

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

Received From: VNEQS part 2 via Ken Eklund

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BOC ID: Boc3

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To: Chair Wyse, Commissioners Malone and Shepherd
From: VNEQS
October 29, 2025

Reasons you should deny LU-24-027

Response to the Staff Report, Part 2

Valley Neighbors for Environmental Quality and Safety (VNEQS) submits this response to matters raised on the record of the Board's hearing of October 22 and 23, 2025.

- ▶ **Specifically, we respond to the second half of the Staff Report presentation regarding the staff findings and the Conditions of Approval**

Commissioners, we're going to focus on specific questions that the code charges you to answer in this decision, especially: **Is this actually going to work? How do we know?** Remember: the Applicant is under a Burden of Proof to prove that they will.

To recap what the code says about the process:

- ▶ **The code asks you to interpret for yourselves what key words and terms mean in the context of this application, and whether proposed County commitments are actually viable.**
 - ▶ You're solely responsible for answering questions about viability
 - ▶ Staff has not determined viability or any metric other than "it's possible."
- ▶ **The standard is "Are the proposed Conditions possible, likely and reasonably certain to succeed?"**
 - ▶ Even if you judge them to be, you are under no obligation to consent to them. Your discretionary power means you can just say no
- ▶ **The Applicant has made self-serving assertions about these questions.**
 - "Client-led process": If the Applicant asserts an arbitrary or risky position, Staff must allow them to do so
- ▶ **The code has assigned you the power of discretion for the purpose of making these determinations**

KEY FINDINGS

Overview



ISSUES OVERVIEW

- Reliance on DEQ/ EPA Regulations, Monitoring, Enforcement
- Adequacy and Number of Conditions of Approval
- Context of Existing Use vs Proposed Expansion
- Construction Impacts
- Weighing of Evidence

What Staff's consultant said: "We do have a recent LUBA decision that said that the evaluation of the conditional use should be based on the use itself and not on construction of the use. And so we would recommend that you look at the impacts of the proposed use rather than trying to figure out construction related impacts in relation to it."

Commissioners, we think there is more to this story. We don't think it applies in all cases. If it did, someone who wanted to mine 3.5 million tons of rock needn't bother with a quarry permit, they need only propose to build a church. The church is going to be built at the bottom of a 150' deep hole, but the planners can't consider that, because it's a construction impact. And who can say no to a church?

- **Staff's position seems to create a situation where construction impacts can happen and no one has considered them**
- **It seems like you are being asked to approve something that will cause impacts without being able to understand what those impacts are**
- **The LUBA case being cited may not apply here – it may have been for a case that had relatively minor impacts, not one that calls for 4 years of construction, dynamite, mining and transport of 3.5 million tons of rock, etc.**

- Reliance on DEQ/ EPA Regulations, Monitoring, Enforcement
- Adequacy and Number of Conditions of Approval
- Context of Existing Use vs Proposed Expansion
- Construction Impacts
- Weighing of Evidence

What Staff's consultant said: "Weighing of evidence: this is a subject that came up during the deliberations for the Planning Commission. What we [need], in order to create findings that reflect your decision, whether that's approval or denial, we have a lot of evidence, a lot of evidence for almost everything that people are talking about. We have Applicant's evidence. We have a lot of testimony from the public; that's evidence. We have third-party engineers weighing in. So if you are making a decision on whatever – impacts – , whatever side of the decision you come down on, letting us know what evidence you relied on for your decision will allow us to provide findings in support of that much more easily. So if you weighed some evidence over other evidence because you know you got 15 pieces of evidence, what was more compelling to you? And if you let us know, then we can use that in the findings and be effective."

This advice overlooks a fundamental element of this decision, which is that the Applicant is under the Burden of Proof.

- ▶ Two components: one is complete evidence (Burden of Production)
- ▶ The second is a compelling narrative about how that evidence proves what it needs to prove (Burden of Persuasion) ([Record ID T0658](#), p. 8)
- ▶ It's not always, or even often, a matter of evidence vs. counter-evidence
 - ▶ Consider first: **Did the Applicant meet their Burden of Proof?**
- ▶ The Planning Commission cited many instances where the Applicant had not met their Burden of Proof
 - ▶ Most notably, no proof that the Conditions of Approval would actually work
 - ▶ The odor study was unconvincing in the face of extensive public testimony about intrusive odors

