of groundwater flow under Tampico Ridge (for details see previous testimony BOC1_T0548 - Oct 20, 2025).

Characterization of groundwater flow in fractured bedrock at the level required to predict impacts on individual wells over distances of hundreds of yards, including inaccessible areas on private land, is a technically challenging problem. It would require **speculation** to assume that VLI will develop the required competence for this purpose, given that they have not demonstrated that capacity thus far. County Counsel has noted that in making a decision, Commissioners cannot rely on "...speculative and/or unadjudicated matters."

1 My comments here are based on my relevant professional experience, as stated in previous testimony, which includes degrees in mining engineering (B.Sc.) and geology (Ph.D.), four decades of research and consulting experience, and internationally recognition as an expert on groundwater flow in fractured bedrock. My background includes both undergraduate and graduate-level coursework in mine environmental engineering, including methods for methane monitoring (a critical safety issue for underground coal mines in particular), as well as federally mandated health and safety training for work on hazardous waste sites.

The DEQ PEN documents how VLI has failed to perform comparatively simple, routine surficial monitoring on large areas of its own property, and how VLI has also failed to sample multiple gas monitoring wells for months at a time. Benton County cannot assume that VLI will develop the capacity for new types of monitoring, involving new specializations (fractured rock hydrogeology), in which they have no track record of demonstrated capability.

3. Benton County lacks technical expertise and enforcement resources to oversee a monitoring program conducted by an applicant which, as exemplified by the DEQ PEN, has a track record of regulatory non-compliance.

The DEQ PEN is the most recent latest step in a process that began when a US EPA inspection in June of 2022 found dozens of methane exceedances that were either not found or were not disclosed by VLI, based on their own monitoring program. According to a press statement by DEQ spokesperson Dylan Darling (quoted in the Salem Statesman Journal on Jan 10, 2026), an enforcement notice is still pending, and is expected to be issued sometime in “early 2026.” In other words, this process which has been ongoing for 3 years and 7 months is still not finished, despite the significant technical capabilities and enforcement capacity of DEQ and US EPA.

Benton County, as a local government, has very limited technical capabilities, and no history of enforcing past COAs for this facility, as documented in the Benton County Talks Trash report (BOC1_T0491 - Oct 19, 2025).

4. Unlike the DEQ PEN which is understood to be a step preceding enforcement, Benton County’s proposed conditions of approval generally lack a description of enforcement measures.

Condition P1-9, despite its title “Compliance Enforcement,” does not specify any enforcement mechanisms. It simply lists several types of review and undefined types of inspections “to assess compliance or to address complaints or compliance issues.” Oddly, Condition P1-9(C) states that the County will “*provide Coffin Butte Landfill expertise to*

assist the county in monitoring on-going landfill activities and related community concerns." This is "word salad," both circular and meaningless.

5. Unlike DEQ, Benton County lacks an enforcement division, and there has been no assessment of whether the applicant fee proposed in Conditions of Approval will be sufficient to fund both review of monitoring and enforcement.

DEQ's PEN, though a pre-enforcement notice, carries weight because DEQ has both authority (granted by the legislature) and established mechanisms for enforcement, including the possibility to levy fines.

During earlier hearings on LU-24-027, Benton County planning officials acknowledged to members of the Planning Commission that they had neither plans, budget nor personnel for enforcing their proposed COAs.

Subsequently the applicant offered an \$80,000 annual payment to the county to fund "compliance monitoring." County staff have adopted this exact amount under proposed Condition P1-9. However County staff have presented no estimates of the actual costs to the County of performing those reviews, nor any account of the technical expertise that will be needed to provide competent reviews of the proposed monitoring programs.

5. Unlike DEQ, Benton County lacks technical expertise on multiple issues for which conditions of approval propose monitoring (including odor, noise, and groundwater). County staff have provided no estimates of the budget needed to engage subject-matter experts who are qualified to assess accuracy, truthfulness of reporting, and compliance.

Based on County documents obtained from a Public Records Request, during the current land-use proceedings, one single firm, Maul Foster Alongi (MFA), billed Benton County \$66,813 for technical professional services within just a three-month period (September through November, 2025). This level of engagement amounts to over 83% of the proposed \$80,000 applicant fee, without even taking into consideration staff time or overhead expenses.

A second firm, Winterbrook Planning, requested and apparently was granted three extensions of the budget for a prior contract: first \$80,000 requested on August 14th, then \$10,000 on November 6th, and most recently \$60,000 on January 7th, for a total of \$150,000 in just five months.

Of the amount billed by MFA in that three month period, \$11,063 went to pay for 41^{3/4} hours of work by a hydrogeologist – just over one 40-hour week's worth of work – and yielded just a 2-page memo (Exhibit 67 in the staff report). That memo can charitably be described as scant on any details regarding either the specifics of VLI's application, the local geology, or technical justifications for the “draft conditions of approval” which make up half of the deliverable.

Benton County currently lacks the technical expertise for assessing compliance on the proposed COAs, not just regarding groundwater but also for other issues. External experts will be needed for Benton County's future review of compliance with these conditions. Experience from these proceedings shows that the costs will be significant, and will quickly outstrip the \$80,000 annual budget offered by the applicant.

6. Unlike the monitoring programs described in the DEQ PEN, which are defined in terms of operations that VLI can carry out on their own property, several of the new types of monitoring specified as conditions of approval will require access to neighboring properties. Neither VLI nor Benton County has shown evidence that the required right of access to neighboring properties has been secured.

The various monitoring programs proposed by county staff are presented without any factual analysis of whether or how they would limit or otherwise mitigate the recognized impacts on adjacent properties.

Regarding groundwater in particular, no agreements with neighboring landowners, either by the County or by the Applicant, have been presented as evidence to demonstrate that the proposed investigations can be carried out in the area south of the proposed development area.

Likewise no agreements with neighboring landowners have been presented which would allow for VLI or their contractors to perform daily litter patrols on private property, which would be necessary to prevent impacts on livestock.

Several of Benton County's proposed COAs rely upon access to private property which, per the public record, has not been granted by the adjacent landowners who are most likely to experience significant impacts.

Benton County cannot legally mandate cooperation with the proposed COAs except by exercise of eminent domain. Eminent domain has not been raised as a mechanism in these proceedings, and cannot be invoked without due cause.

Summary: The DEQ PEN clarifies and validates the concerns that were raised earlier in this process, regarding (1) VLI's competence and commitment to manage the proposed "expansion" in a way that prevents adverse impacts to established uses of neighboring properties, and (2) Benton County's capacity and commitment to enforce the long and complicated list of conditions of approval.

Benton County lacks the capacity, and VLI has not demonstrated competence to manage this facility at a level that will ensure compliance. Conditions of approval are meaningless if they are not fit for purpose, and cannot be implemented and enforced.

Even before the DEQ PEN, there was ample reason for you to deny this application. Now it should be crystal clear. Again, please uphold the unanimous decision of your Planning Commission, and deny this application.

Yours sincerely,
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