

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

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BOC ID: Boc3

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EXAMINATION OF CONDITIONS OF APPROVAL -- PART 1, "JUST SAY NO"

A Conditional Use Permit **may be denied** if it requires conditions of approval to mitigate negative impacts to adjacent property to ensure compliance with code:

Counties and municipalities are **not required** to bring a non-compliant Conditional Use Permit application into compliance with the code via **conditions of approval**.

BCC Chapter 53 language is clear:

*53.220 Conditions of Approval. The County **may impose** conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code.*

LUBA has consistently interpreted similar language -- the use of the word "may" -- to uphold denial of conditional use applications as submitted that are deemed non-compliant if the county or municipality declines to attempt to ensure compliance by implementing conditions of approval.

Currently, both APPLICANT and BENTON COUNTY STAFF concur that the application as submitted is not in compliance absent conditions of approval. Denial is allowable on that basis alone.

As the question of conditions of approval is under consideration, it must be noted that the consequences of Applicant's non-compliance with some of these conditions of approval are potentially deadly serious. Failure to enforce is potentially catastrophic.

Most serious is the issue with fire. Whether fire incidents are "only" two, as the Applicant maintains, or the larger number offered in testimony since 2024 -- the more than five fires on current landfill operations, the seven fires at the PRC, and the two fires associated with Applicant's landfill-adjacent operations -- it is indisputable that either number is **too many fires** for a site that has been cited for levels of **explosive methane**, where fire safety protocols are already ignored,ⁱ and, like the rest of Oregon, is becoming drier and windier. If not denied, the new working face would be less than a mile from densely-built residences in North Adair.

Wildfire is an existential danger on the West Coast, and permitting a use that increases that danger should not be undertaken in the absence of certain, enforceable mitigation.

Other serious consequences range from the wells of adjacent property running dry, to the livestock of adjacent property owners ingesting landfill litter and dying, to potentially serious ongoing public health impacts that have been inadequately investigated.

There is ample evidence that current landfiling operations have already resulted in significant ongoing adverse impacts to adjacent property. Evidence has been submitted that Applicant's consultants have concluded that uses near the existing landfill are "...land uses not compatible with landfill operations."ⁱⁱ One of the parcels so identified is the Phillips property, TaxLot 1103.

Applicant acknowledges that current operations are already "incompatible" with the Phillips property, so bringing operations **even closer** (in the case of the Phillips property, relocating the landfill so that it is in the literal backyard of, and less than 300 feet distant from the back of the Phillips' home) will certainly result in serious interference with uses on adjacent property.

SUBMITTED IN RESPONSE TO MATTERS RAISED ON THE RECORD OF THE BOARD'S HEARING OF OCTOBER 22 and 23, 2025
CONDITIONS OF APPROVAL, ARE THEY REQUIRED, AND WILL THEY WORK?

The APPLICANT acknowledges that this application is non-compliant as submitted by virtue of including in the application **five pages** of Applicant's own proposed conditions of approval, among them (note: list is not exhaustive):

PA-1 Wetlands, PA-4 Screening, OA-1 Hours of operation, OA-2 Vehicle Noise, OA-5 Eastern Blue Heron Rookery, OA-10 Odor Monitoring and Mitigation

Benton County STAFF acknowledges that **this application as submitted is non-compliant** by virtue of including, in the most recent staff report, as staff recommendations, each of APPLICANT's proposed conditions of approval **plus ten additional pages** of additional recommended conditions of approval, resulting in **fifteen total pages of proposed conditions of approval** (single spaced, small font). Without these extensive conditions of approval, Benton County Staff believes the application will be out of compliance with the following provisions included in Benton County Code: 53.215 (1), 53.215(2), 60.220 (1)(a), 77.310 (2) LS, , 99.255 (1), Chapter 87, 99.110, 99.510, 99.515, 60.405 (1)

Each of the listed proposed conditions of approval that Applicant proposed covers a condition about which there is a **current dispute**, as documented in BCTT.ⁱⁱⁱ Therefore, it is **reasonable to conclude** that there may in the future be disputes about whether these proposed LU-24-027 conditions of approval will be complied with by the Applicant in a way which will **sufficiently mitigate future operations**, if this application is not denied outright.

Approval of this application with the recommended conditions will set the County up as a de-facto landfill operations regulator, like OSHA, the DEQ, and the EPA. Evidence has been submitted that the Applicant has frequent disputes with organizations charged with regulating landfill operations, including OSHA (testimony by Robert Orten, OSHA fines, April 2024), DEQ Letter of Violation regarding delays in installing an enclosed flare (attached)^{iv}, and significant evidence and documentation of ongoing disputes between EPA and the Applicant regarding methane emissions. Applicant, of all landfill operators in Oregon, has been the sole focus of legislative action at the state level to require more accurate landfill gas emissions monitoring (Senate Bill 726).

Applicant has suggested that the County might revoke the permit if conditions of approval are not complied with, but the County has no provisions for use permit revocation in the code, and thus no codified procedure for that.

The Applicant's agent, Mr. Condit, has also suggested, in the Planning Commission hearing, litigation as a method for resolving disputes about compliance, but it is likely that only a lawyer would find that suggestion in any way attractive. Unnecessary litigation is absolutely an undue burden on County government operations.

Declining to approve this application will allow the County to leave regulation to the regulators, and will significantly reduce the likelihood that the County will become embroiled in litigation about whether conditions are or are not being adequately enforced.

EXAMINATION OF CONDITIONS OF APPROVAL -- PART 2: WILL THEY WORK?

"In order to rely upon conditions of approval, the applicant (and hence the decisionmaker) must demonstrate that compliance with all discretionary approval standards is 'feasible'. The Court of Appeals has held that 'feasibility' means that 'substantial evidence supports a finding that solutions to certain problems...are possible, likely and reasonably certain to succeed.'"

Kleinman memo, p. 12

GENERAL DIFFICULTIES ENFORCING CONDITIONS OF APPROVAL INCLUDE:

1. Conditions of approval typically do not contain enforcement provisions. Voluntary compliance is no assurance of compliance being reasonably certain to succeed, especially when there is ample evidence that has been presented that Applicant is slow to voluntarily comply with regulatory requirements.
2. There is no codified method of enforcing conditions of approval in current Benton County Code (no procedure for revoking a use permit, for example)
3. Language in the proposed conditions of approval are vague, imprecise, subject to ambiguous interpretation and rely on voluntary compliance/good-faith collaboration
4. Evidence has been submitted that the Applicant often disagrees with regulators when regulators detect non-compliance (OSHA, DEQ, EPA)
5. Applicant is comfortable appealing adverse decisions, runs out the clock, and is loath to take "no" for an answer (see: LU-21-047, appeal, re-application LU-24-27, appeal)
6. Evidence has been submitted that the Applicant is currently not in compliance with regulations in current landfilling operations and/or that prior zoning restrictions imposed by the county have not resulted in making landfilling operations compatible with adjacent uses
7. Evidence has been submitted that land uses on adjacent properties have been so incompatible with landfilling operations that 500 acres that were previously in private ownership have been purchased by the landfill operator since 1983, finding no buyer on the open market other than the landfill operator
8. Evidence has been submitted that the Applicant has been told by Applicant's consultants that landfilling operations are incompatible with nearby land uses

ANALYSIS OF SPECIFIC INDIVIDUAL CONDITIONS OF APPROVAL DEFICIENCIES

-- PUBLIC HEALTH IMPACTS --

- EVIDENCE – TESTIMONY evidence submitted by the public about health impacts included:
- EVIDENCE that methane plumes cover vast areas distant from the landfill, EVIDENCE that PFAS and other chemicals are present in landfill gas methane plumes,
 - EVIDENCE that landfill odors are routinely detected by residents in areas far distant from the landfill,
 - EVIDENCE linking these chemicals to human health impacts, including cancer,
 - EVIDENCE of the prevalence of cancer in the area presented as lived experience

Public health impacts, continued –

As delineated in the Findings denying LU-21-047 as prepared by Benton County staff, the potential for public health impacts was a cited reason for denial

APPLICANT -- "...public health authorities have [not] identified or confirmed such a phenomenon in proximity to Coffin Butte Landfill."