- Catherine Biscoe, a Planning Commissioner, has an extensive rundown that you should read: [Record ID T0654](#)
- The Applicant's Burden can fail if it contains a single serious fundamental flaw
 - An example would be: the Applicant's odor study
 - Study asserts that landfill gas is a "nuisance" odor
 - Study relies upon a methodology used to evaluate nuisance odors
 - Numerous testimonies reveal that landfill gas contains PFAS, which are linked to serious health problems
 - Commonsense: people are much more sensitive to a smell that contains a chemical they believe can harm them
 - Applicant thus fails their Burden of Proof that the proposed use will not cause serious interference due to landfill gas emissions
 - Another example: airborne litter
 - Applicant asserted that its fencing would stop airborne litter
 - Prima facie unconvincing narrative as to how a fence prevents litter from leaving a site, once airborne
 - Fencing already used at current landfill, does not stop airborne litter
 - Video presented of cows eating plastic from the landfill (video, [Record ID T0378](#))
 - Applicant has patrolling neighbor's properties as a Condition of Approval, contradicting their own assertion about fences
 - Applicant thus fails their Burden of Proof that the proposed use will not impact accepted farm practices on Exclusive Farm Use land
 - A third example: fire safety
 - Applicant's fire consultant cited three ways that fires could start at the landfill
 - He did not address that a fire could start elsewhere and spread to the landfill, from windblown embers for example
 - This is a commonsense fire scenario in an area characterized by forests, and with forestland on Coffin Butte itself
 - Applicant thus is unconvincing
 - Applicant thus fails their Burden of Proof

- The Burden of Proof applies when there is evidence on both sides.
 - The Applicant fails their Burden of Proof if counter-evidence sufficiently undermines their evidence or their narrative.

Commissioners: it's important that you determine for yourselves:

- Did the Applicant meet their Burden of Proof?
- That is, is there both complete evidence and a convincing narrative about that evidence?
- Has public testimony and counter-evidence undermined the Applicant's evidence or narrative?

Noise	Fire risk
Odor	Wildlife
Traffic	Air quality
Visual	Water quality
Litter	County monitoring and enforcement

This impact list was created by the Applicant, and they left notable gaps in it. On January 15, 2025, the Applicant self-declared their Application complete, precluding any push by Staff to augment this list.

‣ **Leachate.**

- **The basic facts: Rainfall on the landfill is a major determinant of how much leachate the landfill will produce, so expanding the landfill will expand the footprint for rain intrusion and thus increase the leachate load.**
 - **The landfill produced 40 million gallons of leachate in 2024.**
 - **The landfill must continuously pump the leachate out and truck it elsewhere for disposal.**
 - **Leachate is a significant burden for Coffin Butte Landfill and other landfills in the Willamette Valley, because of high precipitation.**
 - **Leachate poses a very long-term disposal problem – and obligation.**
 - **At Coffin Butte Landfill, Cells 1 and 1a, which were closed and capped in the late '70s, still produce over a million gallons of leachate a year – 50 years later.**
- **Leachate is toxic, and requires special disposal.**
- **The disposal arrangements are in flux, because they are getting harder to find.**
 - **Corvallis Water Treatment Plant stopped disposing of Coffin Butte leachate at the end of 2024**
 - **Leachate burdens water treatment plants because it contains toxics that the plants are not designed to treat**
 - **These toxics contaminate the plant's biosolids, impacting how they can be used**

- Leachate therefore has a recognizable impact, and leachate that should have been included in the impact types included in this Application.
 - Undue burden for public wastewater treatment plants
 - Undue burden for state and federal health and environmental organizations
- There are no Conditions of Approval that even attempt to address the leachate problem
- PFAS in leachate.
 - The basic facts: landfills aggregate PFAS (the toxic “forever chemicals”) and then release them again in both leachate and landfill gas.
 - PFAS represents a large class of chemicals, some of which have been around for decades and others which have just been invented
 - Many older PFAS compounds have been proved to be toxic and have been banned in many countries. Others are being invented to replace these, and the toxicity of these new compounds is not known
 - PFAS are variously linked to human and animal health impacts, which can get severe even at small concentrations
 - PFAS are “forever chemicals,” so they are accumulating in human bodies and in the environment
 - PFAS are “forever chemicals,” so if released they do damage to humans and ecosystems for a long, long time
 - The EPA was actively data-gathering about PFAS effects, to determine safe levels and appropriate rule-making, but it’s uncertain now how the EPA will proceed on PFAS questions ([Record ID 2063b](#))
 - Science is expressing considerable concern about PFAS, their longevity, and their health impacts over time, as PFAS levels rise in humans and their ecosystems ([Record ID T0723](#))
 - Cases where PFAS in sludge from wastewater treatments plants have permanently contaminated farm and pastureland have started cropping up nationally ([Record ID 1563d](#))
 - As a result, wastewater treatment plants are curtailing their leachate intake
 - There is extensive documentation of PFAS and its effects in the public testimony
 - PFAS also pass through wastewater treatment plants and are dumped with effluent into the Willamette River

