

LU-24-027 IN-PERSON TESTIMONY SUBMITTAL COVER SHEET

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DATE RECEIVED:	<u>10/29/2025</u>
FROM:	<u>Jeffrey Condit</u>
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@ 3:22 pm

Memorandum

To: Benton County Board of Commissioners

From: Jeffrey G. Condit 

Client: Valley Landfills, Inc.

Matter: Conditional Use Permit (CUP) to Expand Coffin Butte Landfill (LU-24-027)

Subject: Applicant's Final Written Response to Benton County Board of Commissioners Questions and Evidence Submitted at the October 22 and 23, 2025, Hearings

Date: October 29, 2025

We represent Valley Landfills, Inc. (a subsidiary of Republic Services, Inc.), the applicant for the above-noted CUP (the "Applicant"). Please accept this testimony into the record as the Applicant's final written rebuttal/response to questions from the Board of Commissioners (the "Board") at the conclusion of the appeal hearing on October 23, 2025, as well as response to new evidence placed before the Board at the appeal hearing. At the direction of the Board, we have put this into an outline format.

The Applicant submitted a thorough and complete application that meets or exceeds all the criteria and burden of proof necessary for approval. As you enter deliberations, we ask that you apply the appropriate weight to the evidence. A team of independent experts, hired by the County, reviewed the application, heard input from the community, and developed conditions of approval ("COAs") based on the application and community input.

The COAs and the recommendations by staff are based on evidence and testing directly related to the landfill. The Applicant has committed to abide by those COAs. The County's experts have hands-on experience with landfills and have directly analyzed Coffin Butte landfill's data and reporting and performed their own assessments. Based on your experts' review and in conjunction with the COAs, County staff supports our position and is recommending approval.

I. RESPONSE TO QUESTIONS FROM THE BOARD

Site Life: Commissioner Pat Malone asked the Applicant to clarify the landfill's estimated site life:

- Estimated site life without the expansion is nine (9) years, assuming current tonnage acceptance and waste placement density.
- The expansion would add approximately six years of life.

Estimated Tonnage/Tonnage Cap: Commissioner Malone asked the Applicant to clarify the expected annual volume of solid waste and the impact of the tonnage cap:

- The Applicant does not expect a spike in annual tonnage, but rather gradual organic growth within the area serviced by Coffin Butte landfill.
- Nonetheless, because of concerns expressed during this process, the Applicant proposed a tonnage cap condition (Condition Op-4-G) consistent with the cap in the current Landfill Franchise Agreement.
- The Applicant agrees that this condition would apply not only to the expansion parcel but also to the existing operation.
- The new tonnage cap will take effect when the CUP becomes final (including appeals). This is also the date on which the tonnage cap in the Landfill Franchise Agreement will expire.

Fencing: Commissioner Gabe Shepherd asked if the proposed litter fencing for the expansion area is the same as what's currently being used at the site.

- Litter control will be substantially more robust. Proposed Condition OP-15 requires an additional layer of fencing.
- Standard practice is to strategically place 6-8-foot-high movable fence sections near the working face to prevent windblown litter from leaving the site.
- The Applicant has proposed a second layer of movable fencing positioned at an optimal distance away from the working face to capture any potential litter that escaped the first layer of defense.
- Lastly, as currently proposed, a third layer of fencing will encompass the entire perimeter of the expansion area. This fencing is 12-14 feet high and will help to further prevent any material from leaving the site.

- Other operational modifications will include additional litter patrol along Highway 99, Soap Creek Road, and Independence Highway, along with additional control measures, including a condition of approval to remove landfill litter on private property upon request of the property owner.
- These requirements are set forth in Condition of Approval OP-9.

Truck Traffic: Commissioner Shepherd asked how many non-Republic commercial trucks accessed the site daily.