STAFF -- Does not address public health impacts

STATUS -- Representative Sarah Finger MacDonald staff pursuing OHA investigation currently

Code Citation: **53.215(1)** Adjacent properties, **53.215(2)** Undue burden on public services

Addressed? No

Monitored? N/A

Enforced? N/A

– EXISTING BY-RIGHT USES ON TAMPICO RIDGE INCOMPATIBLE WITH LANDFILL –

EVIDENCE – TESTIMONY evidence submitted by the public about impacts on By-Right Uses include

- EVIDENCE that submitted by Applicant's consultants (Tuppan) to Applicant in 2003 that the landfill was "incompatible" with uses on nearby properties
- EVIDENCE that expansion of the landfill to the subject parcel which previously provided buffer acreage between landfill operations and properties incompatible with landfill operations would render continued use of those properties and/or development of those properties as zoning permits to be "impossible"

APPLICANT -- Does not address

STAFF -- Does not address

Code Citation: **53.215(1)** Adjacent properties

Addressed? No

Monitored? N/A

Enforced? N/A

-- GROUNDWATER --

EVIDENCE -- TESTIMONY Substantial evidence submitted by the public

STAFF'S addressing groundwater concerns with several Conditions of Approval suggest that STAFF concurs with evidence submitted by the public that, absent Applicant complying with Conditions of Approval addressing Groundwater, there is a likelihood that adjacent properties will experience serious interference

Phase 1 Pre-Construction P1-1 (A) i, ii, and iii; (B) Arsenic

Phase 2 Pre-Com-Operations P2-4 (A) i, ii, iii, iv, v; (B) Arsenic i, ii

Phase 3 Ongoing OP-5 (A) i, ii; (B) Arsenic i, ii

Groundwater impacts, continued –

Code Citation: **53.215(1) & 53.215(2)** Adjacent properties, Character of the Area – **Water Quality; 60.220(1)(a) Farm Impacts**

Addressed? **No (LIVESTOCK PONDS)**

Yes (DOMESTIC WELLS)

No (CHEMICALS THAT ARE NOT ARSENIC – SALT, PFAS, HEAVY METALS)

Yes (ARSENIC)

Monitored? **Yes**

Enforced? **Possible? Yes**

Likely? **No**, the Burden of proof that adverse impacts have occurred is not on Applicant, but on the County and impacted property owners. There is vague and inadequate detail for how mitigation is to be achieved ("*...the Applicant will work with property owners to remedy the condition.*"), no timeline, and no consequences if the Applicant and property owners do not agree on acceptable remediation

Reasonably certain to succeed? No, requires collaboration, voluntary compliance

SITE PLAN MAP

EVIDENCE -- TESTIMONY Evidence submitted by the public is appended to this document. It is the 1983 Site Plan Map and Narrative that detailed construction of landfill operations North of Coffin Butte Road. Where these documents have mandated conditions that the Applicant has not respected in current operations, they have been highlighted. They include:

- working face area,
- topography of the waste pile (terracing requirement),
- closure of full cells,
- screening, and
- hours of operation.

Phase 1 Pre-Construction P1-2

Phase 2 Pre-Com-Operations NO CONDITIONS

Phase 3 Ongoing NO CONDITIONS

Code Citation: **77.310(2)** Zone Conditional Use Review

Addressed? **Yes**

Monitored? **Unknown**, requirements are vague and undefined

Enforced? **Possible? Unknown**, requirements are vague and undefined

Likely? Unknown, requirements are vague and undefined

Reasonably certain to succeed? Unknown. This condition of approval refers to a "narrative" ("*A statement shall be placed on the map that the site plan map and narrative together are considered as the Site Development Plan.*") but contains no detail of what the narrative must contain. The 1983 Site Plan and narrative for current landfill operations North of Coffin Butte Road have not been complied with, with devastating results to 500+ acres surrounding the landfill, formerly in private ownership, but, having found no buyers on the open market save the landfill, now under ownership by the landfill operator.

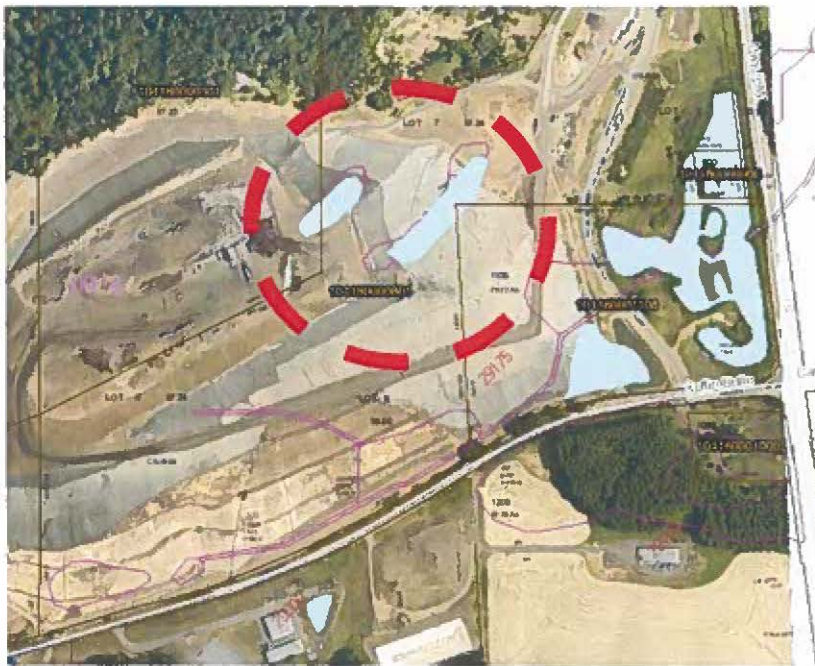
WETLANDS

EVIDENCE -- TESTIMONY Evidence submitted by the public is produced below and appended to this document in the 1983 Site Plan Map and Narrative that detailed construction of landfill operations North of Coffin Butte Road. The 1983 Site Plan Map and Narrative required that the Applicant "protect the small ponds north of Coffin Butte Road." As you can see from a snip of the Benton County GIS, these small ponds, have since been covered with waste.

Phase 1 Pre-Construction P1-4

Phase 2 Pre-Com-Operations NO CONDITIONS

Phase 3 Ongoing NO CONDITIONS



Code Citation: **99.255(1)** Development Activities in Wetlands

Addressed? Yes

Monitored? No

Enforced? Possible? Yes, if Applicant voluntarily complies

Likely? No, without a mechanism to monitor and enforce, compliance is voluntary, and Applicant has already demonstrated an inability to comply with prior requirements involving protecting the small ponds and other wetlands on the site of current landfill operations north of Coffin Butte Road.

Reasonably certain to succeed? No, relies on voluntary compliance

DOGAMI

EVIDENCE -- TESTIMONY Evidence has been submitted that the regulatory authority of DOGAMI is primarily over mining and mineral extraction. DOGAMI does not oversee blasting for landfill cell construction. DOGAMI's purview is mining. Per Oregon Statute ORS 517.750 (16) (b) (F), "*Surface mining*" does not include: (F) "*Excavation of movement of materials on site at a landfill...for the primary purpose of construction...including but not limited to landfill cell construction...*"

(b) "Surface mining" does not include:

(F) Excavation or movement of materials on site at a landfill, as defined in ORS 459.005, for the primary purpose of construction, reconstruction or maintenance of access roads or for landfill operations, including but not limited to landfill cell construction and daily, interim and final cover operations, if the excavation or movement of materials is covered by a permit issued by the Department of Environmental Quality under ORS 459.205 to 459.385;

Phase 1 Pre-Construction P1-7
Phase 2 NO CONDITIONS PRE CONSTRUCTION
Phase 3 NO CONDITIONS ONGOING

Code Citation: 53.215(1) Adjacent Properties Water Quality, Noise

Addressed? No, DOGAMI DOES NOT REGULATE LANDFILL BLASTING

Monitored? N/A

Enforced? Possible? N/A

Likely? N/A

Reasonably certain to succeed? No, requires oversight by a regulatory body that does not provide such oversight

ACTIVE ROOKERY PROTECTION

EVIDENCE -- TESTIMONY Evidence has been submitted that non-construction activities result in rookery abandonment:

- between 2020 and this date, landfill activities have disrupted established rookeries, which has resulted in the abandonment of those rookeries.
- Applicant routinely engages in activities that are designed to scare birds away from landfill operations, using a variety of methods including fireworks.