- PFAS therefore have an insidious long-term impact, and PFAS in leachate should have been included in the impact types included in this Application.
 - Undue burden for public wastewater treatment plants
 - Undue burden for state and federal health and environmental organizations
 - Emerging hazard for farmland
- There are no Conditions of Approval that even attempt to address the problem of PFAS in leachate
- PFAS in landfill gas.
 - The basic facts: landfills aggregate PFAS (the toxic “forever chemicals”) and then release them again in both leachate and landfill gas.
 - Landfill gas seems to be as big a conduit for releasing PFAS as leachate is.
 - See above for the health risks of PFAS in landfill gas (same as for leachate)
 - Science is just now coming to realize about PFAS dispersal via landfill gas
 - PFAS are not destroyed by passing through a power generation engine
 - PFAS have probably been accumulating in the land uses downwind from the landfill’s power generation station and flare for decades
 - No one knows, because no one’s tested to find out
 - The presence of PFAS in landfill gas signifies it is no longer a “nuisance” gas, but a toxic one
 - Plume images and emissions rates data from Carbon Mapper prove that Coffin Butte Landfill is a constant large source of landfill gas released into the community, and has been for years
 - Landfill gas itself extends far beyond the plumes shown. See the Odor-Plume Explainer, submitted concurrently with this letter
 - There is extensive documentation of PFAS and its effects in the public testimony
 - There is extensive testimony about the far reach of odiferous landfill gas into a wide area around the landfill
 - PFAS therefore have an insidious long-term impact, and PFAS in landfill gas should have been included in the impact types included in this Application.
 - Seriously interferes with any land use exposed to the odor of landfill gas

- Serious permanent contamination hazard for any land use exposed to landfill gas
 - Serious long-term health risk
 - Undue burden for state and federal health and environmental organizations
- There are no Conditions of Approval that even attempt to address the problem of PFAS in landfill gas
- Methane and other greenhouse gases.
 - The Applicant has not proven that greenhouse gases and climate damage will not seriously interfere with land uses on adjacent properties, or with the character of the area, and especially have not shown that climate damage will not pose an undue burden on public facilities and services over the long duration of its impacts. Rationale in [Record ID T0634](#)

The Applicant has claimed that because leachate is regulated, it is not for review in this Application

- The Applicant asserts that Benton County can enforce the Conditions of Approval by revoking the Conditional Use Permit. This would shift the burden of leachate extraction and disposal onto Benton County.
 - Leachate and its disposal challenges is therefore a legitimate concern for you Commissioners
- Leachate processing and disposal will inevitably become a County obligation in time

The Applicant has claimed that because PFAS is not regulated, it is not for review in this Application

- Your charge, Commissioners, is to deny an Application if the Applicant does not prove that there will be no serious interference upon adjacent land uses. The presence of extremely long-term toxic contaminants will seriously interfere with the viability of farmland, recreation land, wildlife habitat, and residences to continue their land uses, whether those contaminants are regulated or not.
 - You must operate at the speed of science, not of the law

- ▶ The Applicant has offered no proof to counteract the considerable scientific expertise and evidence supplied by the public in testimony about the hazards of PFAS
 - ▶ History is clear about the outcome when a decisionmaking body knows of a danger and fails to act on it appropriately: they cause suffering and create a victim's fund, a la *Erin Brockovich* or *Dark Waters*
-
- ▶ Your charge is also to deny an Application if the Applicant does not prove that there will be no serious interference with the character of the area.
 - ▶ The accumulation of extremely long-term toxic contaminants will seriously interfere with the character of the area

Noise

Fire risk

Odor

Wildlife

Traffic

Air quality

Visual

Water quality

Litter

County monitoring and enforcement

The Applicant has not proven that litter will not seriously interfere with land uses on adjacent properties, or with the character of the area, and especially have not shown that litter will not disrupt accepted farming practices (ranching) on Exclusive Farm Use land near to the landfill. Rationale on page 4

The Applicant has not proven that a landfill fire will not seriously interfere with land uses on adjacent properties, or with the character of the area, and especially have not shown that one would not be an undue burden on the firefighting and public safety resources of the area. Rationale on page 4

The Applicant has not proven that landfill gas emissions will not seriously interfere with land uses on adjacent properties, or with the character of the area, and especially have not shown that one would not be an undue burden on the health and environmental protection organizations operating in this area. Rationale on page 4

The Applicant has not met its Burden of Proof regarding the viability and efficacy of monitoring and enforcement of CoAs. This is discussed in Part One of the VNEQS response, also entered into the record on October 29, 2025.

