

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

Received From: Jeff Kleinman

Date: 10/29/25 3⁴⁰ PM

Email: Jeff Kleinman

Phone: Jeff Kleinman

Address: Jeff Kleinman

City, State, Zip: Jeff Kleinman

FOR BOC OFFICE STAFF USE ONLY

BOC ID: BOC3

IDENTIFIER: T0720

JEFFREY L. KLEINMAN
ATTORNEY AT LAW
THE AMBASSADOR
1207 S.W. SIXTH AVENUE
PORTLAND, OREGON 97204

TELEPHONE (503) 248-0808
FAX (503) 228-4529
EMAIL KleinmanJL@aol.com
October 29, 2025

**MEMORANDUM IN RESPONSE TO MATTERS RAISED
AT HEARING OF THE BOARD OF COMMISSIONERS**

TO: Benton County Board of Commissioners
FROM: Jeffrey L. Kleinman
RE: File No. LU-24-027 (Republic Services/Valley Landfills Inc.)

I. INTRODUCTION

Again, this office represents Valley Neighbors for Environmental Quality and Safety ("Valley Neighbors"). It is submitted to address items raised by the applicant, the applicant's consultants and staff on the record of your hearing on October 22 and 23, 2025. As part of this submission to you, I will provide proposed findings for your consideration in denying this application, including a detailed discussion of the relevant evidence.

II. EXPLAINING THE HERDING PROCESS (AGAIN)

I took a stab at this in my opening testimony to you on October 23. If I appeared to be beating (or meandering) around the bush, it was unintentional.

Knowing the Board's justified protectiveness of staff (even without having yet heard the Chair's admonition on this subject), I was fairly careful in my comments.

However, the point I tried to make is an important one and I am not certain that in my caution I was clear enough.

If I may offer a long-held observation, there are times when we know in our gut that we should say something, but it's a tough subject and we hold back. Later, when that which we feared has come to pass, we are left with regret for having taken the easy way out and remaining silent. In the practice of law, the price is paid by one's clients.

So here goes... As previously stated, I have been involved with the Republic landfill applications since 2021, and have observed the proceedings closely. I have had the opportunity to work with staff members and have found them to be courteous and helpful. In the case of this appeal, your administrative staff has done an extraordinary job under pressure, keeping the record together, structuring the hearing, and keeping the process rolling.

Nonetheless, there is something else going on here and has been all along. While it has been stated that the county's landfill revenue is irrelevant, it has inevitably motivated county personnel from the top (legal counsel, we think) on down to find a way to get to "yes," and that interest would have been passed down to the

county's own outside consultants whose work has been paid for by Republic. No dishonesty is imputed here, but direction and motivation are indeed. Four+ years in, the process has not been colored, much less permeated, by neutrality. This is not so much a criticism as a recognition of real world facts.

Thus, as I testified in so many words at your hearing, our point in addressing this subject is not to offend or to be a skunk at the picnic. Rather, it is to ask you to pay close attention to the guidance and funneling you receive after the public record is closed and the community cannot be heard. That is when we expect you will be advised not to consider relevant facts and evidence, based upon contentions as to the law and characterizations of the evidence which we believe to be provably incorrect. "No, you can't consider this. No, you can't think about that. You may not like it, and all the surrounding rural communities and the city of Adair Village may have to live with the stench and the blowing trash and the noise and the loss of clean well water and the increased fire risk. They will suffer but they have to be sacrificed to and for the dump—that's the law and you have no choice."

And taking this final opportunity to respond in advance, we say: *That is just plain wrong.*

III. LEGAL ISSUES REGARDING THE EVIDENCE

The law is quite clear as to certain evidence you have been or are likely to be instructed not to consider:

(1) The testimony of affected citizens based upon lived experience may be believed and may prevail over the testimony of a landfill owner's paid experts *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341, 367-73 (2015). This is true even where the experts' written reports total hundreds of pages. *Id.*, 72 Or LUBA at 360. Here is just one example of LUBA's approach to the evidence:

[Friends of Yamhill County] argues, and we agree, that the foregoing is specific testimony regarding changes made to McPhillips' farm operation. To avoid damaging baling machines and losing sales of hay bales, McPhillips' employees spend "a great deal of time" "all year long" removing from the fields plastic litter that originates from the landfill.

Id., 72 Or LUBA at 368.

It may be argued (and you may even be advised) that *Stop the Dump* revolved around a state statute protecting farm practices, as distinguished from Benton County's conditional use criteria. However, this is truly a distinction without a difference. The rule is no more limited to the application of the farm impacts test under ORS 215.296 than it is limited to landfill cases; that the case involved a proposed landfill expansion in a nearby county is just a helpful coincidence. The issue is one of the relevance and weight of evidence, when the facts on the ground

outweigh the suppositions and opinions of the hired guns.

(2) Relatedly, evidence regarding impacts of a landfill owner's nearby or adjacent, existing operations is relevant in evaluating a proposed expansion of that operation. In *Stop the Dump*, LUBA addressed this issue squarely, stating:

Initially, we note that in most cases where the [farm impacts] test is applied to a proposed use, the nature and severity of the actual impacts are somewhat speculative, because the use does not yet exist. In the present case, the nature and severity of the future impacts of the expanded landfill are relatively well-known, because those impacts will likely be very similar to the impacts of the existing landfill. * * *

Id., 72 Or LUBA at 366.