Phase 1 Pre-Construction P1-8
Phase 2 Pre-Com-Operations P2-8
Phase 3 Ongoing OP-16

Code Citation: 53.215(1) Adjacent Properties and Character of the Area -- **Wildlife**

Addressed? Yes

Monitored? Yes

Active rookery protection, continued

Enforced? **Possible?** No, creating a "buffer" does not ensure that activities will not impinge on the buffer, and there is no enforcement mechanism if non-construction activities result in rookery decline abandonment
Likely? No, Applicant has motivation to ensure rookeries fail, and prior rookeries have failed when they have posed an obstacle to landfill operations
Reasonably certain to succeed? No, does not adequately protect herons from non-construction day-to-day operations (that include scaring birds away from landfill operations)

COMPLIANCE ENFORCEMENT

EVIDENCE -- Calling something "enforcement" doesn't make it enforcement. All of the activities called out as "enforcement" are monitoring, i.e. (A) "Review...", (B) "Review...", (C) "Provide...expertise...to assist the county in monitoring..."(D) "Perform inspections..." (E) "Perform...other services..." (F) "Produce an annual report...". Monitoring is not enforcement.

Phase 1 Pre-Construction P1-9
Phase 2 Pre-Com-Operations NO CONDITIONS
Phase 3 Operations NO CONDITIONS

Code Citation: None given

Addressed? Yes
Monitored? Yes
Enforced? **Possible?** Yes
 Likely? No

Reasonably certain to succeed? No, monitoring is not enforcement, even if you call it that.

CONSTRUCTION PHASE

EVIDENCE -- This condition of approval requires blasting to be permitted by DOGAMI, which does not issue blasting permits for landfill construction activities. This limits construction activities to 6 a.m. to 6 p.m. but has no enforcement. This condition limits blasting hours, but, again, there is no enforcement. Testimony has already been provided by Erin Bradley that blasting by the Applicant occurs at times when the Applicant has agreed not to conduct blasting. Furthermore, many landfill cell construction activities other than blasting could be reasonably anticipated to result in significant disruptions to sensitive lands.

Phase 1 Pre-Construction N/A
Phase 2 Pre-Com-Operations P2-1
Phase 3 NO CONDITIONS ONGOING

Code Citation: 99.110 Sensitive Land consideration

Addressed? Yes
Monitored? No
Enforced? **Possible?** No, the agency listed is responsible for mining, not landfills
 Likely? No

Reasonably certain to succeed? No, no monitoring and no enforcement.

NOISE

EVIDENCE -- Noise can reasonably be expected to increase with volume intake increases. The Applicant proposes to increase waste amounts on the application property from current limits of 1,100,000 tons per year to 1,300,000 tons per year. The noise study measured noise produced by current operations at current tonnages, not increased projected tonnages. Applicant has failed to show that if intake increases from 1,100,000 to 1,300,000 tons per year (118% -- a material increase) on the subject property, noise impacts will not increase. This condition of approval is insufficient to guarantee that noise impacts will not seriously interfere with uses on adjacent properties at the volumes the Applicant projects.

More seriously, approval of this application will remove the tonnage intake limit entirely on current operations north of Coffin Butte Road due to language to that effect in the 2020 Franchise Agreement. Noise impacts from unknown increases in waste intake are unknowable, an unknowable increase cannot be mitigated. In any event, no mitigation measures can be imposed on an existing use by virtue of an application for a use on a different property operating as an existing by-right use.

Evidence has been submitted that Applicant has on many occasions promised to replace backup alarms with quieter backup alarms, but has not done so. Evidence has been submitted that Applicant is constrained by operating hours requirements but routinely wakes up neighbors on abutting properties by beginning landfill operations at 4:30 a.m. or earlier.

Evidence has been submitted that DEQ does not enforce noise limits. Benton County does not have a noise limit, so no enforcement is possible at that local level either.

Additional evidence has been submitted that requiring only some equipment to reduce noise levels will not guarantee noise reductions even in the absence of waste intake volume increases.

Phase 1 Pre-Construction	N/A
Phase 2 Pre-Com-Operations	P2-2 (A), (B)
Phase 3 Ongoing	OP-3 (A), (B), (C)

Code Citation: **53.215(1)** Adjacent Properties and Character of the Area -- **Noise**

Addressed? Yes

Monitored? Yes

Enforced? **Possible? No**, there is no enforcement mechanism; DEQ does not enforce noise exceedances, and Benton County does not have a noise ordinance codification.
Likely? No

Reasonably certain to succeed? No, for a lot of reasons, all of which it is the Applicant's burden to disprove, and none of which the Applicant has successfully disproved.

ODOR

EVIDENCE -- Ample evidence has been submitted that Applicant cannot detect odors that other parties can, and consistently states that odors that parties report do not exist.^v Ample evidence has been submitted that the models that the Applicant relies upon to construct mitigation measures are flawed, since they do not predict that landfill odors can be detected any further away than the landfill property boundary. Persuasive evidence has been submitted that odors are persistent and widespread, from visualization of the odor plumes in satellite images of methane-containing fugitive landfill gas spreading west into the Soap Creek Valley or South and East to cover Adair Village. This evidence also includes an article in the local press about a vineyard owner who was unable to sell his farm when a potential buyer fell ill due to experiencing landfill odor. That vineyard is 3.84 miles to the northwest of the landfill as the crow flies. Applicant's models do not predict that landfill odor would travel 3.84 miles to the northwest. Therefore the Applicant's model is incorrect, and should not be relied upon.

Staff requires the Applicant to reduce intake of waste below the amounts proposed in the application, to conform to Applicant's consultant's model, but since ample evidence has been submitted to the effect that the model is wrong, staff's recommendation is of questionable utility.

Additionally, the prescribed volume intake cap – 1,300,000 tons/year -- is still more, by a material amount, than the amounts studied by Applicant's odor consultants – 1,100,000 tons/year -- by the same amount as described in the "Noise" section above, namely 118%.

Furthermore, and more seriously, the "Odor" Condition of approval suffers from the same fatal flaw as the "Noise" Condition of approval, namely that approval will trigger the removal of waste intake limits north of Coffin Butte Road, a by-right use that cannot be conditioned as part of this application.

Phase 1 Pre-Construction	N/A
Phase 2 Pre-Com-Operations	P2-3 (A), (B)
Phase 3 Ongoing	OP-4 (A), (B) i-vi, (C), (D), (E), (F), (G), (H)

Code Citation: **53.215(1)** Adjacent Properties and Character of the Area -- **Odor**

Addressed? Yes

Monitored? Yes, but using the same flawed methodology as is currently employed by the Applicant (*"two personnel to conduct the daily odor surveys"*), and which results in consistent reports by the Applicant to DEQ in reports that no odor has been detected. Additionally, the only enforcement suggested is that the applicant "implement mitigation measures" – which is both vague and inadequately detailed and contains no consequences if mitigation is unsuccessful.

