From:	Ken Eklund
To:	Coffin Butte Landfill Appeals
Subject:	Transferring ENRAC evidence to Commissioners" Public Record: 8 of 13
Date:	Tuesday, August 19, 2025 5:28:17 PM
Attachments:	LandfillRelatedWaterQualityIssues.pdf MuniDocs - Benton County, OR - Municode Library.url.download OPB Interview How much methane seeps out of Oregon landfills.pdf oregon state bill landfill at DuckDuckGo.url.download SLPG_Waste.pdf SLPG_Waste.pdf.url.download Solid Waste Situational Assessment Report_07-12-2022.pdf SWACRecommendation.pdf

ENRAC supplied the evidence it used for its Recommendation to Deny to the Planning Commission; the link to its Google Drive is in the ENRAC Recommendation to Deny, which appears to have been omitted from the Commissioners' Public Record, but it is in the Planning Commission Public Record here: https://library.municode.com/or/benton_county/munidocs/munidocs?nodeId=7ea953a15b3ad

This series of emails transfers the ENRAC material into the Commissioners' Public Record. There are 63 files total in the ENRAC evidence archive; I am transferring them all into the Commissioners' Public Record. – Ken Eklund

Ken Eklund, writerguy

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Creator of
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FutureCoast
and other storymaking games

Water contamination concerns arising from landfills in Oregon

Joel Geier
Mark Yeager
(with contributions from Mason Leavitt)

Main Topics

Contaminants from landfill leachate passed through wastewater treatment plants into Oregon rivers

Sewage sludge (“biosolids”) from same wastewater treatment plants

Arsenic plume apparently forming from Coffin Butte landfill

What's in landfill leachate?

Dissolved metals (major):

Calcium	160 mg/L	
Iron	0.91 mg/L	– exceeds MCL for drinking water
Manganese	1 mg/L	– exceeds MCL for drinking water
Magnesium	160 mg/L	
Silicon	37 mg/L	

Dissolved metals (trace):

Antimony	16 µg/L	– exceeds MCL for drinking water
Arsenic	120 µg/L	– exceeds MCL for drinking water
Barium	570 µg/L	
Chromium	180 µg/L	– exceeds MCL for drinking water
Cobalt	38 µg/L	
Copper	5.3 µg/L	
Lead	1.2 µg/L	– goal for drinking water is zero
Mercury	???	– data missing from reports for Coffin Butte
Nickel	140 µg/L	
Selenium	1.6 µg/L	
Silver	0.1 µg/L	
Thallium	0.1 µg/L	
Vanadium	140 µg/L	
Zinc	37 µg/L	

What's in landfill leachate?

Organic chemicals above detectable limits in 2021 at Coffin Butte:

Acetone	460 µg/L
Benzene	3.8 µg/L
2-Butanone	490 µg/L
Carbon Disulfide	3.7 µg/L
1,4 Dichlorobenzene	2.1 µg/L
Ethylbenzene	5.2 µg/L
p-Isopropyl toluene	1.8 µg/L
Naphtalene	5.2 µg/L
Toluene	37 µg/L
1,2,4-Trimethylbenzene	1.7 µg/L
m,p-Xylene	7 µg/L
o-Xylene	4.3 µg/L

Past years:

cis-1,2-Cichloroethene
Isopropyl benzene
4-Methyl-2-Pentatone

Substances still found in local fields that were "irrigated" with leachate before 1998:

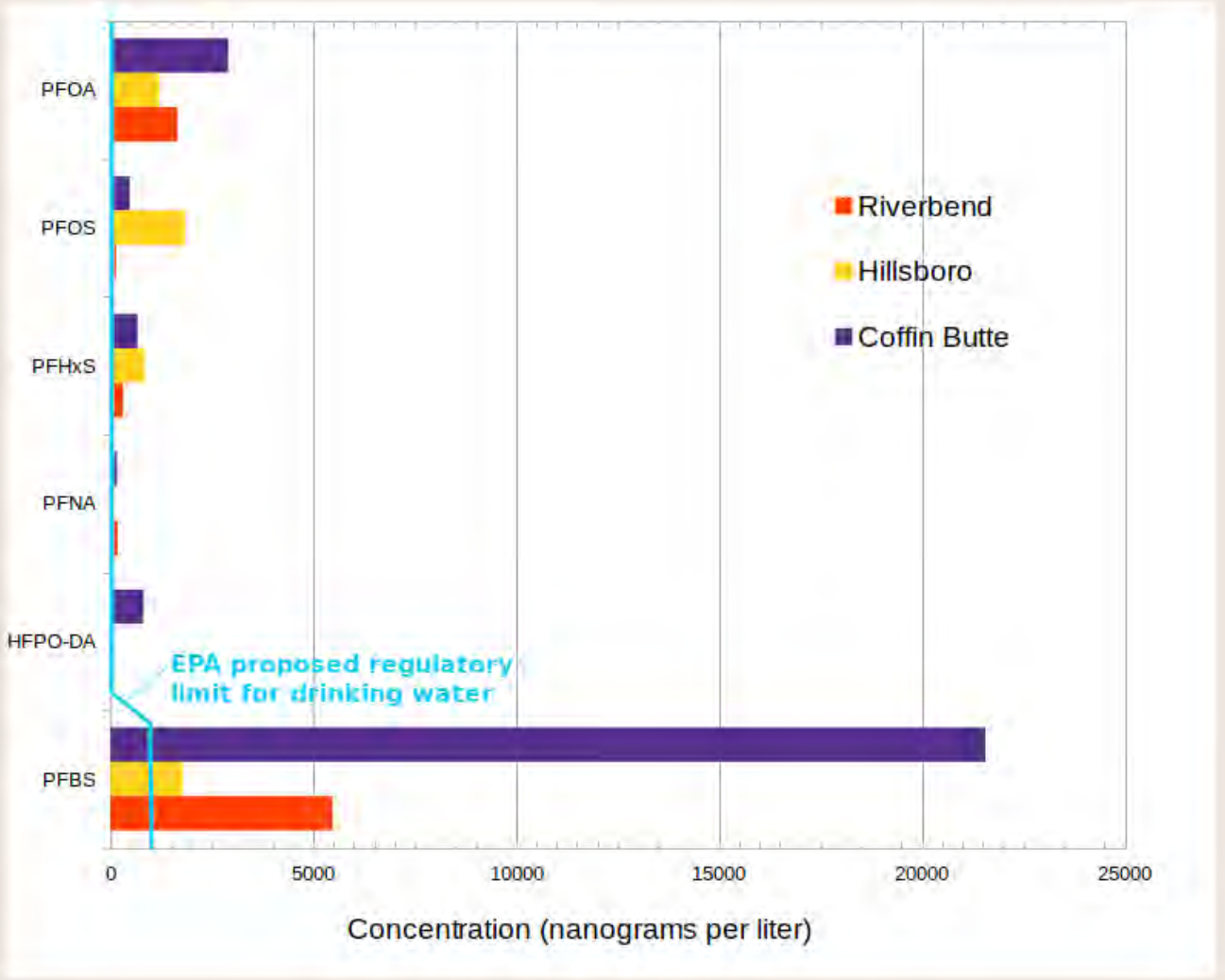
tetrachloroethylene (PCE)
trichloroethylene (TCE)
1,1-dichloroethylene

Only recently tested for: **Per- and polyfluorakyl substances (PFAS)**

PFAS in landfill leachate:

Data for six types now regulated by US EPA as human carcinogens.

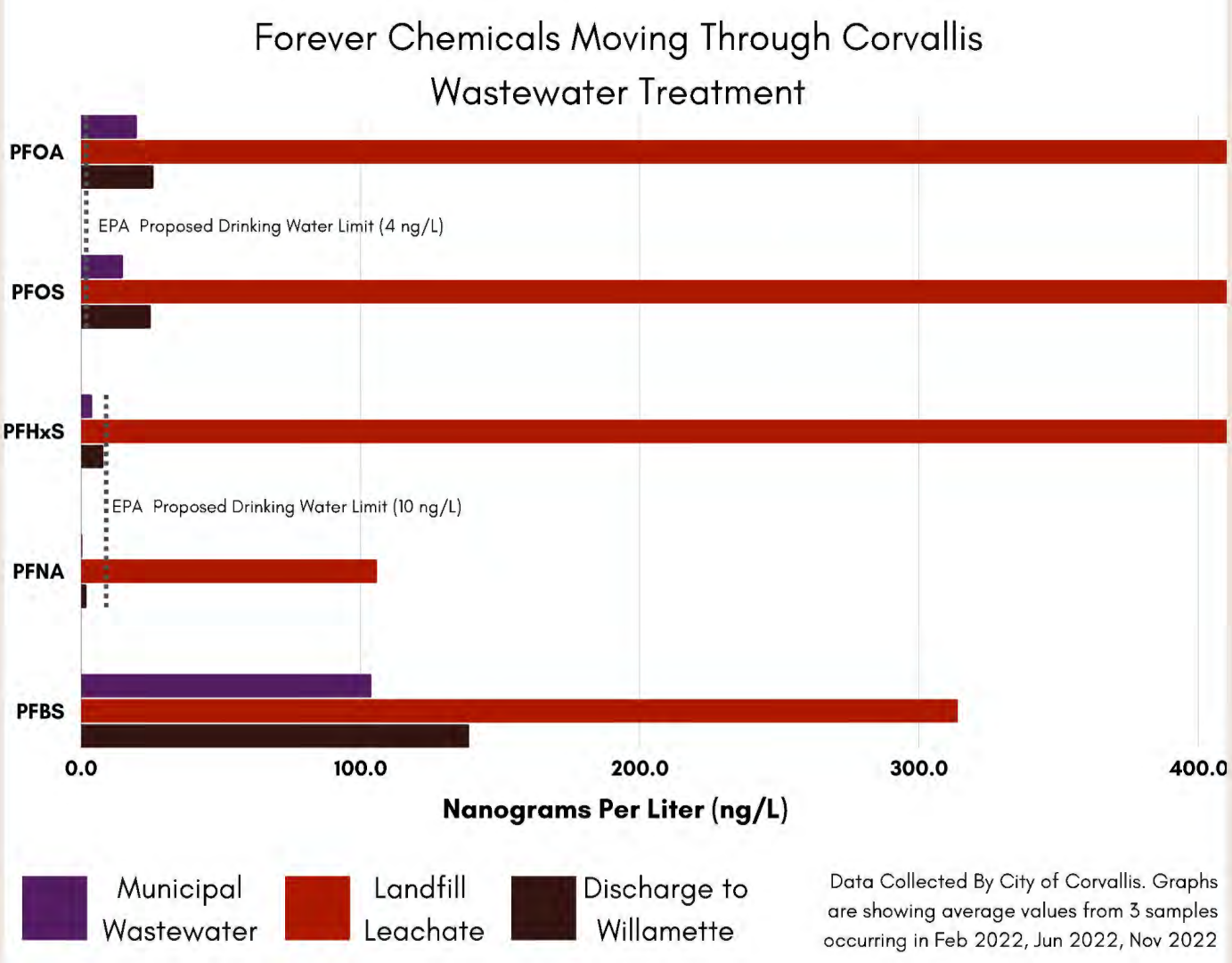
Differences among landfills may reflect different average age of waste, as well as different materials accepted (such as incinerator ash)



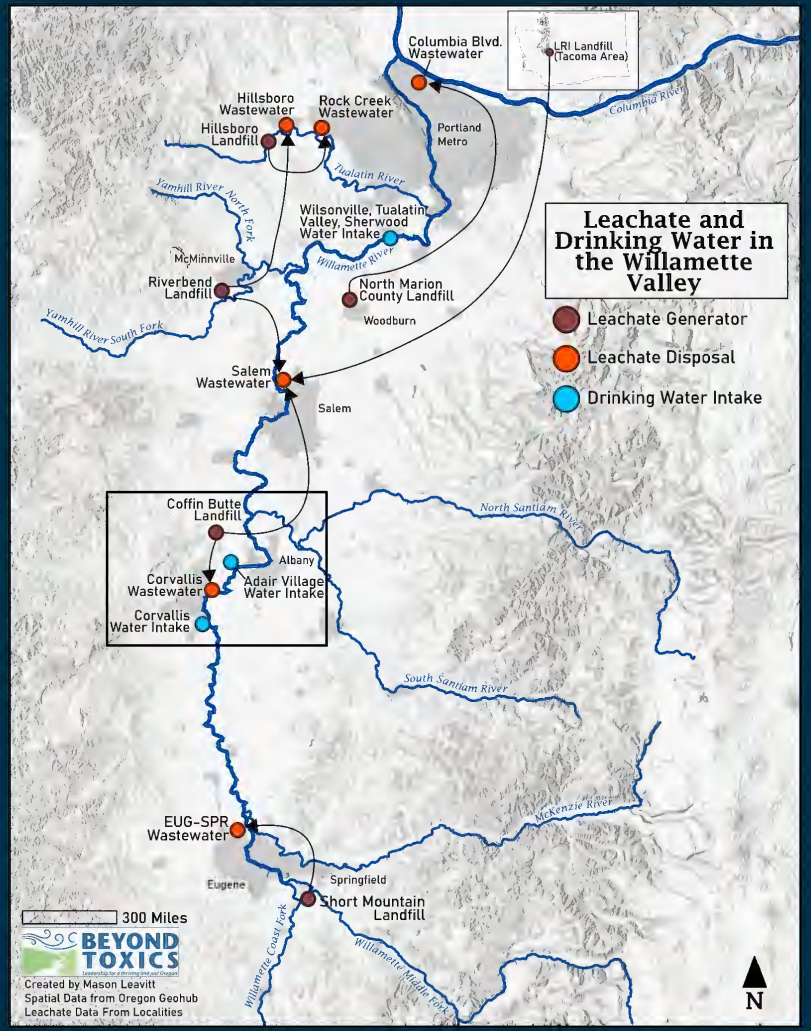
Municipal wastewater plants not effective for removing PFAS

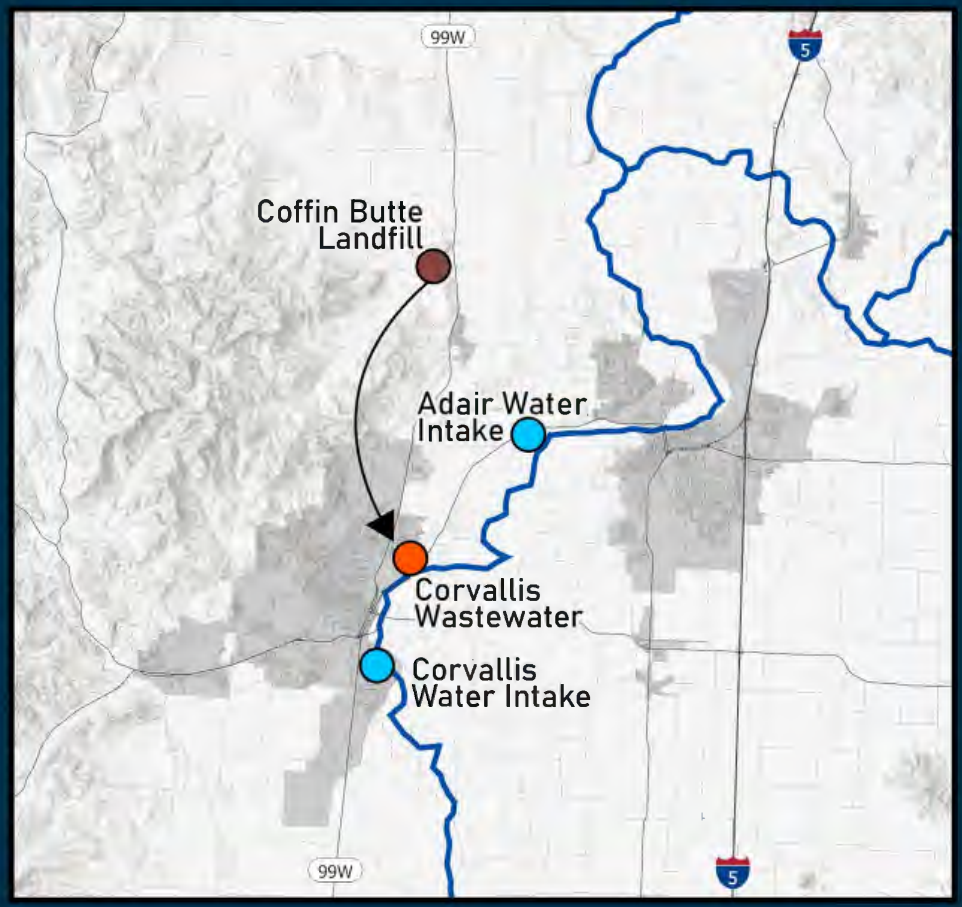
Concentrations in municipal wastewater expected to decline as regulatory changes reduce PFAS in consumer products.