Odor impacts vs. uses on adjacent properties and character of the area

Table 1. Odor Index Examples¹

Odor Unit or D/T	Odor Description
1,000,000	Rendering plant uncontrolled exhaust
100,000	Venting anaerobic digester gases
10,000	Sludge centrifuge vent
1,000	Primary clarifier weir cover exhaust
500	Dewatering building exhaust
100	Multistage scrubber exhaust
50	Carbon filter exhaust
30	Ambient odor adjacent to biosolids land application
15	Ambient odor adjacent to aeration basin
10	Design value sometimes used in odor modeling
7	Ambient odor level sometimes considered a nuisance
5	Design value sometimes used in odor modeling
4	Ambient odor level common in a city
2	Ambient odor level usually considered "just noticeable"
1	Ambient air in a community with "no odor" noticeable

Reference

¹ McGinley, Charles & Michael McGinley. (2006). An Odor Index Scale for Policy and Decision Making Using Ambient and Source Odor Concentrations. Proceedings of the Water Environment Federation. 2006. 244-250. 10.2175/193864706783791696.

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This is a meaningless chart in this context, which has been brought up in testimony before the Planning Commission and never addressed.

- ▶ It's from 2006.
- ▶ It's clearly a chart from the wastewater industry, who presumably know what a "multistage scrubber exhaust" smells like. It's not a chart from the landfill industry – why not?
- ▶ It's a chart used for nuisance odors, not for toxic odors
- ▶ "D/T" is a unit used to address nuisance odors in a large population, i.e., the dilution/threshold where an average group of people will have half the people who can smell it, and half cannot.
 - ▶ D/T is a meaningless measurement in the context of the landfill expansion, since the criteria focus on certain people (those who live or work or visit or travel through the area nearby the landfill) not the population at large.
 - ▶ If any of these people have an acute sense of smell, then even small levels of odor are unbearable to them, and the Application must be denied.
 - ▶ There's testimony, a published article, about just such a case where a potential buyer of a winery was sensitive in this way, which terminated a land use transaction when stench from the landfill drifted onto the property. ([Record ID 1894](#), [1894a](#))

- There are many other testimonies that support the commonsense reality that certain people are much more sensitive to odor than other people, and that they perceive D/T measurements differently than this chart indicates.
- Using the EPA's demographic information for Coffin Butte, 19 people on average living adjacent to the landfill (within one mile) will be in the top ten percent of sensitivity to smell, and 3 will be in the top two percent
- Using the EPA's demographic information for Coffin Butte, 177 people on average living adjacent to the landfill (within three miles) will be in the top ten percent of sensitivity to smell, and 18 will be in the top one percent, including four children
- Using the EPA's demographic information for Coffin Butte, 838 people on average living in the area of the landfill (within five miles) will be in the top ten percent of sensitivity to smell, and 48 will be in the top one percent, including 19 children
- Similarly, thousands of people who want to experience the E.E. Wilson Wildlife Area are sensitive to odors, and thus impacted by its adjacency to the landfill
- Similar impacts occur at Peavy Arboretum, MacDonald-Dunn Research Forests, Soap Creek Valley
- You have testimonies about these odor impacts at Santiam Christian School and other sensitive land uses in Adair Village ([Marcus Harris, live testimony](#); [Record ID T0262](#))
- Please see attachment. California authorities have been actively pursuing Republic's Sunshine Canyon Landfill to mitigate its odors for over 10 years, but Republic has not mitigated those odors. Instead, despite intense monitoring, odor complaints have climbed to a rate of over 2,000 a year. So the matter has escalated to an Abatement Order.
 - Republic has sent the Environmental Manager of Sunshine Canyon Landfill, Paul Koster, to be the new Environmental Manager at Coffin Butte Landfill – presumably because the Applicant anticipates a similar situation to occur and would like to have a veteran of “monitor, don't mitigate” in charge.
- The Application does not prove that no people sensitive to odor live or work or visit or travel through the adjacent land uses, however “adjacent” might be defined – there is no evidence that establishes this, and there is no narrative to persuade anyone that this is so (nor can there be)
 - The Applicant has failed their Burden of Proof and their Application must be denied

We hope that our two-part document will prove useful to you, Commissioners, as you deliberate in preparation for your decision on November 4.