Enforced? Possible? No, there is no enforcement mechanism
Likely? No

Reasonably certain to succeed? No, volume intake not studied north of Coffin Butte Road, not possible to condition those operations, model is flawed

SCREENING

EVIDENCE -- The Applicant is already required to screen existing landfill operations north of Coffin Butte Road by both the 1983 Site Development Plan and Narrative and by the 1965 Highway Beautification Act. But current operations are not screened. In the absence of a detailed enforcement mechanism with consequences, there is no reason to believe that this screening requirement will be any more effective than the previous requirement, which the Applicant has entirely ignored.

In Applicant's presentations to Staff, to Planning Commission, and to the Board of Commissioners, renderings purporting to show how the site will be seen have relied on selecting only favorable points of view. Additionally, the landfill itself has been rendered as a green color, which it will not be, but which allows it to blend more easily into the green background and foreground. Be assured that even if the screening the Applicant is required to provide is installed and maintained, the landfill will be highly visible.

With regard to the screening trees, the requirement is for screening trees to be evergreens, and for them to be at least 8' tall upon being planted. However, it can take fast-growing trees 15 years to reach 40' tall, while slow-growing trees could take 60 years or more to reach a height of 40'. So even if this condition is complied with, it will result in a landfill that towers 210' above eye level being screened by a tree, which if it is the fastest growing species, will have grown to only about 24' by the time landfill operations at the expansion are projected to have been complete. A slower-growing tree will only grow to a height of 14' in the six years it is projected it will take the new landfill to fill.

Furthermore, the noise of trucks, landfill traffic weaving up and down the landfill, and the incongruity of the landfill in an otherwise pastoral landscape will draw the eye and render it more visually objectionable.

Phase 1 Pre-Construction	N/A
Phase 2 Pre-Com-Operations	P2-5
Phase 3 Ongoing	OP-6

Code Citation: **53.215(1)** Adjacent Properties and Character of the Area, **Visual Impacts**

Addressed? Yes

Monitored? No

Enforced? Possible? No, a 24' tree cannot screen a 210' tall landfill
Likely? No

Reasonably certain to succeed? No, trees will not grow fast enough in six years to screen landfill operations, even taller trees would not screen landfill operations, requires voluntary compliance

HOURS OF OPERATION

EVIDENCE -- Evidence has been submitted that the landfill operator already ignores requirements constraining operating hours, based on Applicant's own definition of the word "operation". Currently; residents on nearby properties have testified to being awoken by heavy equipment at 4:30 a.m. or earlier.

Phase 1 Pre-Construction N/A

Phase 2 Pre-Com-Operations N/A

Phase 3 Ongoing OP-1 (A), (B), (C), (D), (E), (F)

Code Citation: **53.215(1)** Adjacent Properties and Character of the Area, **Noise**

Addressed? Yes

Monitored? No

Enforced? Possible? No, not without monitoring, enforcement, and consequences
Likely? No

Reasonably certain to succeed? No, no enforcement, requires voluntary compliance

SITE OPERATIONS

EVIDENCE -- Evidence has been submitted that the landfill operator already routinely exceeds the working face area in current operations north of Coffin Butte Road (evidence, Mason Leavitt), despite being constrained by the 1983 Site Development Plan and Narrative to much smaller working face areas. Evidence has been submitted that the landfill operator already fails to consistently install daily cover over the working face at the conclusion of the day (photographic evidence, DEQ reports). In fact, in Applicant's current application, Applicant initially mis-stated the size of the working face and had to be corrected via Benton County GIS that showed that the working face was 2.6 acres. Evidence has been submitted that the Applicant does not keep landfill infrastructure (i.e. tarps, well heads) in good repair (EPA methane investigation). Just TWO WEEKS ago, Applicant in a letter to DEQ asserted that the working face was significantly less than it is.^{vi} Evidence has already been submitted that the Applicant performs inadequate audits to ensure that hazardous waste is not deposited, and evidence has been submitted that hazardous waste is, in fact, routinely deposited (Doug Pollack evidence, discovery of dismembered murder victims).

Phase 1 Pre-Construction N/A

Phase 2 Pre-Com-Operations N/A

Phase 3 Ongoing OP-2

Code Citation: **53.215(1)** Adjacent Properties and Character of the Area, **Odor, Litter, Fire Risk, Water Quality, Visual Impacts**

Addressed? Yes

Monitored? No

Enforced? Possible? No, not without monitoring, enforcement, and consequences
Likely? No

Reasonably certain to succeed? No, no enforcement, Applicant routinely understates the size of the working face, requires voluntary compliance, Applicant not currently in compliance

LITTER CONTROL

EVIDENCE -- Evidence has been submitted of light plastic bags lofting into the air while being driven by trucks to the landfill or blowing from the top of the landfill in gusty wind conditions. Evidence has been submitted that windblown garbage can and is deposited along roadways and can be lofted onto the property of adjacent properties, endangering cattle and other animals that forage on grasses on adjacent properties. Evidence has been submitted that current ground level fencing solutions employed by Applicant to contain litter are not effective. Requiring more of the thing that has already been demonstrated to not work will also not work. Evidence has been submitted that livestock can consume litter that originates at the landfill, endangering their health. Evidence has been submitted that the Applicant already requires loads to the landfill to be covered. Requiring residents of nearby properties to allow landfill employees on their property once a week to clean up litter puts the burden of compliance on property owners and also is an ineffective means of keeping livestock from ingesting litter, since an animals eat more frequently than once a week. Furthermore, having a landfill employee patrol farms for litter is not an accepted farm practice.

Phase 1 Pre-Construction N/A

Phase 2 Pre-Com-Operations N/A

Phase 3 Ongoing OP-9 (A), (B) i, ii, (C), (D), (E), (F) i, ii, (G), (H)

Code Citation: **53.215(1)** Adjacent Properties and Character of the Area, **Litter**

Addressed? Yes

Monitored? No

Enforced? Possible? No, not without monitoring, enforcement, and consequences
Likely? No

Reasonably certain to succeed? No, Applicant already has fencing, fencing does not work, and Applicant has not met the burden of proof to show that more fencing will work.

FIRE PROTECTION

EVIDENCE -- Evidence has been submitted that since 2024, there have been 5 landfill fires on the working face or landfill accessory structures or facilities, 7 fires at the PRC, 25 nearby fires, 1 fire at Applicant's propane fueling facility in Corvallis, and one "hot load" dumped in Philomath. The rural fire district responsible for fighting fires at the landfill has submitted a letter requesting that the application be denied.

Evidence has been submitted to date that the climate is growing hotter and drier and that wildfires pose a greater threat than ever before, if the orange skies and clouds of ash of recent summers are not evidence enough. Below please find a partial list of the destruction of entire towns:

- the Alameda Fire, and the Beachie Creek Fire in Oregon (2020),
- the Louisville, Colorado fire (2021),
- the Hawai'i fires (2023), and the
- Pacific Palisades and Eaton fires (2025).

Fire protection, continued

Evidence has been presented (Kevin Higgins) that the Applicant resists putting landfill fires out with water because spraying water on fires increases leachate production, and consequently the Applicant's expenses. So will having an additional water truck present obviate the risk of fire at the landfill? Will having a water truck provide mitigation if there are no employees on-site to operate the truck? There has been one water truck onsite already, during a time that Adair Fire has had to respond to FIVE fires. So how effective will two water trucks be? Will the requirement to "maintain a log" ensure that there will not be fires? Applicant is already required to report all fires to DEQ, and evidence has been presented that Applicant does not do so.

The only requirement that might have an effect is the requirement that Applicant have an employee on-site during red-flag days, but there is no mechanism for ensuring that Applicant does so, no mechanism for ensuring that the employee charged with doing so doesn't just sleep in an on-site trailer, and no enforcement mechanism if the Applicant does not comply. Furthermore, evidence has been submitted that Applicant already told DSAC that it refuses to provide 24-hour employee presence on red-flag days.^{vii}

The seriousness of these fires, the loss of life, economic losses running in the billions of dollars REQUIRE that conditions of approval will ABSOLUTELY SUCCEED. This is an application by an Applicant that has had FOURTEEN FIRES on equipment, on adjacent sites, or resulting from Applicant's landfilling and PRC activities. Conditions of approval relating to fire:

- MUST BE FOOLPROOF.
- THEY MUST BE MONITORED.
- THEY MUST BE ENFORCABLE.
- THEY MUST BE ENFORCED.