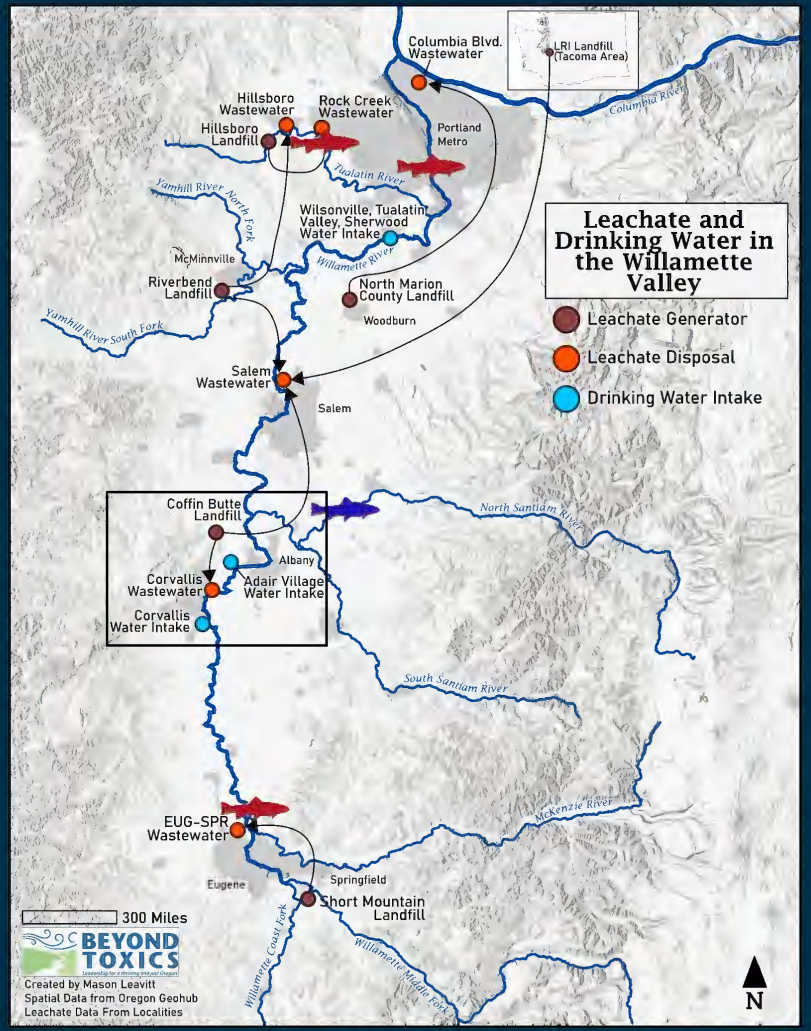
Landfills will continue to produce indefinitely from “legacy” waste.



Leachate Inputs to Willamette







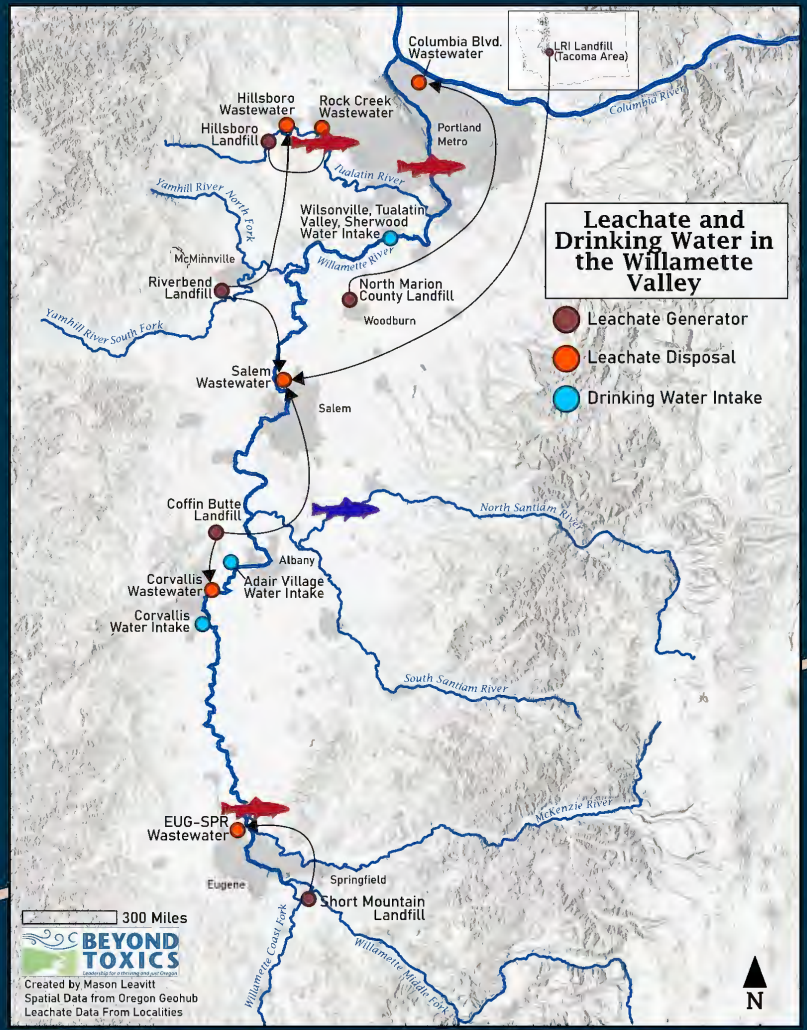
Evidence of bioaccumulation

2008 NRSA fish tissue study: PFAS found at detectable levels in fish in all Willamette Valley locations sampled downstream of WWTPs accepting landfill leachate.

Also found in Rogue River fish sampled below White City WWTP where leachate is piped directly from Dry Creek landfill.

Only “clean” sample was from North Santiam River below Stayton WWTP (which processes municipal wastewater but no landfill leachate).

Fish species: Northern pikeminnow (Eugene), mountain whitefish (Stayton), carp (Oregon City and Hillsboro), cutthroat trout (Rogue Valley)



Discussion?

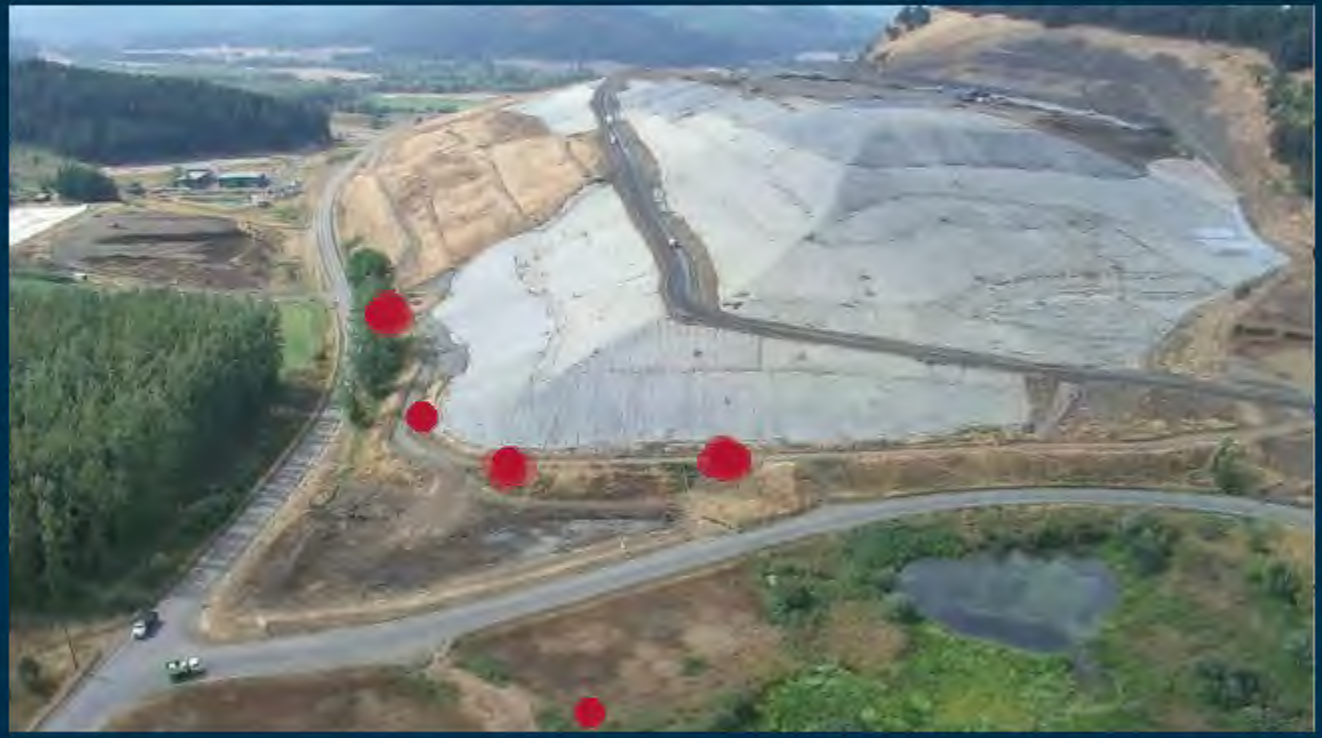
Any recent efforts to sample PFAS in Oregon rivers?

Any new information about accumulation in biota, river sediments or hyporheic zone?

How much PFAS and heavy metals end up in sludge (“biosolids”)?

Any efforts to understand fate & transport of contaminants from sludge in the environment?

Arsenic issue: Anomalously high concentrations in monitoring wells on south/east side of landfill, fluctuating over time

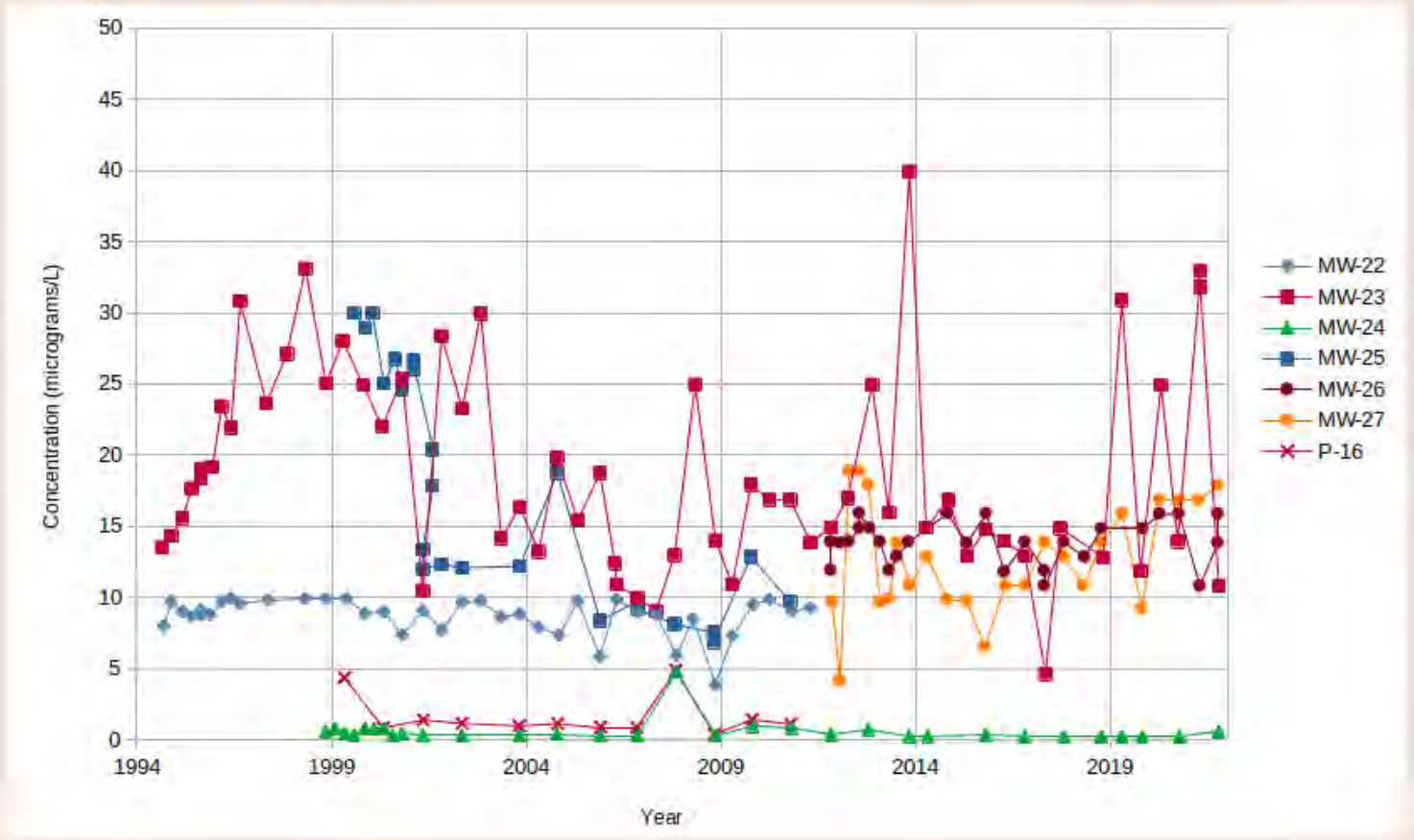


First noted in mid-1990s after acknowledged seepage event.

Arsenic Concentrations East-side wells 1994-2021

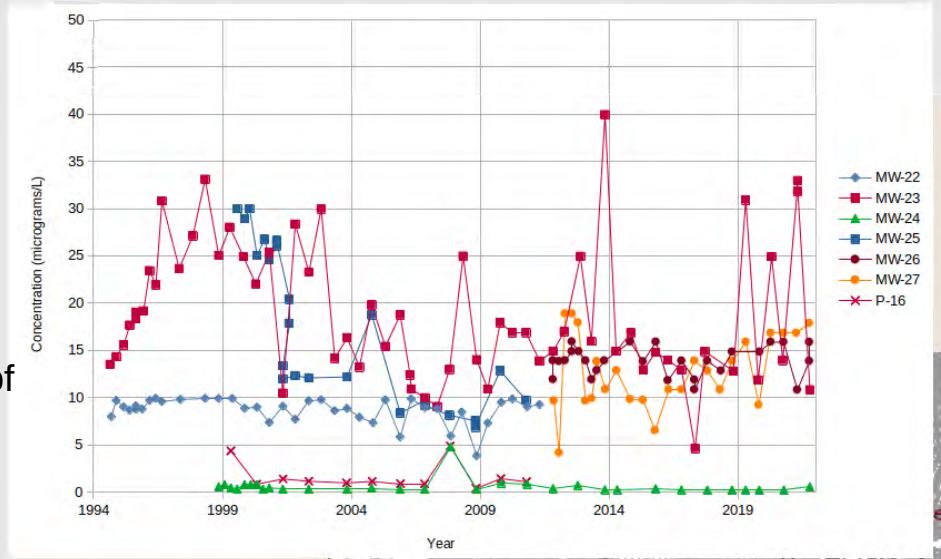
Data from 2021 Annual Environmental Monitoring Report

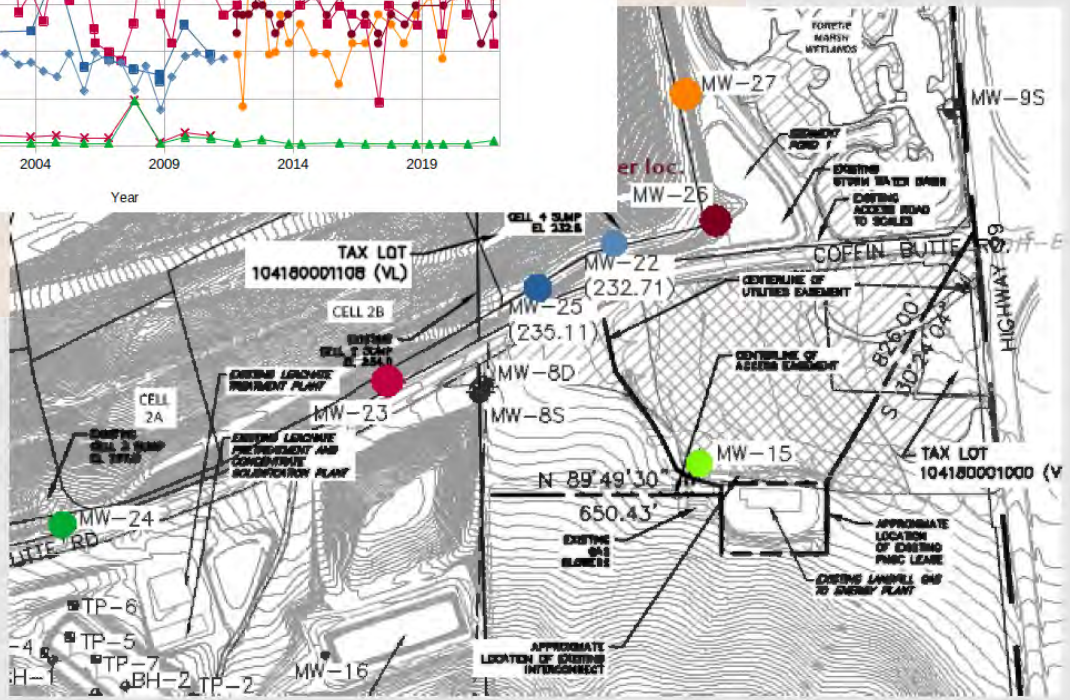
Compliance boundary wells MW-26 and -27 have regularly exceeded MCL of 10 µg/L since installed in 2013.