– end of Part 2 –

– attachment: odor enforcement against
Republic's Sunshine Canyon Landfill, 2025

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South Coast
AQMD

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT PRESS RELEASE

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Sunshine Canyon Landfill Required to Take Stronger Actions to Address Odors

DIAMOND BAR – The South Coast Air Quality Management District (South Coast AQMD) issued an Order for Abatement (Order) requiring Sunshine Canyon Landfill to implement stricter and innovative measures to reduce odors that have been impacting the community.

Landfill operations can cause odors, particularly as waste decomposes and if not well controlled. Since January 2023, South Coast AQMD has received over 4,000 odor complaints from nearby residents and an elementary school regarding Sunshine Canyon Landfill. During this period, South Coast AQMD has issued more than 150 Notices of Violation (NOVs) against the landfill for public nuisance, citing violations of the agency's [Rule 402](#) and California Health & Safety Code Section 41700. Sunshine Canyon Landfill has worked cooperatively with South Coast AQMD to incorporate additional measures and practices to minimize odor impacts.

Today's Order requires Sunshine Canyon Landfill to take additional actions including:

- **Odor Prevention with Microbiology:** Use aerobic microbiology solutions during waste operations to reduce odors like "fresh trash" and methane.
- **Closure Turf Feasibility:** Explore installing gas and leachate systems without disturbing existing closure turfs designed to prevent erosion and emissions.
- **Enhanced Emissions Data:** Pilot advanced methods like drones and robotic vehicles to identify potential problem areas and collect more real-time data, including in the evening.
- **Odor Neutralization:** Apply odor neutralizers and microbiology-based solutions at transfer stations to control odors before disposal.
- **Gas Movement:** Test using larger granular materials such as gravel and crushed rock around landfill gas wells to improve gas flow. These larger size materials create more space between particles, allowing gas to move more freely and reducing pressure buildup.
- **Daily Odor Patrols:** Perform and document twice-daily patrols to identify odor sources and leachate seeps.

Sunshine Canyon Landfill is a [Title V](#) facility, operating under the federal Operating Permit Program for air pollution control. Sunshine Canyon Landfill is located at 14747 San Fernando Road, Sylmar, California and is owned and operated by Browning Ferris Industries of California, Inc. and Republic Services, Inc. Sunshine

Canyon Landfill is classified as a Class III landfill and can only accept municipal solid waste, no hazardous waste can be accepted at the landfill. Sunshine Canyon Landfill's Solid Waste Facility Permit limit is 12,100 tons per day and the landfill receives roughly 9,000 tons of waste per day, handling approximately one-third of the daily waste of all of Los Angeles County.

In January 2025, Sunshine Canyon Landfill's tonnage limits have been temporarily increased to 15,000 tons per day following approvals and emergency waivers issued by the Sunshine Canyon Landfill Local Enforcement Agency, the Regional Water Quality Control Board, and the Los Angeles County Board of Supervisors to address the removal and disposal of fire debris.

South Coast AQMD has worked on multiple fronts to reduce odors from operations at the landfill. In 2009, the South Coast AQMD Hearing Board adopted an order requiring Sunshine Canyon Landfill operators to implement several improvements to mitigate odors. In January 2023, following record-breaking rainfall, odor complaints from the community increased significantly. While Sunshine Canyon Landfill took steps that initially reduced complaints, heavy rainfall from Tropical Storm Hilary in August 2023 reversed those improvements, leading to another surge in complaints. The landfill has since taken additional measures to improve landfill gas collection. However, a more comprehensive odor mitigation plan is necessary to address the ongoing impacts of wet conditions and erosion at the site. South Coast AQMD continues to collaborate with other regulatory agencies to resolve the odor issues.

The Order was issued by the South Coast AQMD Hearing Board. The Hearing Board is an independent panel that hears all sides of a case, weighs the evidence, and reaches a decision. The public was given the opportunity to testify, and evidence was received.

More information can be found at: www.aqmd.gov/nav/about/hearing-board/hearing-board/hearing-board-case-documents

South Coast AQMD is the regulatory agency responsible for improving air quality for large areas of Los Angeles, Orange, Riverside and San Bernardino counties, including the Coachella Valley. For news, air quality alerts, event updates and more, please visit us at www.aqmd.gov, download our award-winning [app](#), or follow us on [Facebook](#), [X](#) (formerly known as Twitter) and [Instagram](#).

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