The downside of failing is too great. A fire could spread from the landfill to north Adair Village in less than 6 minutes.^{viii} But before it got to Adair, it would consume the homes, the animals, and possibly the lives of many who have testified before you.

Phase 1 Pre-Construction N/A

Phase 2 Pre-Com-Operations N/A

Phase 3 Ongoing OP-10 (A), (B), (C), (D)

Code Citation: **53.215(1)** Adjacent Properties and Character of the Area, Risk

Addressed? Yes

Monitored? No

Enforced? Possible? No, not without monitoring, enforcement, and consequences
Likely? No

Reasonably certain to succeed? No, and failure would be devastating

ENVIRONMENTAL REGULATIONS

EVIDENCE -- Evidence has been submitted Applicant already does not comply with environmental regulations, including OSHA, DEQ, and EPA regulations. Applicant adopts personal definitions of regulatory requirements that result in diminished cost of regulatory compliance.

Requiring Applicant to comply with regulations regarding PFAS when those regulations have not yet been written or adopted does not protect inhabitants on adjacent properties from health effects. A chemical doesn't care how it is regulated. Thalidomide was legal when it was prescribed to pregnant women, but that did not prevent their children from suffering horrific birth defects.

Evidence has been submitted linking landfill gas to PFAS and PFAS to adverse public health impacts, and evidence has been submitted to this body about cancer clusters in residents who live near the landfill. This application, if not denied, will result in significant increases in landfill fugitive gas emissions. The burden of proof is on the Applicant to prove that ill health in the vicinity is **not** caused by landfill operations.

Phase 1 Pre-Construction	N/A
Phase 2 Pre-Com-Operations	N/A
Phase 3 Ongoing	OP-11

Code Citation: **53.215(1)** Adjacent Properties and Character of the Area, **Litter**

Addressed? Yes

Monitored? No

Enforced? **Possible?** No, not without monitoring, enforcement, and consequences
Likely? No

Reasonably certain to succeed? No, Applicant is already not in compliance in current operations

-- WORKING FACE --

EVIDENCE -- An existing by-right use on a property cannot be conditioned as a condition of approval on an application for a different property. An applicant cannot apply for a conditional use permit to conduct religious services on Property A, and have as a condition of approval the requirement that a legal day-care business cease operations on Property B. The County cannot constrain current by-right landfill operations north of Coffin Butte Road as part of this application.

Phase 1 Pre-Construction	N/A
Phase 2 Pre-Com-Operations	N/A
Phase 3 Ongoing	OP-14

Code Citation: **53.215(1)** Adjacent Properties and Character of the Area, **Litter**

Addressed? Yes

Monitored? No

Enforced? **Possible?** No, not without monitoring, enforcement, and consequences
Likely? No

Reasonably certain to succeed? No, not possible to implement this condition

ENDNOTES

ⁱ See email from Robert Orgon, Tuesday, October 29, 2025

"Ma'am no they do not train they have no fire fighting gear to train with. They don't post a fire watch when mechanics on face are cutting, grinding or welding as is the company [protocol]. I was cutting through steel with grinder throwing sparks everywhere moments before video of [methane] leak"

ⁱⁱ See attachment package for "Focused Risk Assessment and Feasibility Study, Coffin Butte Landfill" Tuppen memo filed with DEQ, section 6-8, where Applicant's consultant acknowledges that non-landfill land uses in private hands near landfill operations are "...land uses not compatible with landfill operations", and identifies properties that the landfill intends to purchase. Among the properties listed is the Phillips property, TaxLot 1103, zoned FC with grandfathered residential use

ⁱⁱⁱ See also the Site Development Plan and Narrative, attached from the 1983 rezoning action, areas referred to in this discussion of un-complied-with 1983 Site Development constraints which apply to current operations north of Coffin Butte Road have been highlighted, among them:

- Terracing that would have significantly constrained the mass and visibility of landfill operations
- Reclamation of the landfill as pastureland
- The requirement that the landfill be screened so that landfill operations "cannot be seen"
- Protection of "small ponds"

^{iv} See attached letter detailing the two year process that DEQ engaged in to attempt to require Applicant to install a required flare shroud. Note that the delay in installing this shroud resulted in a grass fire that in turn required evacuation of nearby residences

^v See letter from Paul Koster to DEQ stating the working face, is "...small (1 acre or less)" despite it having been acknowledged elsewhere by Applicant (after significant prodding) that the working face is MORE than two acres

^{vi} See above, further on in the same letter

^{vii} Paul Koster testimony to DSAC September 10, 2025

^{viii} WFOA "How Fast do Wildfires Spread?" "Wildfires can spread up to 14.27 miles per hour..." North Adair is less than a mile away from Applicant's proposed expansion.



N Whitcombe <nwhitcombe@gmail.com>

does RS require employees on the face to train on fire suppression?

Robert Orton <robertorton53@gmail.com>

Tue, Oct 28, 2025 at 5:26 PM

To: nwhitcombe@gmail.com

Ma'am no they do not train they have no fire fighting gear to train with. They don't post a fire watch when mechanics on face are cutting ,grinding or welding as is the company proticall. I was cutting through steel with grinder throwing sparks everywhere moments before video of methan leak

Kind regards

Robert

[Quoted text hidden]

Hydro copy

Proj. 2867
Permit 306

**FOCUSED RISK ASSESSMENT AND
FEASIBILITY STUDY**

COFFIN BUTTE LANDFILL

BENTON COUNTY, OREGON

Prepared for

Valley Landfills, Inc.

September 23, 2003

Prepared by

TUPPAN CONSULTANTS LLC
680 Iron Mountain Boulevard
Lake Oswego, Oregon 97034

Project VLI-001-005

TUPPAN CONSULTANTS LLC

680 Iron Mountain Boulevard, Lake Oswego, OR 97034

Tel 503.675.9103 Fax 503.675.9107

September 23, 2003
Project VLI-001-005

Mr. Gil Hargreaves
Manager Solid Waste Program
Oregon Department of Environmental Quality
750 Front Street, Suite 120
Salem, Oregon 97301-1039

Re: Focused Risk Assessment and Feasibility Study, Coffin Butte Landfill, Benton
County Oregon, Solid Waste Permit No. 306

Dear Gil:

Attached please find two copies of the referenced document. If you have any questions,
please contact me at (503) 675-9103.

Sincerely,

~~TUPPAN CONSULTANTS LLC~~



Eric J. Tuppan, R.G.

Attachments: 2 copies of report

cc: Brian Stone; VLI

generators to produce electricity. A stand-by flare was also constructed to burn surplus gas.

6.3.5 Water Well Removal

Decommissioning water wells within the LOF or in areas potentially downgradient of impacts removes potential exposure to contaminants in groundwater. Two wells currently proposed for decommissioning include PW-1, which is within the LOF, but currently unused, and the Helms well, which is outside the LOF but downgradient of the LOF. It also is not used for any purpose.

6.3.6 Property Purchase

Property purchase near the landfill is an effective means of preventing groundwater use and minimizing land uses not compatible with landfill operations. Such purchases can have a secondary benefit of providing additional buffer area around the landfill and long-term access to groundwater monitoring wells. As property adjacent to the landfill property comes on the market, VLI will pursue negotiations with the owners to buy the property. Properties of current interest to the VLI include the Phillips property south of the landfill and the small rectangular piece of property immediately west of the Closed Landfill, east of Wiles Road.

6.4 Evaluation of Remedy

This section reviews basic evaluation criteria from OAR 340-40-050 and then describes how the remedy meets each requirement.