High arsenic in MW-23 and all wells down-gradient of early/mid 1990s seepage incident.

No problems in:
MW-24 (higher up drainage)
MW-15 (across gradient)
P-16 (across gradient)

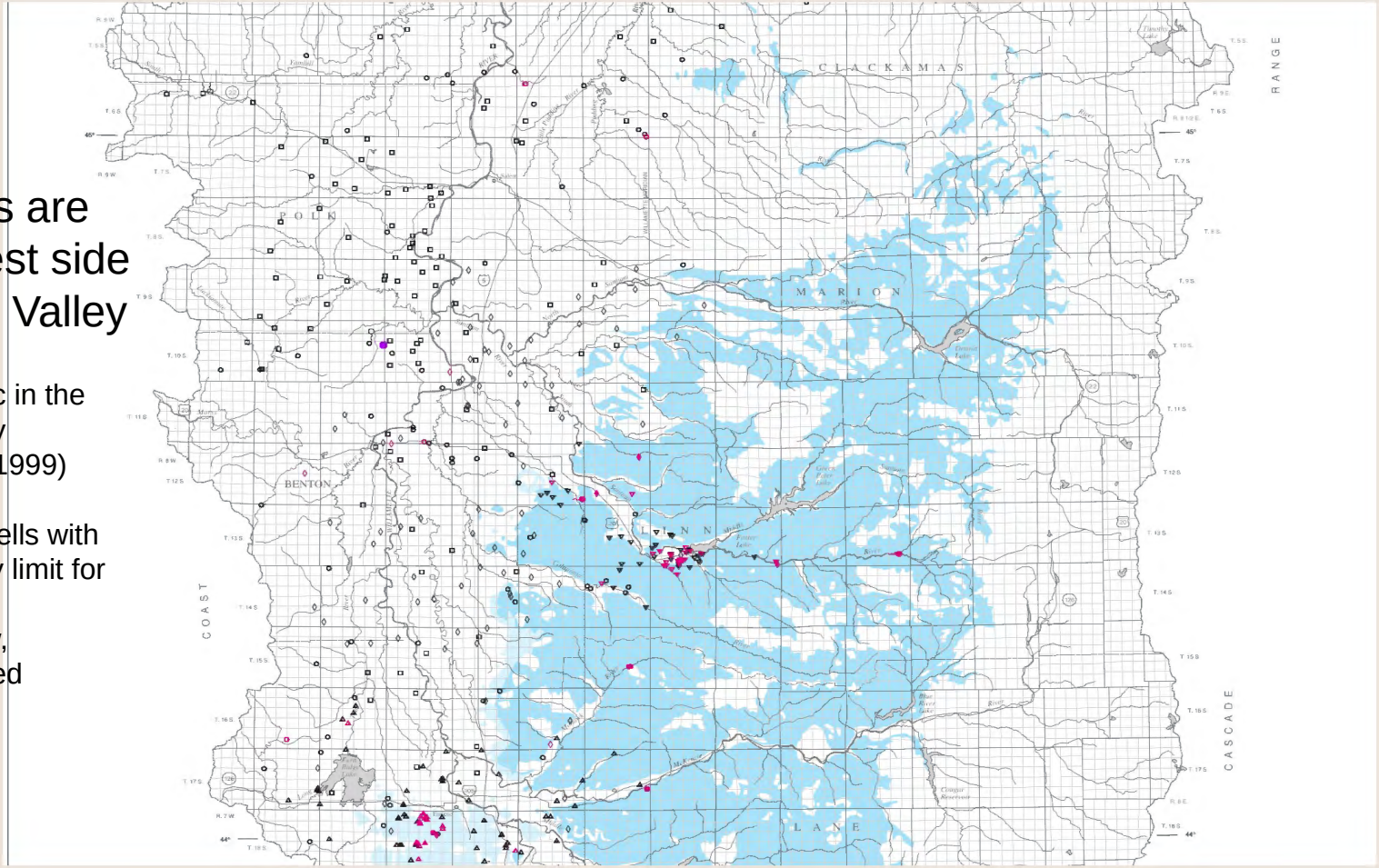




Observed levels are anomalous for west side of mid-Willamette Valley

USGS Study of Arsenic in the Willamette Valley
(Hinkle and Pollette, 1999)

Red markers indicate wells with arsenic above regulatory limit for drinking water:
>10 µg/L if hollow,
>50 µg/L if solid red

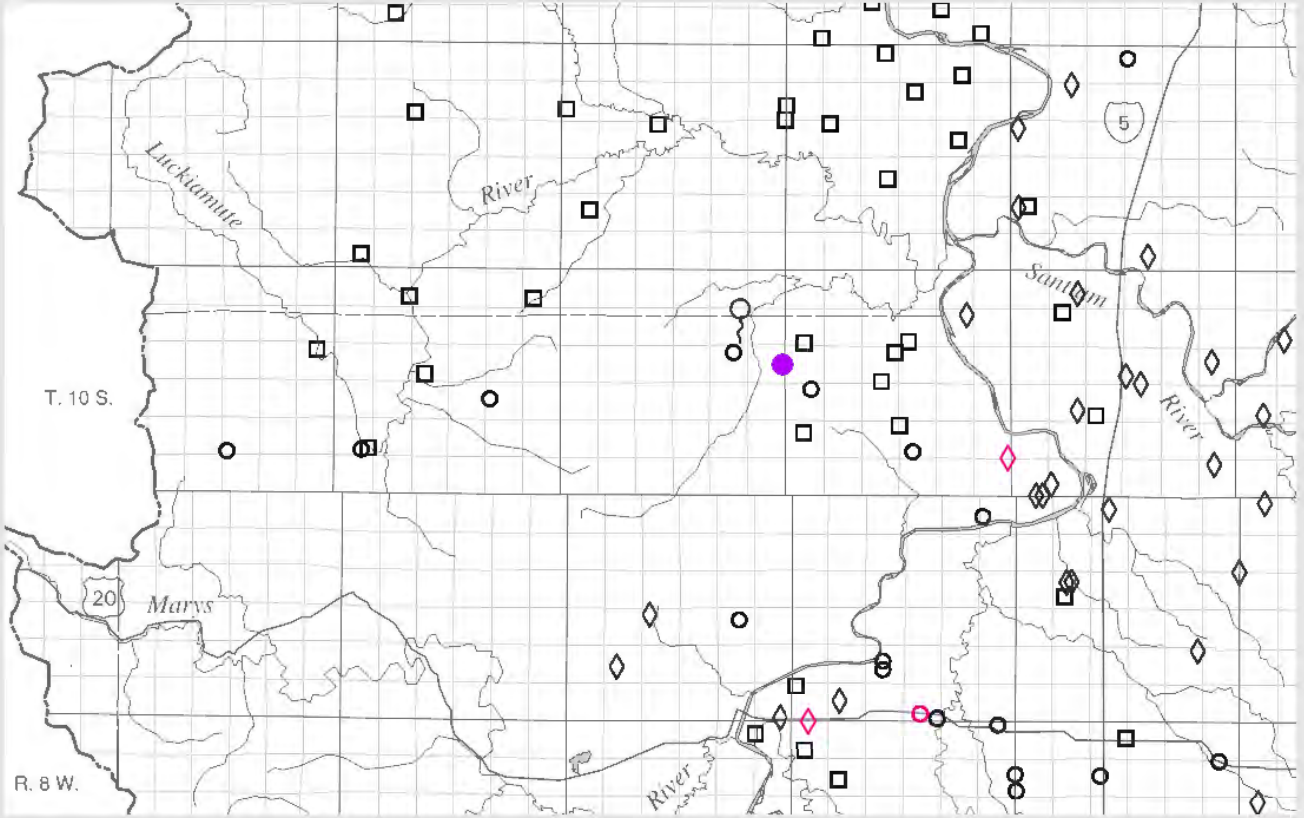


Observed levels are anomalous for west side of mid-Willamette Valley

USGS Study of Arsenic in the Willamette Valley
(Hinkle and Pollette, 1999)

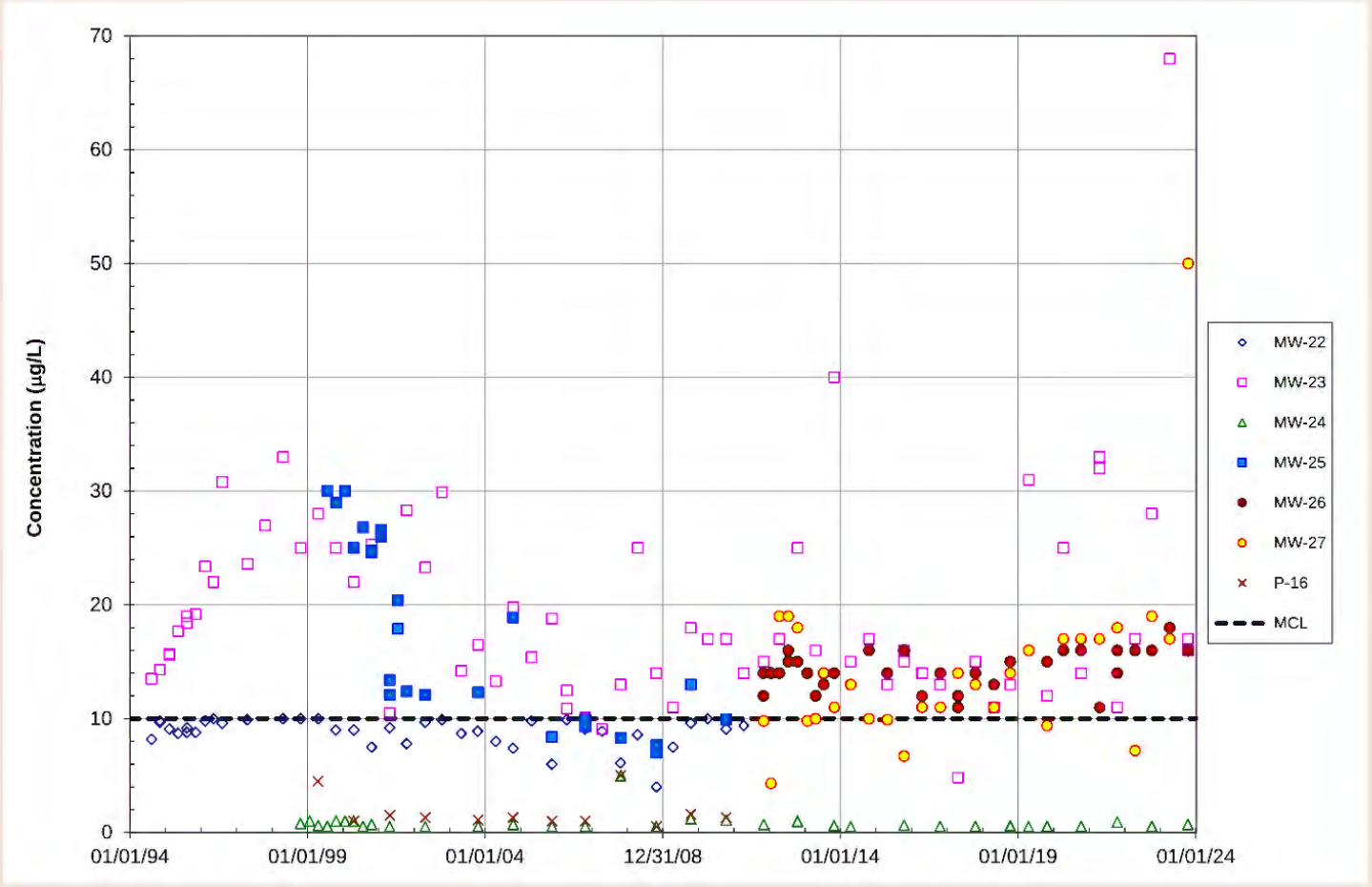
Red markers indicate wells with arsenic above regulatory limit for drinking water (10 µg/L but less than 50 µg/L).

Purple dot shows location of Coffin Butte Landfill.



Most recent data: Arsenic Concentrations East-side wells 1994-**2023**

Data from 2023 Annual Environmental Monitoring Report



Shifting explanations

“These are background levels of arsenic, typical for that part of the site.”
Problem: Values are anomalous for this part of Willamette Valley, and also fluctuate with time.

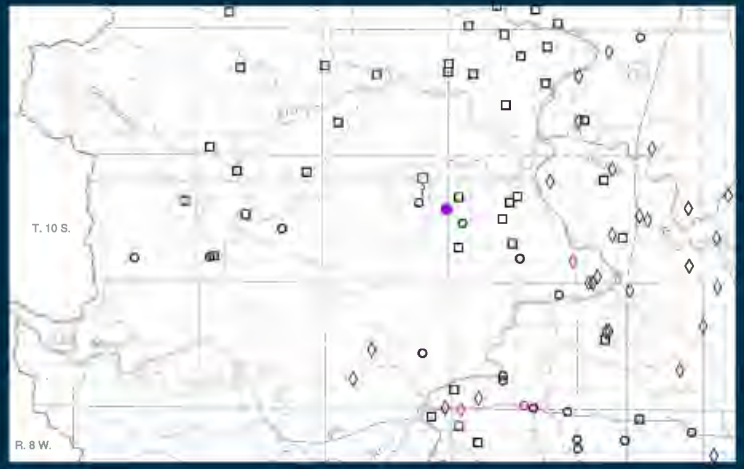
“Arsenic doesn’t normally come out of landfills.”
Problem: Leachate from this landfill has measured As concentrations ~120 µg/L

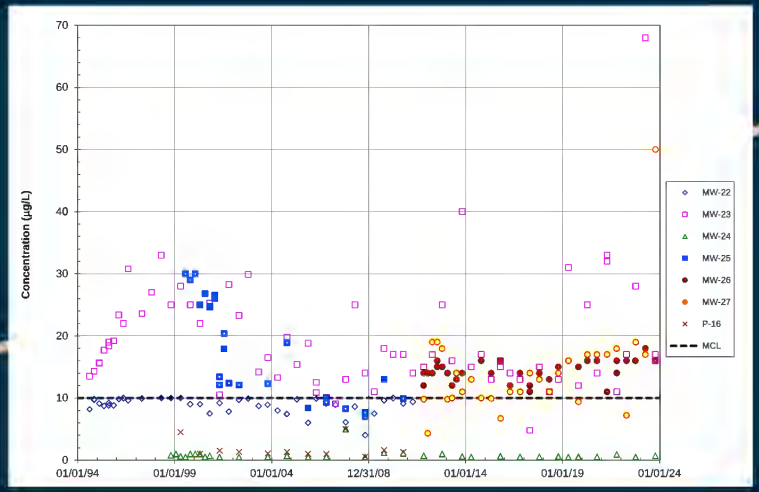
”Higher concentrations are observed in MW-9S near highway”
Problem: MW-9S is in disturbed location (drilled into a former cloverleaf intersection ramp from 1940s), at edge of an artificial wetland that was bulldozed out during the early 1990s seepage event, and filled with runoff from the acknowledged seepage area. So MW-9S was compromised before it was ever sampled for arsenic.
Also new data approaching 70 µg/L in MW-23 exceed highest levels ever measured in MW-9S.