- To respond to this inquiry, we reviewed data from representative samples on busier days at the landfill (September 16, 2025; September 16, 2024; and September 16, 2023).
- The total trucks were as follows: 471 in 2025; 546 in 2024; and 513 in 2023.
- In 2025, 26 percent were Republic trucks; 23 percent were contracted commercial haulers; and 51 percent were public self-haul vehicles.
- In 2024, 19.5 percent were Republic trucks; 29.5 percent were contracted commercial haulers; and 51 percent were public self-haul vehicles.
- In 2023, 26 percent were Republic trucks; 33 percent were contracted commercial haulers; and 41 percent were public self-haul vehicles.
- These representative samples are consistent with trucking activity at the landfill.
- The data shows the landfill is largely used by the public for self-haul, as it is a convenient, safe, affordable, and environmentally responsible way to dispose of waste. See Applicant's Exhibit 38, submitted June 6, 2025, and Applicant's Exhibit 52, submitted June 20, 2025.
- The Applicant's noise study accounted for the noise generated by this traffic and by noncommercial traffic and concluded that the noise standard would still be met by reducing the noise from the Applicant's on-site vehicles and operations. See Applicant's Exhibit 38, submitted June 6, 2025, and Applicant's Exhibit 52, submitted June 20, 2025.

Odor Complaints: Commissioner Shepherd asked how odor complaints are handled now, compared to how they would be handled under the CUP. He also asked if substantiated

complaints were handled differently than unsubstantiated complaints, and what actions are taken if a complaint is substantiated.

- Odor complaints are submitted in one of three ways: directly through the odor portal on the Coffin Butte landfill website; to the Oregon Department of Environmental Quality (ODEQ); and, occasionally, directly to the County.
- All complaints are investigated with the same rigor, regardless of which entity initially received the complaint. However, complaints submitted through the Coffin Butte landfill website (during weekday working hours) can be investigated within minutes, which allows us to collect near real-time data.
- Upon receipt of an odor complaint through its website (coffinbuttelandfill.com), landfill personnel drive to the complainant's location (within the hour) to determine if odors are present and if they could be attributed to the landfill.
- Wind speed and direction are also recorded, and a photo is taken to document the investigation.
- Site personnel also review all operational logs to determine if there are any anomalies.
- Landfill personnel respond directly to the resident submitting the complaint.
- Reports submitted to the County and ODEQ are investigated largely in the same way, although we often do not receive those until days or weeks after they are filed. We cross-check time of day, operations, and wind speed and direction, and report our findings back to ODEQ.
- During an odor complaint investigation, if the odor is attributed to landfill operations, on-site personnel review current operations and determine remedies for odor mitigation. Remedies can include but are not limited to placement of additional cover at the working face, landfill gas system repairs and maintenance, etc.
- Complaints—substantiated or not—are all treated the same way upon conclusion of the investigation. They are logged into our system and submitted in our annual report. We also keep records in case they can provide valuable trend data in the future.

- Odor monitoring is more robust under the proposed CUP because the COAs (OP-4) include a requirement that the landfill conduct odor patrols using a highly sensitive Nasal Ranger Field Olfactometer. A third-party certified professional will verify our procedure and equipment at least every 30 days as specified in the COAs.

Leachate: Commissioner Shepherd asked how we will dispose of leachate from the expansion area.

- Leachate disposal is not tied to the expansion; rather it is a regulatory requirement under the jurisdiction of ODEQ that must be met, regardless of the CUP application's outcome. However:
- Coffin Butte landfill is currently assessing several options for leachate disposal.
- We have not made a final decision, but have at least two available disposal outlets and other potential investment opportunities, all of which would ensure the safe, responsible disposal of landfill leachate.
- Leachate generation will decline during the operating lifespan of the expansion area due to capping portions of the existing landfill. The expansion area is estimated to generate approximately 10 million gallons of leachate per year at peak generation. Regardless of this approval, the Applicant is required to safely dispose of leachate within the existing landfill area for the active lifespan, as well as at least 30 years after final closure of the landfill during its post-closure period.

II. RESPONSE TO NEW EVIDENCE (REBUTTAL)

The following questions/topics were raised during the two-night hearing. The Applicant has broken them out by topic for ease of review.

Coffin Butte Road/Future Expansion

Assertion: Approval of the CUP will result in the closure of Coffin Butte Road and a more significant expansion of the landfill across the road.

Applicant's Response:

- This is a hypothesis and conjecture and ignores Benton County's land use approval process.

- Any modification to the site plan as approved by this CUP would be considered an expansion requiring a new CUP and approval after a separate public notice and hearing process.
- The road closure would require a separate road vacation decision by the Board, which is entirely at the Board's discretion. Any future application would stand and fall under its own merits.

Conditions of Approval

Assertion: The Applicant has a history of violating COAs, the County won't enforce compliance, and the COAs are not sufficient to mitigate adverse impacts.