6.4.1 Evaluation Criteria

The criteria defined below were used to evaluate the remedy elements described in section 6.3. OAR 340-40-050(1) provides that the remedy should accomplish the following:

- Protect present and future public health, safety, and welfare, and the environment.
- To the maximum extent practicable, be cost effective, use permanent solutions and alternative technologies or resource recovery technologies, be implementable, and be effective.

67-48615-83
BENTON COUNTY: L-83-07, p. 13-19/154
FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER
BEFORE THE BENTON COUNTY BOARD OF COMMISSIONERS
STATE OF OREGON

IN THE MATTER OF AN AMENDMENT TO THE BENTON COUNTY COMPREHENSIVE PLAN REGARDING CERTAIN POLICIES RELATING TO THE COFFIN BUTTE LANDFILL, A CHANGE IN THE COMPREHENSIVE PLAN MAP FOR THE AREA TO LANDFILL SITE, AN AMENDMENT TO THE ZONING ORDINANCE TO INCLUDE THE LANDFILL SITE PARCEL, AND A SITE DEVELOPMENT PLAN REVIEW FOR APPROXIMATELY 266 ACRES DESIGNATED BY THIS ACTION AS LANDFILL SITE. AREA IN QUESTION SO DESCRIBED AS FOLLOWS: To the West of Highway 99W, North of Coffin Butte Road, T10S, R4W, Section 18, Tax Lot 301, 1106, and 1107; T10S, R5W, Section 13 Tax Lot 1000.

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER

I.

NATURE OF PROCEEDINGS

This case involves a request of Valley Landfills, Inc. (PC-83-2 and L-83-7) for amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 25I), amendments to the Zoning Ordinance and Zoning Map (Ordinance 26I), and a review of the Site Development Plan for an area known as the Coffin Butte Landfill.

On March 8, 1983, the Planning Commission held a duly advertised Study Session to solicit public comment on this proposal. The Planning Commission took no formal action at this study session, but did in fact listen to the concerns of the citizens in the immediate area and other interested persons. Staff was instructed to address these concerns in the preparation of a Staff Report to be submitted to the Planning Commission at a regularly scheduled public hearing held on April 26, 1983.

Following the duly advertised public hearing held on April 26, 1983 the Planning Commission voted unanimously to amend the Comprehensive

1 - Findings of Fact/Coffin Butte Landfill
W/P 2999/19

1 Plan related to solid-waste policies, change the Comprehensive Plan Map to
2 delineate the Coffin Butte Landfill site, amend the Zoning Ordinance to
3 add a specific Landfill Site Zone, and approve the Site Development Plan
4 for the landfill site.

5 On May 25, 1983 the Board of Commissioners met at a duly
6 advertised public hearing to consider the adoption of Ordinance 25I to
7 amend the Comprehensive Plan Text and Map, and Ordinance 26I to amend the
8 Zoning Ordinance and Zoning Map.

9 The Board of Commissioners having considered all of the
10 testimony, both oral and written, and after reviewing the actions of the
11 Planning Commission and a review of the documents submitted in the form of
12 a Staff Report, finds as follows:

13 II.

14 Findings of Fact/Conclusions of Law

- 15 1. The Board finds that various Comprehensive Plan Text
16 Amendments relating to solid waste disposal policies are
17 necessary for the health and welfare of the County, and that
18 the area known as the Coffin Butte Landfill should be clearly
19 sited on the Comprehensive Plan Map.
- 20 2. The Board further finds that the Zoning Ordinance must be
21 changed to coincide with the Comprehensive Plan Text
22 Amendments and Map Amendments, and that the Zoning Map must
23 be changed to clearly reiterate that a Landfill Site zone
24 exists.
- 25 3. The Board further finds that the Planning Commission actions
26 following a duly advertised public hearing held on April 26,

1 1983 unanimously approving five requests as outlined in the
2 Staff Report (p2) Summary of Requests File No. PC-83-7, was
3 taken in accordance with the procedures for public hearings
4 under State law and County Ordinance and that all parties
5 were given adequate public notice of the proceedings.

6 4. The Board expressly adopts as findings the following

7 documents, which are on file in the Benton County Community
8 Development Department located at 180 NW Fifth Street,
9 Corvallis, Oregon:

- 10 a. Staff Report; File No. PC-83-7, including Appendices 1,
11 2, and 3
12 b. Site Plan Review for the Coffin Butte Landfill
13 c. Application of Valley Landfills, Inc.
14 d. Background Review for the Proposed Coffin Butte Landfill
15 Expansion
16 e. State Planning Goal Exception for Coffin Butte Landfill

17 III.

18 ORDER

19 Based on the above, it is ORDERED hereby as follows:

20 The requests by Valley Landfills, Inc. for Comprehensive Plan
21 Text and Map Amendments, Zoning Ordinance and Zoning Map Amendments and a
22 Site Development Plan approval, as indicated specifically in the Staff
23 Report (paragraph 4a above), are hereby Approved subject to the following
24 conditions:

- 25 1. Cross reference the narrative and the map in both documents.
26 2. Expand the narrative statement, Section (1.a.11), on
reclamation to include the physical configuration of the

1 completed landfill areas and method of maintenance of the
2 proposed pasture uses. Include a statement regarding the
3 effects of methane and internal heat generation on the long
4 term maintenance of the pasture, and include irrigation plans
5 if proposed.

- 6 3. Describe in more detail in the narrative, the method of
7 screening: include a description of the location, height,
8 width, depth and physical composition of the berm; and
9 include the type and location of vegetative screening; and
10 include a statement regarding the long term maintenance of
11 the berm and vegetative screens.
- 12 4. Include in the narrative the anticipated chemical composition
13 of any leachate material to be used for irrigation south of
14 Coffin Butte Road; and include documentation that the
15 material to be utilized as irrigation meet federal and state
16 standards for any run-off that may leave the property lines.
- 17 5. Include in the narrative a review of the Environmental and
18 Operational Factors 1.1. XX.05.A.1.(f) for the
19 approximately 10 acres proposed for addition to the landfill
20 area.
- 21 6. Provide a detailed reclamation plan that sets forth the
22 anticipated physical characteristics of the "terracing"
23 including an average height and width of the terracing,
24 provide documentation that the site is physically available
25 to be reclaimed in this manner.
- 26

- 1 7. Submit for review by the Development Director a plan
- 2 detailing the proposed method Valley Landfills shall use to
- 3 protect the small ponds found on the Northeast corner of the
- 4 property.
- 5 8. The current DEQ operational permit will expire on January 31,
- 6 1984. Valley Landfills, Inc., has been requested to submit
- 7 an updated, long-term leachate control plan as part of the
- 8 permit renewal process. This plan must contain provisions
- 9 for a leachate storage facility so leachate irrigation will
- 10 not occur on pasture lands from November 1 through May 1 of
- 11 each year. The control plan must also provide for a soil
- 12 study that designates present and future leachate irrigation
- 13 areas. This plan must show that the amount of irrigation
- 14 area available is compatible with future leachate generation
- 15 volumes so metal or nutrient accumulations in the soils will
- 16 remain far below any toxicity levels.
- 17 9. As the site expands eastward, additional monitoring wells
- 18 will be required. Depending on DEQ budget limitations, the
- 19 permittee may have to share in the responsibility for
- 20 sampling and monitoring of these wells.
- 21 10. Screen the landfill operation with fencing or berms so it
- 22 cannot be seen from the County Road or adjacent properties.
- 23 11. Daily cover of refuse with earth is not possible at this site
- 24 due to the clay soils. The current (and future) permit
- 25 addresses requiring daily compaction of refuse and require
- 26 exposed refuse areas to not exceed 2 acres during the periods

of October 15 to June 1 and to not exceed 3/4 of an acre during all other periods. This shall be adhere to.

12. Occasionally, leachate seeps through the site berms during heavy rainfall periods. If these occur in the future, a requirement to channel these flows into the leachate collection system within a timely period (i.e., 3 days) may be added.