”MW-27 is difficult to sample because it’s screened in a low-permeability layer.”
Problem: This doesn’t explain upward trend in recent years. Might be a good argument for adding another compliance-boundary well.

”Other indicators of leachate (Fe, Mn, and TDS) do not show similar trends.”
Problem: Both Fe and Mn have been trending upward in recent years, and have exceeded the site-specific action limits.

”These are typical values for the southern Willamette Valley”
Problem: Coffin Butte is in the mid-Willamette Valley.





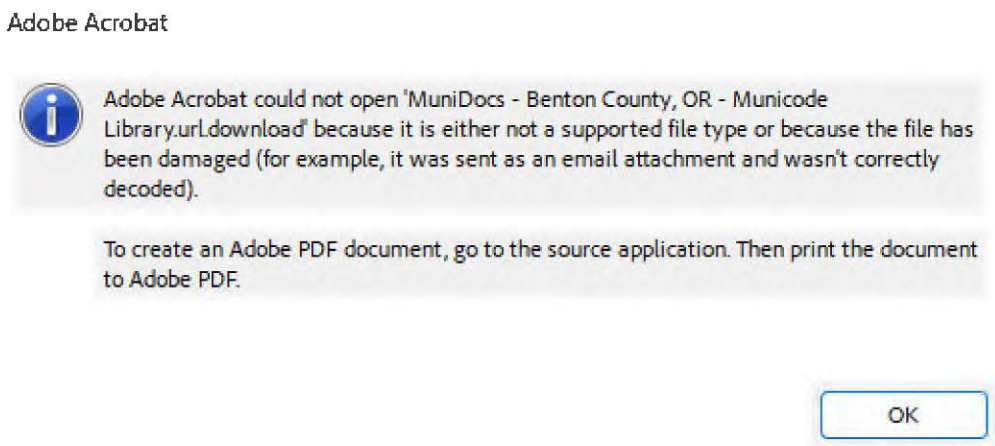
Closing discussion

Alternative hypotheses for high arsenic – direct leakage or mobilization?

Possibilities for off-site measurements?

Precautionary well testing for down-gradient households?

Anything else?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THINK OUT LOUD

How much methane seeps out of Oregon landfills?

By Sage Van Wing (OPB)

July 17, 2024 2 p.m. **Updated:** July 18, 2024 12:58 p.m.

Broadcast: Thursday, July 18

A mound of garbage at the Knott Landfill in Deschutes County, which is set to close in 2029.
Joni Land / OPB

Earlier this year, the Washington state Department of Ecology wrote new rules to regulate methane emissions from landfills that surpass federal emission regulations set by the U.S. Environmental Protection Agency. Oregon's Department of Environmental Quality wrote its own rules in 2021 and has been collecting data from landfills for the last two years. About 30% of today's global warming is driven by methane. Heather Kuoppamaki, senior environmental engineer at DEQ, joins us to share what we know about methane emissions from Oregon's landfills.

Note: The following transcript was created by a computer and edited by a volunteer.

Dave Miller: *This is Think Out Loud on OPB. I'm Dave Miller. We talk a lot about CO2 as a greenhouse gas and for good reason. Billions of metric tons of it go into the atmosphere every year, creating an ever hotter, ever more chaotic world. Less methane ends up in the atmosphere, but it's much more of a problem when it gets there. It is 80 times more potent at trapping heat. The Washington state Department of Ecology recently put out new rules to regulate methane emissions from landfills. Meanwhile, Oregon has had methane rules in place since 2021 and has been collecting data from landfills for the last two years. Heather Kuoppamaki is a senior environmental engineer at Oregon's Department of Environmental Quality. She joins us to talk about what we know now about methane emissions from Oregon's landfills. Heather, it's great to have you on the show.*

Heather Kuoppamaki: Hi, thanks for having me.

Miller: *Can you explain the basics of the methane emission landfill rules that Oregon's DEQ – I should say Oregon's Environmental Quality Commission – adopted in 2021?*

Kuoppamaki: Sure. Before 2021, there were some rules already in place that came down from EPA and they focused on the really large landfills. So those are landfills that maybe took or had over 2.5 million tons of waste in the landfill. So those are

really big ones.

In our rules, we wanted to look at another size of landfills, maybe not quite as big, that are still making methane and still a potential issue. And we also wanted to expand the requirements for what landfills are doing to assess how much methane they are making, how much is being released from their landfill and what they do with it. California had rules in place for over a decade, so we started with their rules, saw it was working and tried to push a little bit farther where we could.

Miller: *Have these new rules been in place long enough to have a measurable impact?*

Kuoppamaki: That is what we're trying to find out. Like I said, we're regulating probably twice as many landfills now as we were before. And those landfills, we didn't have a good baseline for it. We didn't know, really, where we were starting to see what the impact is. So we're gathering the data to see, I think, kind of qualitatively, anecdotally. I would say yes, because landfills are having to fine tune how they're controlling their methane, what they're doing with it. They're having to fine tune how they're assessing what's coming out of their landfills. I can't really give you a firm number yet, but I would be confident to say that it is being effective.

Miller: *How do landfill operators capture the methane that otherwise would just rise up in the air?*

Kuoppamaki: So it's kind of an interesting thing. When you think of landfill, a lot of people just think of these big piles of trash. There's a lot more going on with landfills. They have a lot of engineered structures that are helping the landfill work how it needs to work. So one of those structures that landfills can have is what's called landfill gas wells. They look fairly similar to a drinking water well. It's a pipe that's drilled into that pile of waste, there's holes in the pipe and the methane can literally just be pulled out of the landfill using those. Then those wells are connected to piping that's taken to a different location where they do something with that methane.

Miller: *What might they do with it? I mean, if a landfill operator captures methane, then what next?*

Kuoppamaki: Yeah, it depends. We leave that up to the landfill operator somewhat,

with the caveat that they have to really destroy 99% of the methane that's in that gas that they capture. So we are requiring that they get rid of those emissions, to a high percentage. If it's just a small amount of methane, they might just burn it off. If you burn methane, it breaks down into carbon dioxide and some other constituents that aren't as harmful. But if you have enough, a lot of landfills actually can use that landfill gas, that methane, as a fuel to literally put into engines or turbines and make electricity. Some landfills around different parts of the country can turn that gas into natural gas and it can go right into the natural gas pipeline.

Miller: *Why is that better? I mean, because as I mentioned at the beginning, methane is 80 times more potent at trapping heat than CO2. But CO2, which you get when you burn methane, or natural gas which is largely methane, my understanding is it lasts in the atmosphere hundreds or maybe thousands of times longer than methane. So the math here, it doesn't seem like a slam dunk. Why is it better to burn methane than just to let it go up into the atmosphere?*

Kuoppamaki: Yeah, because you're getting a similar amount of carbon dioxide, or even less than you had of the methane. You have that methane being 80 times as potent, so you have a less potent greenhouse gas going into the atmosphere. It is just one step in the right direction. I think the ideal thing to do with the gas is to use it for electricity, so you're replacing some other fuel that might be used to make that electricity or putting it into the natural gas pipeline. You're then replacing natural gas that would be used.

Miller: *But I suppose that the better situation for us as a species would be to have less methane to begin with. What would that take?*

Kuoppamaki: Sure. So methane in landfills is made from the breakdown of organic material, anything that you can think of that decomposes. So really, if you want to decrease the amount of methane that a landfill is making, we really need to look at, focus at decreasing the organics that are going to a landfill. One big place that some coworkers of mine – it's called the DEQs Food Waste Prevention Program – are focusing on is reducing food waste, reducing the food itself that goes into landfills, because that is a large, large part of the methane emissions from landfills.

Miller: *Portland has had curbside food waste composting for more than a dozen years now. Salem and Kaiser started a year earlier. Does composting reduce overall methane emissions?*

Kuoppamaki: Yeah, absolutely. Composting is a good step in the right direction. It's definitely an improvement over sending that waste to the landfill. But really reducing the food waste overall, not even having to compost it, that's six to seven times more effective than composting. So while composting is a good step, really trying to reduce that food waste is an even better step.

Miller: *Oh, because composting is further along in the process. The idea is just only grow and prepare as much food as we or, say, animals, are actually going to eat.*

Kuoppamaki: Absolutely. Yeah. And composting itself makes some methane, not nearly as much as landfills. It depends on the method of composting, but there is some methane that's happening from there. So, yeah, because of what you said in the methane emissions from composting. Absolutely.

Miller: *Just briefly, you mentioned that you went further a couple of years ago than federal requirements. What would you like to see at the federal level? And we have about 40 seconds left.*

Kuoppamaki: I think they should really see what other states have been doing. It's not just Oregon and Washington. I know Maryland's been looking at the rules and other states have sort of been looking at where they can see improvements. I think they should see what the states have been doing, see what's been working and push as far as we have been doing. There's a lot more methane emissions from landfills that could be, I think, mitigated or regulated that would be helpful.

Miller: *Heather, thanks very much.*

Kuoppamaki: Yeah. Thank you.

Miller: *Heather Kuoppamaki is a senior environmental engineer with the Oregon Department of Environmental Quality. She joined us to talk about Oregon's, and now Washington's, efforts to reduce methane emissions from landfills.*

Contact "Think Out Loud®"

If you'd like to comment on any of the topics in this show or suggest a topic of your own, please get in touch with us on Facebook, send an email to thinkoutloud@opb.org, or you can leave a voicemail for us at 503-293-1983. The call-in phone number during the noon hour is 888-665-5865.

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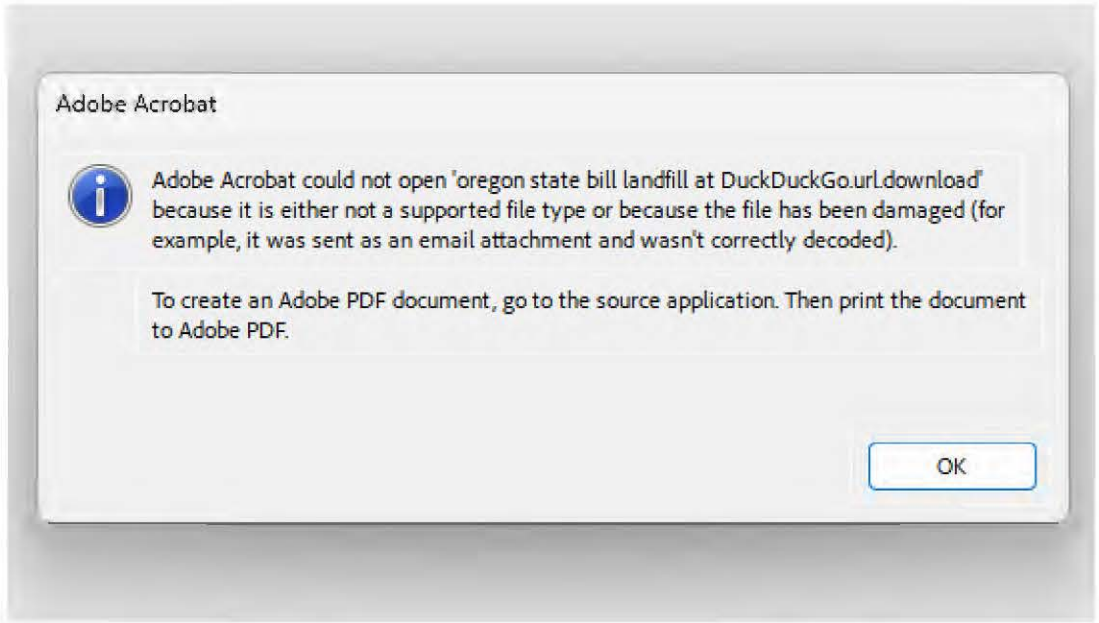
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How Waste Monopolies are Choking Environmental Solutions, and What We Can Do About It

By Neil Seldman and David Morris, December 2020

Monopoly power in the U.S. has reached catastrophic levels, affecting every corner of our economy and society. While this crisis is gaining more attention, particularly in the tech industry, there is much more to understand about how it affects our lives. In this report, we describe the less understood problem of concentrated corporate power in the waste management sector.

Despite the many communities that have organized to transform our waste system – to reuse, repurpose, or recycle America's throwaway materials and products – the growing consolidation of waste firms has consistently undermined these efforts.

While the federal government has turned a blind eye to the monopolization of the waste industry and the high costs it imposes on communities and the environment, local governments possess significant authority to break up landfill and garbage monopolies, reenergize our stagnant recycling sector, and germinate local composting efforts.

This report is part of an ILSR series on Fighting Monopoly Power throughout our economy, coedited by Stacy Mitchell and Susan R. Holmberg. Go to our website to find even more antimonopoly analyses and tools on a wide range of sectors, including Banking, Broadband, Electricity, Food and Farming, Pharmacy, and Small Business.

The authors are co-founders of ILSR.

Learn More

- Waste Incineration: A Dirty Secret in How States Define Renewable Energy
- Stop Trashing the Climate
- State of Composting in the U.S.: What, Why, Where & How

About ILSR

The Institute for Local Self-Reliance (ILSR) is a national nonprofit research and educational organization founded in 1974. ILSR has a vision of thriving, diverse, equitable communities. To reach this vision, we build local power to fight corporate control. We believe that democracy can only thrive when economic and political power is widely dispersed. Whether it's fighting back against the outsize power of monopolies like Amazon or advocating to keep local renewable energy in the community that produced it, ILSR advocates for solutions that harness the power of citizens and communities. More at www.ilsr.org.

We face overwhelming environmental crises: our climate emergency, environmental racism, pollution, and the growing problem of waste contaminating our oceans and overflowing our landfills.

Despite the many communities that have organized to transform our waste system – to reuse, repurpose, or recycle America's throwaway materials and products – the growing consolidation of waste firms has undermined these efforts. Meanwhile, the federal government has turned a blind eye to the monopolization of the waste industry. But local governments possess significant authority to check the reach of big waste corporations, reenergize our stagnant recycling sector, and germinate local composting and recycling enterprises across the country.

How Big Waste Consolidated Power

Over the past few decades, the municipal solid waste sector has consolidated from a network of locally controlled firms across the United States to only a handful of corporations. Thousands of small private companies (some operated by organized crime)[1] once competed to collect commercial waste, while thousands of public municipalities collected residential waste. But over the span of 25 years, local and regional garbage haulers have become vertically integrated national giants that now dominate the waste-to-landfill system and have diminished what was once a robust recycling system.

In the mid-20th century, the waste industry was at its most decentralized. Tens of thousands of firms serviced many areas of the country. Yet by the late 1990s, Waste Management Inc. (WMI) had acquired 3,000 small family owned haulers.[2] Today, WMI has 437 subsidiaries and controls 38 percent of the waste industry.[3] The company will soon acquire the fourth largest solid waste company, Advanced Disposal, leaving only four very large publicly traded companies to dominate the waste sector.

Big Waste dominates every aspect of solid waste and recycling practice and policy. The top four consolidated companies earn $30 billion of the $70 billion economic sector. Big Waste companies own or control 75% of the permitted landfill capacity in major metropolitan areas and control an estimated 50% of the national hauling market, with even higher levels of domination in certain regional markets.[4]

One of the key ways vertically integrated waste firms have solidified control is through landfill ownership. It gives them a competitive edge in bidding for collection and hauling contracts against companies that have to pay disposal fees to landfills. To secure that advantage, companies have strived to maximize the percentage of the waste they collect to deposit in their own landfills.

When the environmental movement galvanized around recycling in the 1970s and 1980s, environmentalists saw recycling as an escape valve from the industry's grip. In turn, Big Waste correctly saw this as an existential threat to its profit margin, market control, and political influence.

Recycling soared from the 1970s to the 1990s, shrinking the percentage of the waste stream deposited in landfills. In 1970, 93 percent of municipal solid waste went to landfills. By 1990, it had declined to 70 percent, and by 2000, to 58 percent. Between 1990 and 2000, while Americans' waste generation increased substantially, the amount of waste going to landfills declined by 10 million tons.[5] (A rapid increase in composting also drove this decline.)