Applicant's Response:

- The alleged history of violating COAs is not supported by evidence.
- The final Benton County Talks Trash (BCTT) report concluded that most conditions have been complied with, and there are no adjudicated violations.
- The Applicant submitted the final BCTT Assessment of Land Use Conditions on July 16, 2025 (Applicant's Exhibit 65).
- COA PI-9 requires the Applicant to provide the County with a payment of \$80,000 annually on March 1 of every year, following final approval of the CUP, including appeals.
- The payment will be adjusted annually to CPI until the expansion is closed.
- The County can use the payment to fund all or part of a position, a consultant, or both. That person will be responsible for oversight/peer review that the Applicant is complying with the conditions of approval.
- While some testimony questioned whether that was an appropriate amount, it is the County's duty to enforce its land use decision. A condition requiring an applicant to pay for County enforcement is unprecedented.
- The conditions of approval are very robust.

- The County's technical experts agree that the conditions are sufficient to ensure compliance.
- If the Applicant does not comply, it cannot move to the expansion's next phase, and the CUP is subject to revocation due to noncompliance.

ODEQ/EPA Enforcement of Environmental Regulations

Assertion. ODEQ/EPA will not enforce existing environmental regulations, and their adoption of new regulations lags behind the science.

Applicant's Response:

- It is within ODEQ's and EPA's exclusive jurisdiction to adopt and enforce environmental regulations. As the staff report notes, the County does not have the expertise to second-guess their decisions or enactments.
- Staff correctly concluded that this is not part of the County's land use review process.
- State and federal environmental regulations are evolving and will continue to evolve, even if not as quickly or in the manner that some might wish.
- The Applicant must comply with any applicable regulation as it is adopted, and that is true regardless of whether the expansion is approved.

Timing of the Expansion; Alternatives

Assertion: If the Applicant is not going to need the expansion for nine years, why is it applying now? In addition, there is plenty of time left for the County and stakeholders to develop and implement alternative solutions to the landfill.

Applicant's Response:

While this inquiry is not relevant to the criteria for expansion, the following is the Applicant's response:

- The regulatory and planning process requires the Applicant to begin planning an expansion well in advance of the need.

- This application proves the point: the Applicant first applied in spring 2021, and it is now fall 2025 and is not yet through the local process.
- Even if the CUP is approved and there are no appeals, the Applicant faces a five- to six-year process to complete all preliminary conditions of approval and multiple site-specific studies and work through the permitting/regulatory process prior to receiving final approval from ODEQ to accept waste.
- Like any other property owner in Benton County, the Applicant is entitled to use its property as allowed under the Code if it demonstrates compliance with the applicable criteria.
- Exploring, planning for, and implementing an alternative involving a regional transfer station and rail transport to eastern Oregon or Washington will take years to put into place.
- By the time any alternatives can be identified and implemented, Coffin Butte landfill would likely be at the end of its current life, if not beyond.
- However, approval of the expansion does not preclude the County from exploring these options.

Assertion: The Landfill Franchise Agreement requires the Applicant to accept 75,000 tons of Benton County waste through 2040, so there is plenty of time to work out an alternative.

Applicant's Response:

- While it is true that the Landfill Franchise Agreement does provide for the disposal of 75,000 tons of Benton County waste per year through 2040, if the Applicant must limit tonnage to extend the life of the landfill, it will have no choice but to increase the cost of disposal for all users to cover the fixed-cost nature of the landfill.
- Should the expansion be approved, it would allow consistent volume to be accepted through the end of the franchise agreement, allowing costs to be amortized over more tons, and Benton County would bear less of a burden.

Definition of "Adjacent"

A. While “adjacent” is not defined in the Code, it is used in most cases as meaning “abutting.”

B. Considering the “context,” the Code includes numerous provisions that use “adjacent or nearby”—this indicates that when the County wants an evaluation of “nearby,” it states so expressly.¹

C. Applicant’s application of “adjacent” is thus more expansive than the Code requires.

D. First, Applicant went far beyond the boundaries of the expansion area that is the subject of the CUP to include all of the Applicant’s properties where landfill activities are currently being conducted, plus the boundary of the proposed expansion area.

E. Second, Applicant then included all abutting property to this expanded boundary, and then further included all properties abutting the adjacent properties.

F. To go beyond these immediate properties is inconsistent with the Code and the dictionary definitions of “adjacent.”

G. Staff correctly concludes that the Applicant’s determination of “adjacent” properties was reasonable and complied with the Code.