13. DEQ Permits are normally issued for a maximum of 5 years. As part of the permit renewal process, DEQ requires updated operational and construction plans to reflect the current permit period. As such, changes in environmental controls may be required to incorporate new technology into this landfill operation.

Adopted this 15th day of June, 1983.

Signed this 15th day of June, 1983.

BOARD OF COMMISSIONERS

VOTE

Schrock yes
Ross absent
Carr yes

Absent

Barbara Ross, Chairman

Dale D. Schrock
Dale D. Schrock, Commissioner

Approved as to Form:

Richard T. Ligon
Richard T. Ligon
Benton County County Counsel

Charline R. Carr
Charline R. Carr, Commissioner

1983 SITE DEVELOPMENT PLAN

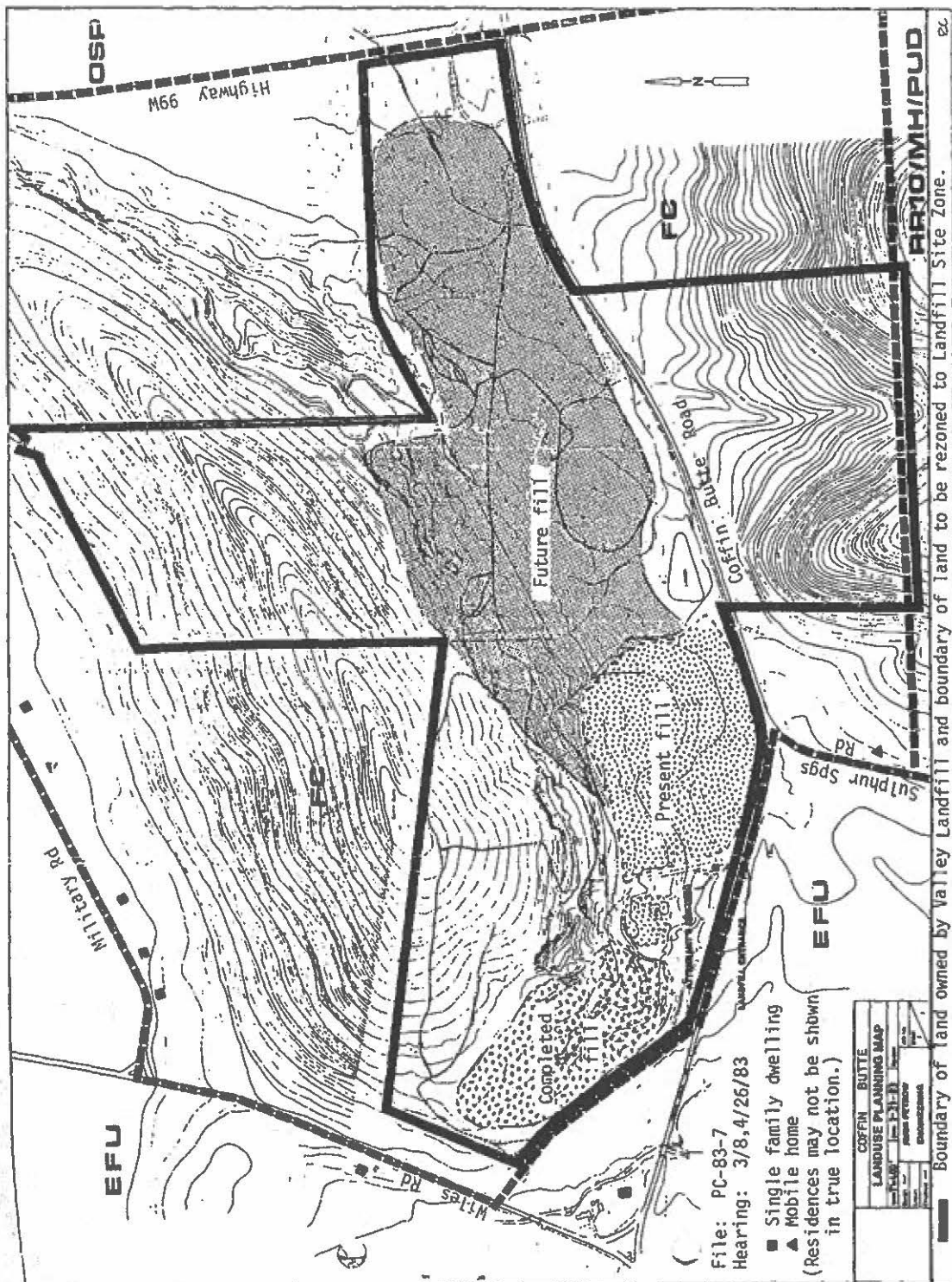
CLATSOP COUNTY
Planning Department
180 N.W. 5th
Corvallis, OR 97330



20

State Highway Division
3700 SW Philomath Blvd
Corvallis, OR 97333

NOTED
JOHN L. GUNTER



JEFFREY R. TROSS
Land Planning and Development Consultant
P.O. Box 621, Salem, Oregon 97308
(503) 370-8704

BENTON COUNTY PC-83-07-C(3) pp. 3-8/60 NARRATIVE

SITE PLAN REVIEW FOR THE COFFIN BUTTE LANDFILL

This report is provided in conformance with the requirement of the "Site Development Plan" section of the Landfill Site Zone for a narrative description of the Coffin Butte Landfill site plan and operating characteristics. This report includes the information required by Conditions of Development Nos. 1 - 7 contained in the Staff Report and adopted by the Board of Commissioners. The information is presented in the format established in the Zone text:

1. Criteria for Review

a. Narrative

i. Adjacent Land Use

The Coffin Butte Landfill is surrounded by wooded slopeland, small farm or woodlot tracts, commercial agricultural lands and scattered rural residential acreages. The existing landfill has had no significant impact, and has imposed no restrictions upon the use of the surrounding resource lands. Most of the nearby rural residences are located north of Coffin Butte and have not been adversely affected by the landfill or its operations. The residences have been developed subsequent to the landfill. **A few residences are located to the west and south of the landfill, but have experienced no significant adverse impact as a result of landfill operations.** The location and distribution of residences in the vicinity of the Coffin

Butte Landfill is displayed on the large site location map presented at the public hearing.

ii. Reclamation (Conditions No. 2 and 6)

When completed the present landfill area (see site development map) will appear as a low terrace rising from Coffin Butte Road into the site. The expansion area, labelled "Additional Landfill Disposal Area" on the site plan, will consist when completed of a series of terraces progressing up the lower south slope of Coffin Butte. Each terrace in the expansion area will consist of a +/- 12 ft. high vertical "confinement berm" sloping 3/1, and a 10 - 20 ft. wide horizontal surface at 2% slope. The overall slope of the terraced hillside will be similar to the existing slope. An upgradient cutoff drainage system (see site plan) will be provided to intercept seasonal surface drainage and route it around the new fill area. The feasibility of reclaiming the site in this manner is discussed in the attached letter dated May 23, 1983, prepared for Valley Landfills by Sweet, Edwards & Assoc., geological consultants.

All disposal areas, including the terraces, will be reclaimed for pasture. Portions of this landfill property including the completed disposal area (see site plan), as well as some of the outside lands in the vicinity of the landfill, are currently used for this purpose. The area within the landfill reclaimed for pasture will be maintained by periodic regrading and replanting as required to compensate for settling. Otherwise, maintenance will consist of farming methods commonly used for pastureland.

The completed disposal areas will be covered by a minimum eight inch clay cap covered by twenty-eight inches of soil. The depth of the cover will minimize the effect of methane on the pasture grasses. Similarly the cover crop should not be affected by internal heat generation. Rather, warm subsurface temperatures have proved beneficial to root development.

There are two existing irrigation areas shown on the site plan map. An existing leachate irrigation area is shown within the active disposal area, which is within the labelled "present landfill area." Another irrigation area is shown within the labelled "Existing Development Area" east of the present landfill area. A leachate irrigation pump is shown at the west end of the leachate lagoon. Irrigation will be conducted by means of buried, fixed-head irrigation pipes that are already in place. During dry weather leachate will be applied to the pastures as the soil field capacity permits. During inclement weather leachate will be irrigated back through the refuse. All irrigation practices and application rates will conform to DEQ standards.