Since landfill disposal typically generates higher profit margins for waste corporations, recycling began to eat into Big Waste's profit.[6] The waste industry responded by trying to control recycling. It built or bought large Materials Recovery Facilities (MRFs), where recyclables are sent and separated into saleable commodities. WMI is planning to soon acquire

Advanced Disposal, which means the new company will own about 40 percent of the nation's 300 MRFs. Together, WMI and Republic Services will likely handle two-thirds of the tonnage handled by all MRFs.[7]

To increase the flow of materials to their MRFs, Big Waste actively lobbied cities to move toward a recycling system based on depositing all recyclables in a single bin. For cities, "single stream" was a relatively easy sell. Collection was simpler, more convenient, and less expensive. And it only modestly increased the amount of materials being recycled. The concept was embraced with remarkable speed. In 1995, only five cities had adopted single stream. By 2003, that number jumped to 93.[8] Between 2005 and 2014, use of single stream systems grew from 29 percent of American communities to 80 percent.[9]

> Environmentalists saw recycling as an escape valve from the industry's grip… Big Waste saw this as an existential threat to its profit margin, market control, and political influence.

Yet, single stream suffered from environmental drawbacks, particularly that it led to high levels of contamination. With everything in a single bin, contamination from food waste or non-recyclables means the facilities that sort the materials can't repurpose the recyclables and get them to market, which means that those materials are diverted to a landfill or incinerator.[10] Between 2008 and 2018, the percentage of recyclables that were so contaminated they went to landfills rose from about 7 percent to about 25 percent.[11]

While contamination of recyclables diminished the economic value of recyclables, few cared because a rapidly industrializing China, desperate for materials, was the major recipient of America's solid waste. But starting in 2013, rising labor costs in China meant they became unwilling to bear the additional costs of sorting contaminated mixed recyclables or sending them to its landfills.

This was catastrophic for U.S. recycling efforts. As China exited, recycling prices plunged, even as MRFs invested in sophisticated optical sorting equipment and in more workers. Waste companies passed on the higher costs by renegotiating recycling contracts with towns, cities, and counties. Currently, local governments that can't afford the new recycling rates have reduced their recycling efforts and allowed MRFs to divert more materials to landfills and incinerators.[12] Since the point at which both Big Waste came to dominate recycling and single bins with mixed recyclables became the dominant collection point, recycling rates have slowed and then leveled off. While national recycling rates increased by 77 percent from 1990 to 2000, they increased by only 11 percent from 2000 to 2005, by eight percent from 2005 to 2010 and by three percent from 2010 to 2015.[13] The national recycling rate shows little sign of recovering without direct intervention from local and federal government.

The Policy Choices Driving Big Waste

The consolidation of the waste industry stems from many factors. Business leaders with access to capital saw an opportunity to form vertically integrated national companies. A desire to decriminalize the industry also played a part, as did a broad ideological shift in our politics that supported economic concentration. As we discuss here, the policy choices of both federal and local governments also directly determined the degree of consolidation in the waste industry.

In terms of federal policy drivers, the Federal Trade Commission (FTC) and the Department of Justice's Antitrust Division have done little to scrutinize waste consolidation. Their actions have mostly been limited to investigating pending mergers for their possible impact on prices, almost always at the urging of local governments or smaller waste management companies.[14]

For example, in 1999, Peter Anderson of Recycle Worlds Consulting wrote to the Department of Justice (DOJ) to ask it to evaluate the impending acquisition of WMI by USA Waste. He urged the DOJ not to approve any asset divestiture that went to one of the major integrated firms. The DOJ responded, "The United States could not categorically conclude that selling the assets…to a large national waste collection and disposal firm would be less competitive than a sale to a municipal agency or small independent firm, or that large waste companies are more prone to collude."[15]

This response is typical of the DOJ, which has approved all waste industry merger deals of the recent decades. Instead of suing to block a pending merger, the agency typically demands that the acquiring company divest some of its assets. But in most cases these assets are purchased by other large firms, resulting in no net change in regional consolidation.

This vacuum in antitrust enforcement has meant that unfunded environmental waste policies at the federal level have accelerated the consolidation of the industry. For example, the Resource Conservation and Recovery Act of 1976 set enforceable federal standards for landfill design. This law required public and private landfills to invest large sums to upgrade, but many cities lacked the capital to comply. (In the 1970s, local governments were confronted with a similarly costly mandate from the federal government to upgrade their water infrastructure to meet the new standards of the 1972 Clean Water Act. But at that time the federal government awarded hundreds of billions of dollars in grants and loans to help pay for the upgrade; such money was not forthcoming to upgrade landfills.) As an unintended result of this federal policy, big waste companies bought up a majority of our country's local publicly owned landfills. In 1980, there were 10,000 small private and community landfills in operation. By 2000, that number dropped 80 percent and by 2018, there were just 1,600 of these landfills operating.[16]

Cities have also enabled consolidation in the waste industry. For example, in the 1980s and 1990s, city managers were more than willing to enter into incinerator contracts with Big Waste, which was another way for these companies to vertically integrate their operations. Cities were also easily convinced to switch to single-stream recycling, which both helped concentrate the industry and choked recycling rates. By selling off their landfills, cities also encouraged consolidation. While they were largely driven to do it because of federal regulatory changes and lack of local capital, the result was more industry consolidation.

How Big Waste Companies Took Over Curbside Recycling

By the mid-1980s, cities gave in to public pressure to adopt citywide curbside services. But what seemed like a victory for recycling activists soon turned sour. The community-based enterprises that had handled recycling before were phased out as recycling became mandatory; some were purchased by the consolidated haulers. At the same time, city governments were indifferent and even hostile to managing curbside recycling; it was an added responsibility with which they were no longer familiar. They soon privatized services to get rid of their problem. Privatization paved the way for the big waste hauling conglomerates to take over urban recycling by lowballing contracts to gain market share and then adjusting the contracts to their interests. They raised rates, added surcharges, cut out glass and plastic bag recycling, and forced cities to halt local processing and ship materials up to 50 miles out of town for shoddy processing. For the industries' convenience, they introduced single stream systems to cities, which called for collection of mixed recyclables as opposed to localized dual stream systems, which kept paper separate from other materials.

The Broader Impacts

Concentration in the waste industry puts both economic and environmental burdens on society. Transitioning our throw-away solid waste system to emphasize reduction, reuse, recycling, and composting can protect the public's and planet's health, and contribute to a more resilient, localized economy.

The consolidation of our waste industry deprives society of meaningful economic benefits. First, there are few efficiencies gained by getting bigger. Even Big Waste's industry leaders know this. As the CEO of Allied Waste once conceded, even as his company was about to acquire the nation's second largest solid waste company, "The reality of this business is that it's local."[17] He didn't view Allied as a single $10 billion company, but rather "many very good, very well-managed $10 to $50 million collection companies around the country." The implication is that they would be as efficient if they remained stand-alone companies, undermining the so-called logic of bigness that has justified mergers in other industries.

Waste consolidation also drives up prices, potentially adding billions to our solid waste bill. Estimates vary about the size of that concentration tax. But the fact that it is significant is evidenced by the dramatic reduction in prices experienced by San Jose, California, and Broward County, Florida, when they introduced competition into a previously monopolized system.

Corporate waste consolidation also harms our environment. Using recycled materials saves an enormous amount of energy and raw materials and dramatically reduces the environmental damage associated with both energy production and raw material excavation and product manufacturing. Composting similarly yields tremendous ecological benefits. Compost made from yard trimmings and food scraps is a soil amendment that enhances soil fertility and structure, binds urban pollutants, reduces the need for synthetic agricultural inputs, and sequesters carbon. Yet the waste industry's shortsightedness around processing means the majority of the 260 million tons of municipal solid waste (more than four pounds per person per day) ends up in methane-producing landfills.[18] In fact, landfills, which are disproportionately sited near poor communities of color, are the third-largest source of United States methane emissions, a highly potent greenhouse gas contributing to global warming.[19]

Freeing our Waste and Recycling Systems from Big Waste

Local and state governments have significant power to decouple the waste industry from megacorporations, encourage competition, and build a resilient and sustainable waste system that maximizes local recycling and composting capacity.

Exercise Local and State Authority to Promote Public Landfills

Public ownership of landfills takes them out of corporate hands and creates the necessary democratic conditions to reform the economics and outcomes of our recycling systems. Despite the DOJ's failure to recognize the benefits of public landfills over landfills owned and controlled by a large vertically integrated company, there are many examples of municipally and county-owned landfills, and a few state-owned examples.

Chester County, Pennsylvania, for example, created a public authority that owns and operates a landfill serving 49 of the region's 73 cities and that contracts with private haulers. It hasn't raised the fee for dumping waste in its landfill for 10 years, leaving cities with more money to invest in recycling.[20]

And Rhode Island has created a solid waste disposal structure that is unique among states. In 1974, the state established the Solid Waste Management Corporation, later renamed the Rhode Island Resource Recovery Corporation (RIRRC). The RIRRC acquired a landfill and has expanded it several times. Ninety-seven percent of the state's waste is disposed in that public landfill.[21]

In 1986, driven by public opposition to giant incinerators, Rhode Island became the first state to mandate recycling. Two years later, it built a state-owned MRF. Unlike out-of-state refuse, out-of-state recyclables are welcomed. Cities collect refuse, but the public owns the disposal system and thus can monitor the quality and content of the waste generated in the state. Each year the Rhode Island Resource Recovery Corporation releases detailed information on the solid waste systems of each city and makes public a detailed budget of its own operations. The agency, and the legislature, are not always responsive to its citizens' desire to maximize environmental and local economic benefits, but the structure is in place to enable them to directly participate in policy making.

Favor Locally Owned and Mission-Driven Waste Companies

If public ownership is not desirable or possible, another solution is local governments favoring companies that are locally owned and mission driven.

One of the best examples is the now-venerable Eureka Recycling in Saint Paul, Minnesota. St. Paul granted Eureka the contract to collect and process its recyclables. When Ramsey County sold off their materials processing plant to WMI, Eureka realized that WMI could attract recyclables by undercutting Eureka's prices. They put together a financial package, including loans from paper mills they were supplying, and built their own MRF. As a result, they were able to win the recycling collection contract from Minneapolis as well as Saint Paul.[22]

Over the years Eureka has earned widespread support. It is the only company in the Twin Cities that both picks up recyclables and processes them. Eureka is a mission-driven, non-profit company that calls itself a "social enterprise." It employs more than 100 people, pays them well, and employs unionized drivers. Eureka has also identified in-state and regional markets for its materials, allowing Saint Paul to better weather the cutoff from the Chinese market better than most communities.

Eco-Cycle, in Boulder, Colorado, is another recycler that has built a reputation for innovation and service over decades, thereby earning the loyalty of the city. In the mid-1970s, Eco-Cycle used school buses and volunteer collection teams. The teams were provided by local nonprofit organizations, including churches and Boy Scouts. Sponsoring organizations shared in the revenue from the materials collected. The system ultimately grew into the current system where Eco-Cycle manages the processing facility and undertakes public education and promotion.[23]

Cities can also work with nonprofit organizations to provide waste management services. In 2019 Ann Arbor voted to reopen its public MRF to be operated by a local nonprofit. Recycle Ann Arbor, a nonprofit environmental service provider founded in 1977, holds a contract with the city to provide recycling collection services for residents and businesses. The decision was driven by the savings that would result from reducing the transportation needed to bring local recyclables to a distant MRF.[24]

Exercise Local Authority to Promote Competition

Cities have meaningful power to foster competition in waste and recycling markets. In 1979, the city of San Jose, California, solicited bids for a five-year refuse collection contract. Only BFI, which also owned the only landfill with the capacity to handle the city's refuse, responded to the call. In the next five years, BFI hiked collection prices by more than 56 percent.[25]

Realizing it needed to establish a competitive environment, the city aggressively solicited the construction of a second landfill. With the active support and participation of the city at state regulatory proceedings, the private landfill was built in a remarkably short three years, just in time for the next solid waste bidding. When San Jose bid the next disposal contract, the price fell by 33 percent. The contract also specified that all firms that collected refuse, including landfill owners, would pay the same disposal fee. That attracted several bidders for the collection part of the contract. The price fell by 25 percent and the combined savings was over $75 million. This allowed San Jose to reduce collection rates to households and businesses and finance a radical redesign of its solid waste system to emphasize recycling.[26]

Mandate Organic Waste Diversion

In the late 1980s and 1990s, state and local governments banned yard waste from landfills. Today food waste, about 22 percent of landfill waste, is the target.[27]

In 2009, San Francisco mandated the diversion of recyclable and compostable materials (including food waste) in different receptacles. San Francisco now boasts one of the

Kenneth Moss, youth worker at the Baltimore Compost Collective, speaks at anti-incinerator rally. Credit: United Workers.

highest diversion rates in the country. In 2011, Connecticut was the first state to pass a commercial organic waste law. Rhode Island and Vermont have passed similar laws to Connecticut; all three only ban disposal if food waste recycling capacity exists within a certain mileage radius, which is intended to incentivize the building in-state infrastructure. Vermont also has the only universal law that bans food waste from all Vermonters' trash bins, not just large, commercial producers.[28] California passed a law in 2014 requiring businesses to divert organic waste (based on amount generated) and requiring local jurisdictions to implement organic waste recycling programs.[29] Massachusetts has instituted several policies including a 2014 ban on disposing commercial food waste aimed at diverting 35 percent of food waste in the state by 2020; the state found in a 2016 study that the ban had added hundreds of new jobs to the economy, increased gross state product by over $70 million, and generated $5 million in tax revenue.[30] New York recently passed a similar law for large food-waste generating institutions, which will take effect in 2022.[31] Food waste can be diverted from landfills and trash incinerators to composting, anaerobic digestion, animal feed, and can even be donated for human consumption.[32]

Foster On-Farm and Small-Scale Composting with Permitting Exemptions

In the United States, more than 5 million tons per year in new composting capacity and infrastructure are needed. This can be met with a distributed and diverse composting sector, consisting of a mix of facility types and scales. Too often cities and states favor mass industrial production of compost and sweep aside the rich array of locally based options such as composting at home, community gardens, farms, schools, and at other micro-scale facilities operated by nonprofits, cooperatives, and social enterprises. Community-scale solutions won't take root unless they have support, including policy support.

One way that states can promote small-scale enterprises and on-farm composting is via their permitting regulations. Onerous permit requirements hinder the development of small-scale composting yet are usually unnecessary for these composters; there are generally significantly fewer risks associated with small-scale composting than with large-scale commercial composting sites. A number of states have incorporated permit exemptions into their composting regulations to encourage on-farm and small-scale composting.[33]

Create Grant Programs

Making funding available seeds critical recycling infrastructure and programs. CalRecycle is one state agency that offers a number of different grants for recycling and food waste reduction initiatives through its Greenhouse Gas Reduction Fund.[34] A coalition of California-based community composters was recently awarded $1.35 million under CalRecycle's new community composting-focused grant program.

Another initiative in California, the Healthy Soils Program, is driving use of compost on agricultural land as a strategy not only to build healthy soils, but also to sequester carbon. The program provides grants directly to farmers in order to incentivize the implementation of conservation practices.[35]

Per-ton surcharges on trash disposal are one important strategy for funding waste reduction, reuse, recycling, and composting grant programs. New Jersey's $3-per-ton surcharge resulted in the award of $14 million in recycling grants last year to municipal and county governments.[36] Pennsylvania's similar $2-per-ton disposal surcharge also funds local recycling grants, such as the Food Recovery Infrastructure Grant.[37]

Expand Glass and Plastic Container Recycling by Enacting Bottle Bills

Glass is an important component of our solid waste stream. Big waste companies either insist that glass is not recyclable, or charge cities very high prices to collect and process it. But processing businesses have made glass recycling work. There is a ready market for recycled glass in industry and smaller materials recovery. There is also a ready market for the high-grade plastic used in containers, as long as it is separated from the rest of the waste stream.

One key element of a glass or high-grade plastic recovery strategy is the enactment of "bottle bills," which require a deposit, paid by the consumer, on beverage containers that is redeemable when the containers are returned to a recycling facility. Bottle bills bring in materials that have value — and sometimes high value, like glass and metal. Currently, ten states have bottle bills; half a dozen are debating new ones.