H. The application of “adjacent” should not be expanded based on the type of operations of the applicant.

¹ See, e.g., BCC 60.030 (“Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices”), BCC 23.215 (“cost to the ratepayer, adjacent or nearby land uses, the potential danger of failure of service and such other factors * * *”), BCC 60.320 (“This statement recognizes the rights of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act”), BCC 55.015 (“suitable for farm use or needed to permit farm practices to be undertaken on adjacent or nearby agricultural lands.”), BCC 55.230 (“adjacent or nearby farms”) (emphasis added). Similarly, when used alone, “adjacent” typically refers to abutting property. See, e.g., BCC 74.410 (“Twenty-five (25) feet adjacent to the road * * *”), BCC 63.405 (“This requirement shall not be applied to a setback adjacent to a public road”), BCC 81.150 (“The setback to adjoining property in a resource zone shall be at least 30 feet.”).

Odor

During the hearing, there were multiple comments about odor, including questions regarding the odor dispersion modeling study, the data sets used in that monitoring, and potential impacts. We address those below:

1. An in-depth, robust, and expert-validated odor study shows that odor levels will be below the nuisance threshold.

- The study was based on reliable data following industry standards.
- The odor study contained various analyses—only the meteorological portion of the analyses was from November 1, 2004, through October 31, 2005. This data includes information about wind speed, temperature, and atmospheric stability.
- The 2004-2005 site-specific meteorological data is recognized as the best source for modeling odor impacts because it correctly accounts for dispersion due to the unique topography of the landfill site, and other site-specific conditions, such as vegetation.
- Using more recent data from a nearby site, such as the Corvallis Airport, would not provide as accurate of a model due to the flatness of the terrain and the abundance of concrete.
- EPA and ODEQ recommend utilizing this meteorological data as part of the odor analyses. This approach was validated by both the County and its third-party technical experts.

2. Despite the odor analysis outcomes, we have agreed to the suggested condition of approval that includes a much more prescribed, frequent, and rigorous monitoring program, with third-party oversight.

3. Monitoring is part of an odor mitigation plan. The monitoring data helps identify, in a timely fashion, when odors are leaving the site. It also helps pinpoint the source so we can proactively address the solution.

In conclusion, the landfill has ramped up expansion of the collection system and taken other steps to address fugitive gas to help control odors. We provided a technically sound, expert-validated odor modeling study that shows odors from the expansion parcel will be below

nuisance levels. We have detailed how odor complaints are received, reviewed, and substantiated, along with mitigation practices. Finally, we recognize the community's concerns, understand that there is still an opportunity to improve, and continue to make progress.

Methane

The following is the Applicant's general response to the multiple comments about methane:

- While this inquiry is not relevant to the criteria for expansion, the following is the Applicant's response:
- All landfills emit methane.
- However, the landfill continues to comply with all regulatory requirements and has continued to invest in gas-collection systems to improve gas capture and reduce emissions.
- Carbon Mapper provides snapshot data that is valid for that single point in time and is not reflective of the site's overall emissions.
- For example, expansion opponents submitted gas plumes from select dates back in July 2023, when the landfill had heightened gas emittance due to gas-well construction. However, more recent data from Carbon Mapper shows a 65% reduction.

Surface Emissions Monitoring (SEM)

- Expansion opponents submitted evidence that a high percentage of the landfill's surface area was excluded from SEM in 2024.
- Per EPA regulations, landfills can exclude areas that have steep and dangerous slopes or other safety concerns for those monitoring the landfill. The exclusion percentage was previously high due to active operations, construction of the newest waste-disposal cell, and vegetation.
- However, per our most recent report submitted to the EPA for Q3 2025, the landfill surface exemption is approximately 25 percent, which primarily includes the working face and some other exemptions for safety.

- The decrease is a result of construction coming to an end, trimming back vegetation, and investigating new technology to further decrease the exclusion area for areas with safety concerns.

Groundwater

Arsenic

- Coffin Butte landfill samples monitoring wells semiannually in accordance with ODEQ regulations. Samples are analyzed for more than 150 constituents, which can commonly occur in landfill leachate. One of these constituents is arsenic and has been found in monitoring wells MW-9S, MW-26, and MW-27.
- Arsenic naturally exists in basalt and volcanic rock, which is present at the Coffin Butte landfill.
- No other analyzed constituents show elevated concentrations—which demonstrates conclusively that these elevated arsenic levels are from the natural environment and not leachate contamination. This is a conclusion backed by ODEQ and multiple independent experts, both on behalf of the County and the landfill.