The land south of Coffin Butte Road, labelled "Future Development Area" on the site plan, will be used for leachate irrigation as needed and as a tree farm for growing screening plants. Leachate irrigation will be done at an agronomic rate. Run-off onto adjacent properties is not permitted by DEQ regulations.

The chemical composition of the leachate at Coffin Butte has been analysed by Waterlab, Inc. of Salem. The analysis is attached to this report. Leachate applied to the land south of Coffin Butte Road is expected to be of similar composition to the sample tested. (Condition No. 4).

A leachate monitoring system consisting of nine on-site monitoring wells will be provided. The wells are scheduled to be monitored by DEQ on a quarterly basis.

Reclamation of the landfill in the manner described will be compatible with the existing predominant open space and resource lands characteristics of the adjacent and surrounding lands and the current uses of these lands, and will be consistent with the expected future use of these lands as indicated by the existing farm and forest land use designations.

iii. Screening (Condition No. 3)

Additional screening will be provided in keeping with the current site screening program used at the landfill. This program consists of a keyed berm with conifers planted 10' on center along Coffin Butte Road from 99W to the landfill entrance road, and similar plantings extending north along 99W from Coffin Butte Road to the north landfill property line.

The permanent, fixed, keyed berm is represented on the site development plan by the solid black line labelled "Approximate Solid Waste Disposal Boundary." As shown, the berm encompasses the present landfill area and the existing development area. The berm is 10 - 12 feet high, 10 feet wide at the top and 60 - 70 feet wide at the base, and has an outside slope of 3/1. The depth of the key is three feet. The berm is composed of low permeability materials from on-site sources. The berm has been hydroseeded, and will be grazed.

Screening plants will consist of trees from the tree farm owned by Valley Landfills on their land south of Coffin Butte Road. Initial height of the plantings will range from 6 - 10 feet. Additional plantings can be made on the terraces to screen disposal operations on the slopes, as needed. The plantings will receive ongoing maintenance by the landfill operators.

- iv. Access to the site will consist of 99W to Coffin Butte Road, as at present.
- v. Other Information Required by the Development Director (Conditions No. 5 and 7)

A review of the Environmental and Operational Factors of Art. XXX .05.A.1 is contained in a report titled Coffin Butte Sanitary Landfill Expansion Plan prepared by Randy Sweet, Geologist, and Regional Consultants, Inc. in Oct., 1977. This report was submitted to the Benton County Commissioners, Health Department, and Solid

Waste Advisory Committee. A copy of this report will be made available to the Development Department if requested.

The small ponds will remain as at present for the next ten years. At the end of this period the use of the ponds and surroundings will be reevaluated and, if anything is to be done, state of the art engineering practices will be employed in conformance with the standards in effect at that time. A modified site development plan will be submitted for County review when appropriate.



Oregon

Tina Kotek, Governor

Department of Environmental Quality

Western Region Salem Office
4026 Fairview Industrial Dr SE

Salem, OR 97302

(503) 378-8240

FAX (503) 373-7944

TTY 711

July 10, 2024

Ian MacNab
Valley Landfills, Inc.
Coffin Butted Road
Corvallis, OR 97330

Sent via email only (imacnab@republicservices.com)

RE: Pre-Enforcement Notice
Valley Landfill
2024-WLOTC-9427
02-9502-TV-01
Benton County

Dear Ian MacNab:

Valley Landfills, Inc. operates a gas collection and control system at the Coffin Butte landfill that includes shrouded flares.

On October 4, 2021, Division 239 was added to Chapter 340 of the Oregon Administrative Rules. Division 239 includes new requirements to reduce methane emissions from Oregon landfills. OAR 340-239-0110(2)(f)(B) requires that emissions from existing gas control devices, including flares, be tested within 180 days of the date that the Division 239 requirement became applicable to you, which was when the methane generation report was due on October 1, 2022. Therefore, testing of your shrouded flares should have been completed by March 30, 2023.

The design of your current shrouded flare does not easily lend itself to be tested, and testing of the current flare was not completed or attempted. In order to meet the testing requirement described above, the shrouded flare should have been fully enclosed to allow testing or replaced with a new enclosed flare.

In early 2023 during multiple phone calls, DEQ informed you that you would need to install a new enclosed flare. You submitted a Notice of Approval (NOA) and a minor permit modification application to DEQ for the new enclosed flare on August 1, 2023. After some back and forth, DEQ approved the NOA on November 9, 2023. This new flare will be able to accommodate testing but has yet to be installed and operated. Upon startup of the enclosed flare, the existing shrouded flares will be removed.

The Department has concluded that Valley Landfill is responsible for the following violations of Oregon environmental law:

VIOLATIONS:

- (1) Failing to conduct performance tests on gas control devices, Flare 1 and Flare 2, according to OAR 240-239-0110(2)(f)(B). This is a Class I violation according to OAR 340-012-0054(1)(qq).

Class I violations are the most serious violations; Class III violations are the least serious.

In order to correct the violation or minimize the impacts of the violation cited above, DEQ requests that you take the following corrective actions:

Corrective Actions Requested

- 1) Install and operate the enclosed flare that you have construction and operating approval for by 7/31/2024 and test this flare by 10/31/2024; or
- 2) Enclose the existing flares in such a way that they can be tested and test them by 10/31/2024.

Your timely and responsive action on these items will be taken into consideration in any civil penalty assessment issued by the Department.

If you believe any of the facts in this Warning Letter are in error, you may provide written information to me at the address shown at the top of the letter. The Department will consider new information you submit and take appropriate action.

The Department endeavors to assist you in your compliance efforts. Should you have any questions about the content of this letter, feel free to contact me in writing or by phone at 503-378-5070.

Sincerely,

Michael Eisele

Michael Eisele, PE
Environmental Engineer 3
DEQ Western Region, Salem





Coffin Butte Landfill (Company 4125)
28972 Coffin Butte Road Corvallis OR 97330
(O) 541.230.5546 www.republicservices.com

October 20, 2025

Laura McWhorter
Senior Air Quality Specialist - NSRA

Dear Ms. Laura McWhorter,

Please find Coffin Butte Landfill's response to the complaints from October 3 and October 4, 2025 received from DEQ on October 13, 2025

I did my best to respond to this complaint but wanted to share some overall thoughts as well.

Coffin Butte Landfill makes every effort to control on-site odors and limit the potential for any off-site odors. These proactive measures include utilizing daily cover, keeping the working face small (1 acre or less), investing in Landfill's gas control and collection system and assessing air quality at key off-site streets and intersections as part of our daily odor control patrols.

We are unable to verify the veracity of these complaints due to the time between when the complaints were made and when they were received from your office. I would also like to point out some concerns we have with the screenshot from the Watch Duty app that was provided by the residents. A simple web search shows this app does not allow someone to go back in time to see what the weather was at a specific time as it is real time data information only. This app is specifically used for fire conditions and does not function as a general weather archive. Without the picture's metadata, we cannot verify when this screenshot was taken. If the resident could provide the metadata for the picture to verify when this was taken, that would be helpful.

In addition, it appears the wind direction arrow above the wind speeds with the green circle is completely in the opposite direction of the wind isobars. I took a screenshot of what I am currently seeing (with time and date) on the Watch Duty app to show how the animated wind vectors should align with the arrow. I would also note there appears to be an issue with odors and complaints when winds come from the southeast. As I stated in my previous response to complaints on this day, when looking at a map, there are four wastewater treatment plants south of these residents that may be a potential source of odors as these facilities are upwind from the residents.

Nonetheless, we take each and every complaint seriously and will continue to investigate.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Koster".

Paul Koster
Environmental Manager, Coffin Butte Landfill