In 2019 Oregon achieved an impressive 90 percent recycling rate on containers covered by its expanded bottle deposit system. The rate jumped from 61 percent in 2017 after the state increased the deposit value from five to ten cents a container. Oregon also expanded the types of beverages

covered by its bottle bill. Passing and expanding bottle bill legislation helps increase the quality of materials in the recycling stream and helps increase recycling overall. Such legislation can also foster refillable beverage containers, which are environmentally preferable to single-use products. Oregon became the first state offering breweries refillable beer bottles in 2018 when the nonprofit Oregon Beverage Recycling Cooperative, which oversees the state's bottle bill, began a project that collects and redistributes bottles for refilling.[38]

Adopt Proven Policies and Integrate Them into a Comprehensive Municipal Solid Waste Strategy

There is a wealth of expertise and experience in the thousands of cities and counties in this country. Some of the state-of-the-art policies and programs local governments might adapt include mandatory commercial and household recycling and composting, unit pricing for household garbage collection, co-collection, biweekly collection, product bans, green procurement, source reduction, home composting incentives, and repair and reuse centers. Municipal programs can also integrate with and leverage an array of proven state policies and programs. These include minimum recycled-content regulations, landfill bans, landfill pricing surcharges, and tax credits and incentives.[39]

Educate the Community about the Value of a Circular Economy

The high levels of contamination resulting from single stream recycling and the loss of the Chinese market have led a number of cities to engage in aggressive educational campaigns to encourage people not to deposit non-recyclables in single stream bins. This is necessary but would have been much less so if cities had continued to maintain a vibrant recycling culture nurtured by the modest but important participation of citizens in sorting their recyclables into different streams.

Since 1970 the goal of citizen action on this issue has been to reduce the environmental impact of poor consumer habits and to relocalize the materials economy, closing the loop between production, use, and recovery, thereby creating a circular system or economy.[40] The need to identify and create, or in many cases recreate the domestic local and regional economies is a key. "Buy Local" is an important guiding slogan that correlates with Reduce, Reuse, Recycle. Relocalization and maximum recycling both require a robust materials recovery system that reduces contamination levels as much as possible. ■

Learn more about our **Waste to Wealth** and **Composting Initiatives**

WASTE TO WEALTH →

COMPOSTING →

Notes

1. "Endgame! Consolidation and Competition in the Solid Waste Industry," Peter Anderson, *MSW Management*, January 2000.
2. Ibid.
3. "Waste Management, Inc. Form 10-K," 2017.
4. "Monopoly and the U.S. Waste Knot," Neil Seldman, *Institute for Local Self-Reliance*, December 2018.
5. "National Overview: Facts and Figures on Materials, Wastes and Recycling," *United States Environmental Protection Agency*, Accessed June 2020.
6. One analysis of what the Environmental Protection Agency calls Construction & Demolition landfills finds that disposal generates two to five times higher returns than recycling." As Morgan Stanley advised investors in 1999, "Although the publicly traded waste companies derive a very small portion of their revenues from it, recycling is primarily seen as a competitive threat because it steals volumes away from landfills, their most promising assets. Therefore, we view any declines in recycling as bullish for these stocks;" "Construction Boom! Which Waste Company Stands to Benefit the Most?," Veni Vidi Emi, *Waste Advantage Magazine*, February 2018; "Recycling is the Enemy of Wasting," Neil Seldman, *Institute for Local Self-Reliance*, December 2018.
7. "10 insights from public waste company 10-Ks," Cole Rosengren, Rina Li, *WasteDive*, March 2019.
8. "Single-Stream Recycling," *Scientific American*, September 2013.
9. "2014 AF&PA Community Survey," Louis Berger, *American Forest & Paper Association*, Inc., February 2015.
10. "Your Recycling Gets Recycled, Right? Maybe, or Maybe Not," Livia Albeck-Ripka, *New York Times*, May 2018.
11. "The Era of Easy Recycling May Be Coming to An End," Maggie Koerth, *FiveThirtyEight*, January 2019.
12. "Your Recycling Gets Recycled, Right? Maybe, or Maybe Not," Livia Albeck-Ripka, *New York Times*, May 2018.
13. "Advancing Sustainable Materials Management: 2015 Fact Sheet," *United States Environmental Protection Agency*, July 2018.
14. "Waste Management predicts March DOJ approval for Advanced deal, with 'robust' divestiture interest," Cole Rosengren, *Waste Dive*, February 2020.
15. "Response to Comments from RecycleWorlds Consulting Corp.," *United States Department of Justice*, September 1999.
16. Op cit. "Waste Knot."
17. "Comment on Merger Between Allied Waste Industries and Browning Ferris Industries – Case 99-CV-01962 (D.C.D.C.)," Robert J. Kramer, *United States Department of Justice Antitrust Division*, October 1999.
18. "National Overview: Facts and Figures on Materials, Wastes and Recycling," *United States Environmental Protection Agency*, Accessed June 2020.
19. "Race is the biggest indicator in the US of whether you live near toxic waste," Zoe Schlanger, Quartz, March 2017; "Basic Information about Landfill Gas," *United States Environmental Protection Agency*, Accessed June 2020.
20. "Why Some Landfills are Becoming Privatized, While Others Remain Public," *Waste 360*, September 2018.
21. See Rhode Island Resource Recovery Corporation website.
22. See Eureka! Recycling website.
23. See Eco-Cycle website.
24. See Recycle Ann Arbor website.
25. "Reviving Competition for Waste Disposal Saves San Jose Millions," Par Sauseda and Gerald E. Newfarmer, *Western City*, August 1986.
26. Ibid.
27. "National Overview: Facts and Figures on Materials, Wastes and Recycling," *United States Environmental Protection Agency*, Accessed June 2020.
28. "Vermont's Universal Recycling Law," *Vermont Department of Environmental Conservation*, Accessed June 2020.
29. "Mandatory Commercial Organics Recycling," *CalRecycle*, June 2020.
30. "Commercial Food Material Disposal Ban," *Massachusetts Department of Environmental Protection*, Accessed June 2020.
31. "Food Donation and Food Scraps Recycling Law," *New York State Dept. of Environmental Conservation*, Accessed June 2020.
32. "Composting for Community Map," *Institute for Local Self-Reliance*, Accessed June 2020.
33. "On-Farm Composting Rules and Permit Exemptions," *Institute for Local Self-Reliance*, Accessed June 2020.
34. "Greenhouse Gas Reduction Grant and Loan Programs," *CalRecycle*, Accessed June 2020.
35. "Healthy Soils Program," *California Department of Food and Agriculture*, Accessed June 2020.
36. "DEP Awards More Than $14 Million in Grants to Local and County Governments to Enhance Recycling Efforts," *New Jersey Department of Environmental Protection*, December 2019.
37. "Recycling Financial Assistance," *Pennsylvania Department of Environmental Protection*, Accessed June 2020.
38. Jeff Alworth, "Oregon Introduces Refillable Bottles," www.beervanablog.com/, June 19, 2018; and "Bottle Drop Oregon Redemption Center," www.bottledropcenters.com/, Accessed June 2020.
39. "Zero Waste Case Study: Renton," *United States Environmental Protection Agency*, Accessed June 2020; "Why Should Baltimore Recycle More?," Neil Seldman, *Institute for Local Self-Reliance*, April 2017; "State Mandates on the Purchase of Recycled Content Paper," *Practice Greenhealth*, 2010; "What's Banned in Landfills: A State-By-State Guide," Trey Granger, *Earth911*, November 2017; "State Funding Mechanisms for Solid Waste Disposal and Recycling Programs," *United States Environmental Protection Agency*, June 2014; "Packaging and Environmental Legislation in the United States: An Overview," *Keller Heckman LLP's Packaging Practice Group*, Packaging Law, July 2002.
40. The definition of circular economy is an economic system where products and services are traded in closed loops or "cycles."

ICMRESOLUTIONS

Date: July 12, 2022
To: Benton County Board of Commissioners From: Sam Imperati, JD, ICMresolutions Executive Director
RE: Benton County Solid Waste Situational Assessment Report

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INTRODUCTION

Benton County contracted with Oregon Consensus (OC) (Website) to conduct a process assessment; not an assessment of substantive issues. OC sent an informal solicitation to its provider network and received four responses. ICMresolutions was one of four submittals. Sam Imperati, ICM's Executive Director, **Appendix A,** was selected by the County, in consultation with OC, to perform the Assessment. This is the final report.

The Scope of Work follows:

> Benton County and key stakeholders seek assistance identifying and implementing a constructive path forward relating to sustainable materials management and the future of solid waste disposal in the Mid-Willamette Valley, including at the Coffin Butte regional landfill. Following a recent Benton County Planning Commission denial of a proposed conditional use permit to expand the landfill, key participants recognize that a constructive path forward could benefit from the assistance of a third-party facilitator. Key stakeholders believe that an objective assessment of the situation, conducted by an impartial third party, would be a good first step. (Emphasis added.)

As the Assessment progressed, related issues arose as noted below. Commenting on them, and making recommendations for their improvement, are necessary for a thorough analysis and holistic recommendations.

PHILOSOPHY

The best assessors are both fiercely independent and influenced by their core philosophies about conflict and conflict resolution. I provide mine so you know upfront the default views that underlie my observations and recommendations.

Fair process is fundamental to fair outcomes, period. Good process shouldn't help or hurt either side of an argument. Process should be agnostic. When pure power is used to tilt the outcome, it is by my definition, problematic. Pareto Efficiency ("a situation where no further improvements to community's wellbeing can be made through a reallocation of resources that makes at least one person better off without making someone else worse off") is not achieved, and the predictable result is polarization.

It is human nature to look for competitive process advantage, especially in the short run, but at what cost to the broader community over time? The "team" who currently enjoys power contends they should be able to dictate the process because "elections have consequences." The "other team" calls "process foul" and the impacted community is further split apart or left confused in its search for fair results. A healthy community thrives if its processes are designed to resolve issues on their respective merits – not on the views of those holding power. If we look to power to resolve disputes, each member of the community will eventually be at risk. Restated, good process is a goal in and of itself! As a result, the below observations and recommendations are driven by the need for a fair process for the Benton County community-at-large.

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PROCESS

An Assessment, by its nature, cannot hear directly from each of the affected stakeholders. For example, I did not have sufficient time to interview many of the individuals that provided testimony and comments to the Planning Commission. However, I am aware of their views, and the interviewees did an excellent job of pointing out the concerns of the broader public (e.g., neighbors, users, businesses, organizations, and institutions.) Traditionally, processes that flow from an Assessment are designed to include a robust public involvement component with opportunities for input, as contemplated by the recommendations that follow.

I interviewed each member of the Solid Waste Advisory Council (SWAC)/Disposal Site Advisory Committee (DSAC), each member of the Board of Commissioners (BOC), one member of the Planning Commission (PC), one member of the public, national and local Republic Services' employees, and Benton County Staff. I also spoke with Republic Services' local attorney and the attorney for some of the neighbors, each in a preliminary fashion. The people interviewed were open, cooperative, and forthcoming.

The interviews covered the following topics:

1) Potential Substantive issues
2) Membership Options
3) Potential Challenges (HOPES and CONCERNS from a process perspective)
4) Potential "Voting" Options
5) Process Questions:
    a. How long (months, number of meetings, etc.) do you think it will take to explore the issues in the proposed scope?
    b. How can Benton County be most helpful?
    c. How can the facilitation team be most helpful?

A draft of this report was sent to the people interviewed. Their comments and suggestions were appreciated. I reviewed the input with an open mind based upon my experience with what has traditionally worked best in similar situations, and made the changes I think are in the best interests of the broad Benton County community. Some of the feedback involved details that are commonly developed after the Board provides its input on the general process construct, so they are not specifically addressed here.

Commentators that would like to discuss my reasoning for not adopting their suggestions can contact me at either SamImperati@ICMresolutions.com or (503) 244-1174. I encourage the interviewees and the public to send their comments to you because healthy feedback is essential as you consider a "constructive path forward."

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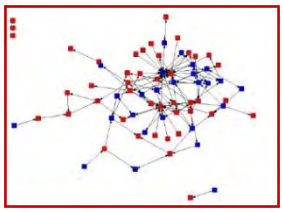
OBSERVATIONS

Here are the observations that set the stage for the recommendations that follow.

1) The essential elements of a healthy civic relationship include:

   a. *Supported Values;*
   b. *Mutual Goals;*
   c. *An Effective Accountability Mechanism;*
   d. *Trust;* and
   e. *Respect.*



2) This situation is the classic "wicked problem" because each of the above elements are strained. "Wicked Problems" have the following characteristics, which are typical of landfill issues because they tend to be controversial.

The last Republic Services' Conditional Use Permit (CUP) process resulted in a great deal of polarization, debate prevailed over exploration, and basic facts were either unknown or contested. The same dynamics existed surrounding the relevant law, codes, and policies. The lack of *Trust* and *Respect* became personal in some situations. That will not likely change until the participants work together to develop *Values, Goals,* and a *Supported Accountability Mechanism*.

3) Without getting the participants on the "same page" first, any subsequent discussion will likely experience similar "wicked" dynamics. Restated, "common understandings" are essential for the ultimate decision makers to have available as they review a future CUP application and Solid Waste Management Plan (SWMP,) now commonly referred to by the County as a Sustainable Materials Management Plan (SMMP.) The latter includes the consideration of more options/alternatives (e.g. transfer stations, etc.) than just disposal for the entire consumer lifecycle, along with overall greenhouse gas generation. The below Recommendations provide a process for creating the necessary "common understandings."

4) Here are three telling examples of questions where the answers should be commonly accepted, but are not currently.

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a. *When will the landfill close?* There have been a range of dates proffered and it is obvious they vary by the underlying data and assumptions, not all of which are known by all of the participants. That situation leads to the ability of each side to state a date they believe creates the best argument for their position.

b. *Will DEQ permit another landfill west of the Cascades?* I have heard "yes" and "no" answers to that question, stated with certainty and passion, making it difficult for the impartial observer to know the truth.

c. *What does the "regional landfill" designation mean?* I have been told 1) it is nothing more than a label for facilities of a certain size, and 2) it means Benton County has restrictions on what conditions it may impose on a landfill operator.

Without more objectively verifiable information, the impartial observers and ultimate decision makers are left to complete a puzzle without the necessary pieces. The matter is made worse by the lack of clarity surrounding the CUP criteria and type/quality of information needed for the best result, be it approval or denial.

5) While I have sat on the bench as a Judge Pro Tem, if I were asked to "judge" the relative merits of the various positions, I would conclude I do not have sufficient reliable information from independent sources to do so. I believe the County decision makers would be hard pressed to make the best choice for the residents of Benton County unless the process and access to the necessary information were meaningfully improved. Without those, it will be 'politics as usual.'

6) The default land use process (Application – Staff Review – SWAC – PC – BOC – LUBA, Courts) has challenges to widely accepted outcomes because it is quasi-judicial in nature. It does not provide for exploration because it is based upon a point-counterpoint dynamic with no authentic opportunity to "test" the evidence of others, let alone truly explore the situation in hopes of developing collaborative solutions. This leads to further frustration and polarization.

7) Revamping the default legal system, per se, (which is beyond my scope and expertise) would take too long to help the current challenges and would require participation by the Oregon Legislature and others. However, there are improvements that can be made prior to the next CUP. Without the below recommendations in place, I predict the process and its result (be it approval or denial) will lead to the same challenges as last time, especially if there is a lack of timely transparency as some allege existed last time.

8) It is possible each side of this debate believes they will prevail under the default system, so they may not be enthusiastic about a process prefatory to it. Speaking bluntly, if you have two votes you will win, and if you don't, you will lose. If that is the preferred way to make policy, a collaborative process would be only for show. Having said that, I believe the people interviewed will participate fully in a collaborative process.

9) Another factor underlying dynamics is the lack of an up-to-date Sustainable Materials Management Plan (SMMP.) Benton County does not have a current or conventional plan, as compared with plans like those from Deschutes County (2019) or Marion County's Solid Waste and Energy Final Report (2017). There is a 1977 SWMP, which was created by Waste Control

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Systems, Inc., as part of a 1975 landfill CUP condition of approval. However, that plan is dated and lacks current relevancy to the County's current materials management operations.

The following documents are more relevant to the current discussions because they focus on material recovery in the County and were prepared to meet Oregon DEQ requirements at the time. However, these plans do not include an in-depth discussion of disposal elements, which they should, even if it's not the driving focus.

- Benton County Wasteshed Waste Recovery Plan Update (2011)
- Benton County Wasteshed Waste Recovery Plan for 2005-2009 (2002)

While one could argue, as some have, that the CUP and the master planning topics should be separate, it is important to remember this "bridge" process is about scoping/planning for the topics – nothing more. The recommended Charge below does not include a discussion of them on their merits. Planning for them simultaneously is the most efficient option to achieve a "constructive path forward."