Construction Impacts

- Construction of the expansion area will not negatively impact surrounding water sources. Groundwater studies and modeling indicate that impacts on water levels would be consistent with seasonal fluctuations.
- Additional hydrogeologic investigations will be conducted prior to cell construction and used to design expansion-specific site monitoring wells, including four sentry wells to the south of the proposed expansion area.
- The course of action completed to date follows a measured, standard-of-practice approach that includes conceptual analysis, detailed investigation, hydrogeologic modeling, and sensitivity analyses of the model.

Baseline Water Data

- Baseline water data shows there is no water quality issue; despite testimony to the contrary, this data has been collected from wells within and adjacent to the proposed expansion area for more than two decades.
- Condition of Approval P1-1 requires additional monitoring wells to be constructed two years in advance of construction of the expansion.
- This data is applicable and relevant for assessing changes in water quality and elevations associated with the proposed expansion.

Adequacy of Existing Monitoring Network

- ODEQ will require a new Environmental Monitoring Program to address the expansion area. The new EMP will incorporate findings from the expansion area hydrogeologic investigation to properly site and design new monitoring wells. It will be reviewed and approved by ODEQ prior to implementation.

PFAS

- The Applicant complies with all current groundwater, gas, and leachate monitoring and reporting.
- The science around PFAS in leachate and gas is continually changing/evolving.
- As an industry, the Applicant is heavily involved in forming how it thinks about PFAS and how to properly manage it and is committed to complying with all future regulations.

Fire

- We appreciate the concerns raised around fire risk.
- Eight fires requiring suppression were reported from 2013-2025 at the landfill, with several other calls being false alarms as the callers mistook the flare for a fire.
- The correspondence from the Adair Rural Fire & Rescue District speaks for itself on the number of incidents responded to since 2013. The response is included in Applicant's Exhibit 67, submitted on September 12, 2025, on page 31. The Adair Fire Department

directly quotes our records request, which contradicts the claim that the landfill limited its request to fires only occurring in the working face of the landfill.

- As testified by landfill employees at the hearing, we have had collaborative discussions with the fire department and will continue to do so.
- We appreciate and acknowledge the testimony regarding significant fires in the past, such as the 1999 fire; however, we did not operate the landfill at that time.
- Coffin Butte landfill, and landfills in general, have had significant improvements and modernizations in the past 25 years, as has community education around proper landfill disposal.

Unsupported Allegations

- Allegation and speculation do not provide a factual basis for denial of the CUP application.
- Significant portions of written and oral testimony by those opposing the CUP expansion included statements unsupported by facts or peer-reviewed data. Thus, we do not individually address those allegations in detail here (including but not limited to those regarding cancer clusters, carcinogens, and contamination of the Willamette River).
- However, it is important to note the harm that can result from this type of testimony. For example, opponents to the expansion testified that homes have decreased in value due to the landfill and will decrease due to the expansion. Yet, there has been no evidence of actual home value depreciation in the area, let alone depreciation specifically tied to the landfill. Pat Hare, City Administrator for the City of Adair Village not only rejected these allegations (and allegations of leachate infiltrating the water and homes in schools) as baseless, but detailed an incident of a potential homebuyer expressing hesitancy to buy in the area due to the unsupported allegations raised in these hearings.
- Additionally, many of those who testified or submitted evidence provided certain qualifications but did not provide details or evidence of experience in landfill management.

- Opinions that are not based on industry experience can be misleading, as they may be based on speculation, misunderstanding, misapplication of data, selective evidence, outdated information, or studies generally not accepted by industry professionals.
- Much of the speculation related to the operations of the landfill, not the applicable land use criteria.
- The Applicant's application directly addressed land use criteria and is supported by some of the leading experts in landfill management. Additionally, those submissions were reviewed and the modeling tested vigorously by independent, third-party technical experts retained by the County.

III. CONCLUSION

The evidence in the record and detailed herein demonstrates that the proposed expansion would not seriously interfere with surrounding uses or the character of the area.

The expansion will not unduly burden public facilities and will be consistent with the purposes of the forest conservation zone.

The Applicant deeply appreciates the time and careful consideration that the Board and staff have spent on this application. The Applicant respectfully requests that the Board approve the application, subject to the conditions of approval in the staff report.