10) The following options were considered during the Assessment:

a. Doing Nothing Different Than Last Time;
b. Pre-CUP Application Process to Improve Next CUP Process;
c. Process to Scope the Next SMMP; and
d. Both Options b and c.

RECOMMENDATIONS

Here are the highlights of the recommended "bridge" process for the Board of Commissioners to consider. As you will see, I am suggesting a process to reset the current dynamics with the development of "common understandings" and protocols for the future substantive consideration of the solid waste issues. Please note additional details will be worked out if the BOC approves the general framework. (Examples include the sequencing of issues and the time spent on each topic, etc.) The proposed elements are presented as a "package" meaning that when modifying one element, the reviewer should consider the potential for unintended consequences to the other elements. I am available to provide experiential insights on this topic.

I do not suggest the recommended process will fix this "wicked problem." I simply suggest it is more likely to manage the dynamics in a way designed to increase the chances of an outcome that is in the best interests of the broader Benton County community. The odds of that happening will increase with the Board's capable leadership.

1) VACANCIES: The Board should fill the vacant SWAC/DSAC (see, ORS 459.320 re: DSAC) and Planning Commission seats. As with any advisory body, consider the advantages of having a diversity of interests represented.

2) DEVELOP COMMON UNDERSTANDINGS: The County staff should draft for Workgroup review and input before staff finalizes it, a document that covers the informational topics listed in this

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section. It is particularly important to get everyone on the "same page" before work on the Charge begins in earnest. If not done, the Workgroup will likely experience the same dynamics that occurred during the last CUP application. Additionally, these common understandings are essential for the ultimate decision makers to have when they are reviewing a CUP application.

a. A History of Coffin Butte that includes tables with information like size, specific locations, CUP conditions, reporting requirements, rights, obligation, assumptions, the economics, and prior CUP/SWMP compliance, etc. They should be presented in chronological order for ease of comparison. Additionally, a section summarizing best practices for jurisdictions hosting landfills, typical terms, and issue sequencing, etc., should be included in this document.

b. A Summary of the County's current rights and obligations to Republic Services,* and vice versa, surrounding the landfill and hauling franchises, including what can and cannot be conditions of any CUP (e.g. past compliance, compliance with future laws, codes, and policies, DEQ compliance, reopening, limitations on what can be brought into the County from where, required facilities and practices, reporting/compliance/financial monitoring requirements, etc.) *Includes Valley Landfills, Inc. and those signatories to the various hauling franchises.

c. A Summary of the rights and obligations of other entities (e.g. federal, tribal, state, and local government) and their interplay with the Benton County process surrounding landfills, hauling, and sustainability initiatives, etc. For example, this document should include a detailed summary of the step-by-step process and associated timing for the cross-jurisdictional approvals of landfill applications, (e.g. DEQ) including what topics are within whose authority, and whether, for example, the County can or should consider the topics it does not have permitting authority over when assessing the criteria outlined in Code section 53.215.

3) WORKGROUP and ITS CHARGE: The Board should create a temporary workgroup called, "Benton County Talks Trash." (*Sorry, couldn't resist!)*

Using the "common understandings" above, the established Workgroup should make recommendations to the BOC on the following topics, which are presented without reference to priority. The Workgroup, with concurrence of the County staff, will prioritize these topics, create subcommittees if necessary, and allocate meeting times accordingly.

a. Clarifying existing criteria and information requirements for the CUP process. For context, the Comprehensive Plan can be found here. It provides the foundation for Benton County land use policy and serves as the defining framework for the Development Code when questions of interpretation arise, including questions about what might be included in "other information" required for a complete CUP application.

Code Section 50.015 states:

> The policies of the Comprehensive Plan shall serve as the basis for developing the implementing regulations of the Development Code.

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> The policies of the Comprehensive Plan are not implementing regulations and shall not be directly applied to individual applications except as provided by the Development Code. When the interpretation of a particular Development Code provision is in doubt, the Comprehensive Plan shall be referred to for policy guidance.

This sets the foundation for the Development Code. Section 50.005(1) states, "The Benton County Comprehensive Plan, including the Comprehensive Plan Map, is hereby incorporated by reference into the Benton County Code." Section 51.010 Scope, states, "The Development Code is intended to implement the Benton County Comprehensive Plan. All amendments to the Development Code shall comply with the Comprehensive Plan."

Code Section 51 also outlines relevant authorities, including the roles of the Planning Official and the Planning Commission to interpret the Code, determine the scope of issues, and set the process.

With the Comprehensive Plan's Table of Contents providing a list of potential considerations, and Chapters 50 and 51 as context, please see the **Appendix B** for specific Code sections that should be reviewed, at a minimum, with particular attention to Sections 53.215 (Criteria,) 77.305 (Conditional Uses,) 77.310 (Review,) and 77.405 (DEQ.) Additionally, consider the comments the Planning Commission made during its last review of Republic Services' CUP application.

The Workgroup should develop a conceptual list of applicable review criteria and guidelines for interpreting any ambiguous provisions. For example:

i. The phrase, "Other information as required by the Planning Official" 77.310(e); and

ii. The terms found in Section 53.215, e.g., "seriously interfere," "character of the area," "purpose of the zone," "undue burden," and "any additional criteria which may be required for the specific use by this code."

Finally, the Workgroup should develop protocols for the timely and broad distribution of documents and materials to the public, other governmental entities, and internal committees, groups, and divisions.

This proposed Charge element does NOT include opining on the merits of Republic Services' expected Coffin Butte application. It does not involve the actual writing of potential code language nor making recommendations that change the current steps in the existing CUP review process. The scope is limited to developing conceptual language for recommended review criteria and guidelines for interpreting any existing ambiguous provisions using the "Common Understanding" as guideposts. The Workgroup should be mindful of the legal parameters associated with its specific recommendations.

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b. Scoping the necessary tasks to start a Long-Term Sustainable Materials Management Plan process. Consider topics like contracting out, subjects to be covered, who needs to be at the table beyond those in the County, and a workplan outline with a timeline for completion. Look to recent similar planning efforts across the state to assess what topics were included and what "lessons learned" should be brought forward in your process. This includes the development of the necessary protocols needed before beginning the actual planning process.

This charge includes topics beyond the landfill, and like it, the Workgroup should consider the cost-benefits from the perspective of who gains benefits, and who does not, in light of Code section 23.010 [Solid Waste Management] Purpose, which states, "In order to protect the health, safety and welfare of the people of Benton County and to provide a solid waste management program, it is declared to be the public policy of Benton County to regulate solid waste management to… [see actual language for list of potential topics.]" Section 23.100

This charge does not include completing the plan. It only includes a discussion of the preliminary scoping to start that planning process.

c. Provide input on the additional topics that were raised during the assessment. In addition to considering making SMMP consistency/compliance a CUP condition, here are three other examples that would benefit from Workgroup input based upon the recommendations flowing from the other charges.

i. Scope the necessary tasks to start planning for the reopening of the existing hauling agreement to be amended by July 1, 2024 (Solid Waste Collection Franchise Board Order D2022-044: Order; and

ii. Clarify the differences, with BOC feedback, between the roles, responsibilities, and protocols of SWAC and DSAC, **Appendix C,** on these topics, and develop specific review criteria for the evaluation of CUP applications. Related Question: "Should SWAC and DSAC use the same review criteria as the Planning Commission and the BOC?"

iii. Create a future timeline for discussing any needed changes to the Benton County Code flowing from any Workgroup recommendations.

d. Consider creating a public-facing document and community education campaign on these topics. This is an "extra credit" recommendation and is subject to the availability of the resources needed to do so.

4) MEMBERSHIP: The Workgroup should have the following membership. There are two categories a) Member and b) Ex Officio. Members have full rights of participation and "polling." Ex Officio members are "non-polling" information sources. Each may bring technical resources to the meetings. They will be able to participate in the discussions with permission of the

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Facilitator after a Workgroup discussion on the advantages and disadvantages surrounding their participation.

a. *Two SWAC/DSAC Members* appointed by SWAC/DSAC.

b. *Two Planning Commission Members* appointed by the Planning Commission.

c. *Two Republic Services' (one local and one national) Members* appointed by Republic Services on Charge a. "Clarifying existing criteria and information requirements for the CUP process" and Charge c. i." Scope the necessary tasks to start planning for the reopening of the existing hauling agreement to be amended by July 1, 2024."

   If the BOC wants Republic Services input on Charge b. "Scoping the necessary tasks to start a Long-Term Sustainable Materials Management Plan process," it should make them Ex Officio members and add other providers like Waste Management Inc., Ridwell, Recology, Rogue Disposal and Recycling, etc., as Ex Officio members. Another option is adding an organization like the Oregon Refuse & Recycling Association. (ORRA)

d. *Eight Members of the Public* who represent the following interests (e.g. landfill neighbors, service users, tribal interests, business, cities, OSU, Good Sam, non-profits, etc.,) appointed by the BOC. As with any advisory body, consider the advantages of having a diversity of interests represented. The Board may choose to seek input from the other members on its appointments. (It is important the members appointed have subject matter familiarity and the time/interest necessary to meaningfully participate.)

e. *DEQ* as an Ex Officio Workgroup member.

f. *Two neighboring jurisdictions* from outside the County, selected by the BOC, as Ex Officio Workgroup members, to liaison on the long-term solid waste planning topic only.

g. *Benton County Staff,* picked by the County Administrator or his designee, participate as Ex Officio members.

The recommendation for an even number of Members is intentional because it is not a decision-making body. I do not suggest "voting" in the traditional sense. Instead, I recommend "polling" using the protocol outlined in **Appendix D**. "Polling" is designed to see if consensus is possible. Typically, this allows the participants to explore the Charge in an efficient, transparent, and fair manner in order to give the County the information necessary to make the best decision for all its residents.

5) PUBLIC: Open to the public with opportunities for public input with materials timely posted on the County website. It is essential that the Workgroup deliberate in public and that their work is effectively publicized to increase community awareness of these important discussions.

6) CONVENE: As soon as possible.

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7) MEETING FREQUENCY: Meet in person or virtually, approximately twice a month for about 3-to-4-hours with a structured agenda designed to produce specific deliverables for each meeting. Meeting Summaries should be posted on the County's website so the public can follow the proceedings.

8) SWAC/DSAC and PLANNING COMMISSION WORKGROUP REPORT REVIEW: The Workgroup should submit its draft report to them for comment by 11/1/22 and they should submit their comments to the Workgroup by 12/1/22.

9) FINAL REPORT: The Workgroup should review the comments above and submit its final report to the BOC by 12/31/22 with timely Board action to follow.

10) FACILITATION: Facilitated by a strong, professional facilitator selected by the County with input from the Workgroup. The facilitator will function as chair and mediator. The facilitator should be given broad authority to manage the process in order to keep the process on task and on time.

11) STAFFING:

The last CUP process caught the County staff in the "cross-fire." The timelines associated with the current land use system put staff in the untenable position of having to evaluate substantial amounts of detailed information in 150 days. The information is complex, detailed, and requires a unique amount of subject matter expertise and outside resources (money for outside experts) that is not common in jurisdictions of Benton County's size, especially on topics like landfills that do not come along frequently. Additionally, staff's plates are full with the other demands of their jobs.

Adversarial dynamics resulted in the personalization of complaints that were distracting from the important work at hand. People in conflict have a choice; they can "Build Relationships and Fix Problems" or "Build a Case and Fix Blame." I recommend the former, which is more likely to happen with a "cooling off" period. Without one, the interpersonal dynamics will likely get worse by adding an unnecessary and counterproductive layer of complexity. Restated, it is not realistic to expect that perceptions, workloads, and access to outside resources are going to improve between now and the next Republic Services' CUP application. As a result, I recommend the following:

a. *County staff should manage the needed long-term solid waste planning process, which was put on hold pending this assessment.* They should be supported by outside resources (e.g. contractors) as needed, which is commonly done by jurisdictions the size of Benton County. As a result, the County should reconsider the current CUP application fee to determine whether it is sufficient for the required work.

b. *The County should contract out the planning and legal review of the anticipated Republic Services' CUP application.* The County's Planning Official should manage this. This includes retaining the subject matter experts necessary to provide the County with the best available information necessary to review the application fairly and completely. This recommendation only applies to the upcoming Republic Services CUP application for the reasons noted above.

c. *County staff should participate in an ex officio capacity in the Workgroup proposed here.*

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These staffing recommendations are because of the "wicked problem" described above and are not based upon an assessment of staff independence or competency.

CONCLUSION

Thank you for the opportunity to assist you. I will be at the July 19, 2022 Commission Meeting to respond to public comments, answer any questions, and provide insights on unintended consequence, if any, associated with any proposed changes to these recommendations.

RESPECTFULLY SUBMITTED

Samuel J. Imperati

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APPENDIX A: About the Assessor

The Institute *for* Conflict Management, Inc. (DBA, ICMRESOLUTIONS) is a NW-based, national provider of dispute resolution, facilitation, mediation, decision-making, team building, and training services. ICM is experienced in the intersection of policy, politics, science, business, and law. ICMresolutions has provided public, public-private, and private resolution services. We bring 30+ years of experience in managing, presenting, and resolving matters in a thorough, clear, and balanced fashion. We help stakeholders work collaboratively to achieve shared goals and overcome challenges.
ICMresolutions Website

SAM IMPERATI, JD. Executive Director. Seasoned attorney. Assistant Corporate Counsel, Nike. Private practice representing individuals and unions. Judge Pro Tempore. Chair, Oregon Bar's (OSB) Alternative Dispute Resolution (ADR) Section. Taught leadership, negotiation, ethics, & decision-making at Willamette MBA & environmental dispute resolution at Lewis & Clark Law. I am currently teaching Public Policy Facilitation at the University of Oregon Law School CRES program. Experience in everything from "**A**dmiralty to **Z**oning." Highly effective in resolving complex, high-conflict cases, mediating multi-party disputes, and facilitating cross-sector partnerships. Sam displays a tireless work ethic and gets the job done with uncompromising integrity and impartiality. He believes in straight talk to uncover hidden agendas and speaks truth to power in a way that can be heard and acted upon. Sam trains nationally on dispute resolution topics and is an engaging keynote speaker. 2006 – 2022 Best Lawyers in America. Martindale-Hubbell's highest rating, AV Preeminent. 10/10 AVVO rating. OSB & OMA Lezak Awards for mediation excellence. Standup comedy winner!

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APPENDIX B: Relevant Code Sections

23.010 [Solid Waste Management Plan] Purpose. In order to protect the health, safety and welfare of the people of Benton County and to provide a solid waste management program, it is declared to be the public policy of Benton County to regulate solid waste management to:

(1) Provide for a coordinated solid waste management program and administration with cities within Benton County and with other counties or cities under existing and future regional programs.

(2) Provide for cooperation and agreements between Benton County and cities and other counties involving joint or regional franchising of solid waste service.

(3) Provide standards, regulations and franchising to ensure the safe and sanitary accumulation, storage, collection, transportation and disposal or resource recovery of solid wastes and ensure maintenance of solid waste collection, resource recovery and disposal service.

(4) Encourage research, studies, surveys and demonstration projects to develop a safe, sanitary, efficient, and economical solid waste management system.

(5) Provide research, development and promotion of and public education for technologically and economically feasible resource recovery including recycling and reuse, by and through the franchisees or permittees and other persons.

(6) Eliminate duplication of service or routes to conserve energy and material resources, reduce air pollution, noise pollution, truck traffic, and increase efficiency, thereby minimizing consumer cost.

(7) Encourage the use of the capabilities and expertise of private industry and encourage volunteer efforts in accomplishing the purposes of BCC Chapter 23. Last Modified: 3/16/21, Ord. No. 2021-0300 23-3.

(8) Provide equitable classes of collection rates to classes or users of solid waste services that are just, fair, reasonable, and adequate to provide necessary services to the public, justify investment in solid waste management systems and provide for equipment and systems modernization to meet environmental service requirements and technology.

(9) Minimize the cost and burden of regulation, administration and enforcement.

(10) Provide for public input in solid waste management.

(11) Carry out the local government responsibility and authority for solid waste management under ORS 459, and carry out the mandate for waste reduction under Chapter 773, Oregon Laws, 1979. [Ord. 1, adopted March 31, 1971; Ord. 23, adopted December 17, 1980; Ord. 85-0023; Ord. 86-035; Ord. 2000-0165].

Code Section 23.010 Purpose

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The next CUP process would benefit from more specificity to the following Code sections.

a) Section 53.205 Purpose. Conditional uses are land uses which may have an adverse effect on surrounding permitted uses in a zone. [Ord 90-0069]

b) Section 53.210 Permit Required. A person shall obtain a conditional use permit from the County in order to establish a conditional use. The decision to issue a conditional use permit is discretionary. [Ord 90-0069]

c) Section 53.215 Criteria. The decision to approve a conditional use permit shall be based on findings that:

(1) The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone;

(2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and

(3) The proposed use complies with any additional criteria which may be required for the specific use by this code. [Ord 90-0069]

Section 53.215 Criteria

d) Section 77.305 Conditional Uses Approved by the Planning Commission.

Any proposal to expand the area approved for a landfill within the Landfill Site Zone is allowed by conditional use permit approved by the Planning Commission. The Benton County Environmental Health Division and the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. The Oregon Department of Environmental Quality shall be given an opportunity to review and comment on any proposal which may affect this site. [Ord 26I, Ord 90-0069]

e) Section 77.310 Conditional Use Review.

(1) The applicant for a conditional use permit shall provide a narrative which describes:

(a) Adjacent land use and impacts upon adjacent uses;
(b) Future use of the site as reclaimed, and impacts of that reclamation on adjacent uses;
(c) Provisions for screening of the site from public roads and adjacent property;
(d) Egress and ingress; and
(e) Other information as required by the Planning Official.

(2) A site plan map shall accompany a conditional use permit application. The map shall contain at least a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site

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Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.

(3) A conditional use permit application shall contain a reclamation plan describing present efforts and future reclamation plans related to the site.

(4) The following environmental and operational considerations shall be reviewed prior to changes in the documents referenced above:

(a) Geology;
(b) Groundwater and surface water;
(c) Soil depth and classification, and erosion control factors;
(d) Slope; and
(e) Cover material availability, transportation, and use. [Ord 26I, Ord 90-0069]

f) Section 77.405 Review of DEQ Permits. Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled. [Ord 26I, Ord 90-0069]

Section 77.405 Review DEQ

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APPENDIX C: Relevant Bylaws Sections

a) Disposal Site Advisory Committee (DSAC) Article 2 Function

The Committee shall assist the Benton County Board of Commissioners in the planning and implementation of disposal site management, including (but not limited to) the following:

(1) Review with the permittee of the regional disposal site including, but not limited to, siting, operation, closure, and long-term monitoring of the regional disposal site; and

(2) Provide a forum for community member comments, questions and concerns about the regional disposal site and promote a dialogue between the community and the owner or operator of the regional disposal site; and

(3) Prepare an annual written report summarizing the local community member's concerns and the manner in which the owner or operator is addressing those concerns. The report shall be considered by the Department of Environmental Quality in issuing and renewing a solid waste permit.

DSAC Function

b) Solid Waste Advisory Council (SWAC) Article 1 Purpose

The purpose of the Solid Waste Advisory Council (SWAC) is to assist the Board of Commissioners (Board) in Planning and implementation of solid waste management, pursuant to BCC Chapter 23, the Benton County Solid Waste Management Ordinance."

SWAC Purpose

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APPENDIX D: Consensus Polling: A Process for Consensus Recommendation-Making

The Facilitator will assist the Workgroup and its members in identifying objectives, addressing the diversity of perspectives, and developing substantive, practical recommendations. The Workgroup will strive for and use a "consensus" recommendation-making approach to determine their level of agreement on proposals. This allows members to distinguish underlying values, interests, and concerns with a goal of developing widely accepted solutions.

Consensus does not mean 100% agreement on each part of every issue, but rather support for a decision, *"taken as a whole."* This means that a member may poll to support a consensus proposal even though they would prefer to have it modified in some manner to give it their full support. Consensus is a process of *"give and take*," of finding common ground and developing creative solutions in a way that everyone can support. Consensus is reached if all members support an idea or can say, *"I can live with that."*

When developing recommendations, the Workgroup will address each issue individually, and in various combinations. It will decide on whether it wants to make package or individual recommendations at the end of the process.

"1-2-3" Consensus Polling: The Facilitator will assist the Workgroup in articulating points of agreement, as well as articulating concerns that require further exploration. It will use a "Consensus Polling" procedure for assessing the group's opinion and adjusting proposals. In "Consensus Polling," the Facilitator will articulate the proposal. Each voting member will then offer "one," "two," or "three," reflecting the following:

- "One" indicates full support for the proposal as stated.
- "Two" indicates that the participant agrees with the proposal as stated but would prefer to have it modified in some manner to give it full support. Nevertheless, the member will support the consensus even if his/her suggested modifications are not supported by the rest of the group because the proposal is worthy of general support, as written.
- "Three" indicates refusal to support the proposal as stated.

The Facilitator will repeat the consensus voting process as reasonably practical and as time allows to assist the group in achieving consensus regarding a particular recommendation, so that all members are voting "one" or "two." Either way, the result will be noted in the Workgroup Report.

No Consensus – Majority and Minority Recommendations: If a consensus on an issue is not likely, as determined by the Facilitator, the poll results for the options considered will be presented to the BOC.

Summary of Workgroup Recommendations: The meeting summaries will serve as the record of the Workgroup recommendations as supplemented by the addition of member statements who elect to submit additional information by the deadline to be established at the last meeting. The facilitator will package all this information in its summary report to the BOC.

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BENTON COUNTY
Solid Waste Advisory Council (SWAC)
October 19, 2021 Minutes 6:00 pm

Members Present: John Deuel, Debi Gile, Jay Simpkins (Chair), Linda Brewer (Vice Chair), Fred Penning, & Larry Sleeman
Members Excused: John McEvoy was excused from the meeting due to ex parte. John is on the Planning Commission and will be involved in the landfill CUP going before the Commission in November.
Benton County Staff Present: Daniel Redick & Linda Ray

Call to Order/Introductions. Chair Jay Simpkins called the meeting to order at 6:30 pm. *Due to the current health crisis with Covid-19, the council met via Go To Meeting (a virtual meeting platform) online*. This emergency meeting was scheduled so all members of SWAC could weigh in on the decision to send a recommendation for or against the CUP application to expand the Coffin Butte landfill.

Coffin Butte Landfill Expansion Discussion. SWAC members discussed the land use permit LU-21-047; Coffin Butte Landfill expansion. Key points of that discussion are as follows;

- John Deuel asked if the landfill site development plan been updated since 2003 (projected to last 20-25 years). Planner Inga Williams stated that the site development plan is a requirement for Benton County code when they do an update. So it wouldn't be updated again unless this CUP is approved. A preliminary site plan has been submitted.
- John Deuel asked for clarification on what a regional landfill means. He would like to know who ultimately makes the decision on how much tonnage is accepted at the landfill. Daniel read off the definition of a regional disposal site (designation that the site makes itself). A regional disposal site receives or is designed to receive more than75,000 tons of waste per year from outside the service district. There is no requirement under state law to accept a certain amount outside of the region or total. Benton County does not have any authority on how much or where the waste comes from that is accepted in to the landfill.
- Debi Gile noted that citizen comments that were heard at the October 13th SWAC meeting should be taken into consideration in SWAC's decision about any recommendations to the Planning Commission. Debi also stated that Republic Services has been compliant and responsive to citizen complaints. Debi stated that in hindsight, SWAC should have been part of the review process before the franchise agreement was voted on. It would have been a good opportunity to suggest ideas and hopes that is considered in the future.

- Linda Brewer stated that the conditional use permit to expand the landfill does not mean a new landfill is being developed. She also noted that landfill management is based on optimizing tonnage accepted in volume. The landfill cells that are established are interlinking and support each other. She also addressed the comments made by community members at the October 13th stating that the landfill should be closed. She reminded SWAC and community members of the significant rate increase if waste was to be shipped to Eastern Oregon, as well as the carbon footprint that would happen with trucks taking loads that distance. The tipping fee (cost of emptying the truck) would be twice of what it costs to dump trash at Coffin Butte.
- Fred Penning did some research on Valley Landfills prior to the meeting. He noted that very few counties can run their own landfills, so a regional landfill owned by a corporation is more effective. Fred also stated that the job of SWAC members is to advise the [i]Planning Commission on this application and the economics of it are important.
- John Deuel stated that Benton County has an important opportunity with this conditional use permit application to raise the concern on the future of waste disposal after the landfill is at capacity and closed. He would like to see more focus on a strategy to reduce and prevent waste. He noted the importance of long term sustainability beyond Benton County rather than maintain status quo of a low fee. John suggested a delay in the action of the Planning Commission until there is discussion on waste prevention. He also emphasized the need for SWAC to do more research and have more information before making any recommendation. He would like to know more about the need and rationale to expand the landfill.
- Larry Sleeman stated that the issue that captures his attention the most is the percentage of waste coming from outside Benton County (88%). The application does not address this issue and Larry would like SWAC/DSAC to consider looking at how to regulate that percentage. Larry noted that the new proposal for traffic to use Robison Road addresses community members' concerns regarding safety.
- Jay Simpkins stated that artificially shortening the life of the landfill doesn't do Benton County any good. It reduces the length of time we can produce a viable solution. Jay emphasized to SWAC members that the council's job is to support the county as a whole. He encouraged SWAC members to consider the percentage of county residents that do not live near the landfill and the increase of taxes and rates going up in price. He also expressed the value in the consultants that were hired by Republic Services and how their findings support the application. Jay stated four options that he saw at hand;

1. To recommend that the Planning Commission approve the landfill expansion application
2. To recommend the Planning Commission to reject the landfill expansion application
3. To ask for a delay in the process
4. To do nothing.

Letter of Recommendation to the Planning Commission.

There was discussion about what to include in the letter of recommendation to the Planning Commission if the council members chose to do so.

John emphasized his position on making sure that there is a long-term strategic plan well after the Coffin Butte closure. Jay suggested including this concern as an important consideration by the Planning Commissioners when making a decision about the application. Larry followed up by stating that the work of SWAC and the Materials Management Sub Committee (Working Team) that

has been collaborating the past year on efforts to reduce waste and focus on prevention. The Working Team worked hard to find initiatives that support this effort. John followed up by stating that the letter should include information on high priority programs of policies and those initiatives the working team studied and suggested to support.

Fred Penning expressed his curiosity in regards to the difference in waste from other counties. Fred stated his support to approve the application, but requested that the comments and concerns that locals around the landfill have brought to SWAC's attention be included. Fred would also like the letter to include concern about traffic safety around the landfill.

Linda Brewer made a **MOTION** for the Solid Waste Advisory Council to make a recommendation to the Planning Commission regarding the Conditional Use Permit application submitted by Valley Landfills LLC. Larry Sleeman seconded the **MOTION**. **The MOTION passed 6-0**.

Linda Brewer made a **MOTION** to send a letter of recommendation to the Planning Commission in support of approving the application. The letter will also include a list of concerns and stipulations for that recommendation for approval. Larry Sleeman seconded the motion. **The MOTION passed 5-1**.

Continuing the discussion on what should be included in the letter of recommendation, the council members suggested the following;

- Jay sees the approval as a "stop gap" until county can develop strategic plan on the future of the landfill. He and John Deuel both recommended that the letter include a further look into the future of the landfill and the long-range plan on what to do after it is closed. There is a lack of strategic planning on the future for Benton County after the landfill reaches capacity. John would also like to see a set of policies implemented on reducing solid waste. John also shared several points on this topic;

1. The County has a responsibility to develop a comprehensive long term plan and set of policies to address the impact of the closure of the landfill and reduction of solid waste.
2. The county should conduct a comprehensive study of the current landfill tipping fees and benchmark against other landfills in Oregon and address the excessive amount of out of county waste being brought to Coffin Butte.

John stated his concern that there has been a lack of public input and lack of time to gather data to work on a comprehensive plan for the future of Coffin Butte.

The council members agreed that Linda Brewer would draft the letter of recommendation and would include concerns or suggestions by individual council members in that letter.

The final draft letter of recommendation and input by the council members are attached in Exhibit A.

SWAC members briefly discussed scheduling for the last SWAC meeting of the year. It will take place on Wednesday, December 1st.

The meeting adjourned at 8:46 pm.

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[i] The role of SWAC is to advise the Board of Commissioners. The role of SWAC in this matter was to provide a letter of recommendation to the Planning Commission.

EXHIBIT A

Benton County
COMMUNITY DEVELOPMENT DEPARTMENT

Community Development Department
Office: (541) 766-6819
360 SW Avery Avenue
Corvallis, OR 97330
co.benton.or.us/cd

October 21, 2021

Benton County Planning Commission
360 SW Avery Ave.
Corvallis, OR 97333

Respected Commission Members:

On July 31, 2021, the members of the Benton County Disposal Site Advisory Council (DSAC) submitted a letter to you in support of an initial conditional use permit submitted by Republic Services which would expand the Coffin Butte Landfill and re-route traffic in the Soap Creek area of Benton County OR. In response to vigorous public outcry against our action, we engaged in two listening sessions with County residents most directly impacted by this proposed expansion. On Tuesday, 10/19/21, an extraordinary meeting of the SWAC was convened via GoToMeeting to discuss our response to a subsequent revision of the permit application LU-21-047.

The six members of the SWAC were present, as were Benton County employees Daniel Redick, the County's Solid Waste and Water Quality Coordinator and Inga Williams, Associate Planner. At times during the two-hour meeting, more than 50 members of the press and public were listening in.

The result was a re-affirmation of the SWAC's support of the revised application by a 5-1 vote on October 19. Many of the concerns of the member who voted in opposition are summarized in items 1 and 2 below.

The members of the SWAC recognize the legitimate concerns of the Tampico/Soap Creek Valley population. This portion of our population bears the brunt of the impact of their landfill neighbor. As they do so, the greater need of the County's population as a whole for a sanitary landfill resource is addressed. Concerns of the community surrounding the landfill include odors, noise, and the inconvenience of altered local traffic patterns.

In the matter of revised conditional use permit LU-21-047 submitted by Republic Services, the members of the Benton County Solid Waste Advisory Council support your approval of the conditional use permit with the following provisos:

1. Benton County should wisely use the 30-year stop-gap respite created by the conditional use permit to meaningfully anticipate and seek solutions for trash disposal in Benton County after the closure of Coffin Butte Landfill. There is a defined window of time for county leadership to plan without the demands of a crisis.

2. Likewise, Benton County leadership should use this respite period to attempt to meaningfully persuade other counties that contribute their waste to Coffin Butte to increase their recycling rates and reduce the amount of trash they deliver to our shared resource.

Without doubt, the members of the SWAC/DSAC would have benefitted had we been informed of this matter by Republic Services much earlier than late July 2021. All members agree that more timely public awareness of this matter and our own decision-making process would have benefitted from greater time for information gathering and sharing, discussion, and consideration. As it was, we spent considerable time correcting false impressions and back-filling the lack of information that caused great angst among the neighbors of the landfill.

Sincerely,

Members of Benton County Solid Waste Advisory Council
John (Jay) Simpkins III, Chair
Linda J. Brewer, Vice Chair
Fred Penning
John Deuel
Deborah Gile
Larry Sleeman

Benton County
COMMUNITY DEVELOPMENT DEPARTMENT

Community Development Department

Office: (541) 766-6819
360 SW Avery Avenue
Corvallis, OR 97333

co.benton.or.us/cd

July 29, 2021

To: Benton County Planning Commission
From: Members of the Solid Waste Advisory Committee of Benton County

The members of the Benton County Solid Waste Advisory Committee agreed during the July 28, 2021, DSAC/SWAC meeting that we strongly support the conditional use permit requested by Republic Services that would place a new disposal cell south of Coffin Butte Road.

This expansion will extend the landfill's useful life by approximately ten years, a sure benefit to the citizens of Benton County. When Coffin Butte Landfill closes, our solid waste likely will be hauled to a facility east of the Cascades and we can expect rates to increase. Benton County has a long history of favorable hauling rates; a dramatic change will doubtless raise objections. Coupled with the County's projects to reduce input at Coffin Butte, this expansion will ensure favorable rates continue.

Respectfully,

DocuSigned by:
Linda Brewer
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7/30/2021 | 14:36:27 PDT

Linda J. Brewer, Vice-Chair for
Jay Simpkins, Chair and the
Benton County Solid Waste Advisory Committee

Benton County
COMMUNITY DEVELOPMENT DEPARTMENT

Community Development Department

Office: (541) 766-6819
360 SW Avery Avenue
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