As for the evidentiary standard to be applied, there is no practical distinction between the farm impacts test and the county's approval standards in this case. If anything, Benton County's conditional use criteria under BCC 53.215(1) ("the proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone") bring a much wider range of impact testimony into play. And as always, the burden of proving compliance is on the applicant.

(3) The contents of the December 2020 Franchise Agreement between the applicant and the County, placed in the record earlier, are in fact highly relevant here.

Under paragraphs 4 (c)(i) and (ii), the amount of “host fees” payable to the county incentivized rapid approval of expansion. Paragraph 5(b) provides in material part:

(b) Franchisee intends to seek governmental approval to expand the Landfill on the real property legally described on the attached Exhibit C and incorporated by reference herein (“Expansion Parcel”). The parties agree that until Franchisee's governmental applications to expand the Landfill onto the Expansion Parcel are granted (following any all appeals to final judgment) (“the Application”), the total tonnage of Solid Waste deposited by Franchisee at the Landfill during any calendar year shall not exceed One Million One Hundred Thousand (1,100,000) tons * * *.

The expansion described in Exhibit C is the one applied for here. If it is approved, the annual cap of 1.1 million tons on Coffin Butte refuse will go away automatically, immediately allowing intensified impacts upon those affected by the operation north of Coffin Butte Road, all without County review. What a Catch 22! However this came to be negotiated, the County may not approve the current application without weighing all the impacts its approval would inflict upon the affected community under BCC 53.215. That analysis has not been attempted here. The applicant has not met its burden of proof, and the application cannot be approved.

We would add that, as previously pointed out, no conditions of approval created in the review of this application can control the scope of the operation to the north. The old quarry site is not part of this application and the terms of the Franchise

Agreement are contractual. Only a denial here will prevent the unregulated impacts in question.

(4) Neither DEQ nor EPA has submitted relevant comments here. While they may play a role in enforcement (hopefully, sometimes, maybe), they have no role in the Board's determination of compliance with the County's own approval standards. Thus, for example, if a credible witness testified that the proposed landfill would create the real risk of depleting or contaminating the essential subsurface water supply of a single adjacent forestry operation or farmer, and the applicant did not meet the burden of proving otherwise, the application must be denied in its entirety. And that has in fact happened here.

The County's approval standards do not create some sort of balancing test, allowing you to weigh the "benefits" of having a regional dump in your county against the burdens on neighboring property owners and communities. A single instance in which the applicant has not met its burden of proof as to a single issue or a single property compels denial.

///

///

IV. PROPOSED FINDINGS FOR DENIAL (GENERAL)

The general findings set out below are based upon the specific findings regarding the evidence before this Board, attached hereto. We submit these now due to the press of time for the Board to conclude its review. However, they can be modified (or cleaned up) once the Board has completed its deliberations.

Proposed Finding 1 (Litter)

The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts of trash. It has not been demonstrated that impacts from uncontrolled or uncontained trash can or will be mitigated through conditions of approval to not “seriously interfere” with adjacent properties, or with the character of the area. We also note that once an affected farm business is forced to move or close, no condition of approval can save it.

Proposed Finding 2 (Noise)

The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts of noise. It has not been demonstrated that noise impacts can or will be mitigated through conditions of approval to not “seriously interfere” with adjacent properties, or with the character of the area. BCC 53.215(1).

Proposed Finding 3 (Odor)

The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts of odor. It has not been demonstrated that odor impacts can or will be mitigated through conditions of approval to not “seriously interfere” with adjacent properties, or with the character of the area. BCC 53.215(1).

Proposed Finding 4 (Fire and Fire Services)

The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts of fire. It has not been demonstrated that impacts of fire and the risks of fire can or will be mitigated through conditions of approval to not “seriously interfere” with adjacent properties, or with the character of the area. In addition, the proposed use imposes an undue burden on fire services available to the area. BCC 53.215(1) and (2).

Proposed Finding 5 (Character of the Area)

The applicant has not met the required burden of proof with respect to serious interference with the character of the area with respect to the impacts of noise and odor. It has not been demonstrated that impacts of noise and odor can or will be

mitigated through conditions of approval to not “seriously interfere” with the character of the area. BCC 53.215(1).

Proposed Finding 6 (Groundwater)

The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts on groundwater wells and natural springs, either in terms of quantity (availability) or quality of water. The applicant's consultants propose future studies to evaluate the possibility of significant uncertainties on this issue, but only after granting of this application, and with no clear, legally binding process for evaluation of results or mitigation in the event of impacts that “seriously interfere” with adjacent properties, or with the character of the area. County staff have acknowledged their lack of expertise to evaluate groundwater issues, and have not demonstrated the capacity for assessing or enforcing the applicant's proposed conditions of approval to address potential impacts to groundwater. Moreover, once subsurface sources of water supply are polluted or destroyed, it will be far too late to do anything about it.

Thus, it has not been demonstrated that impacts upon groundwater wells and natural springs can or will be mitigated through conditions of approval to

not “seriously interfere” with adjacent properties, or with the character of the area.

BCC 53.215(1).

Proposed Finding 7 (Conditions of Approval): The applicant has not met the required burden of proving that conditions of approval proposed for adoption under BCC 53.220 can or will achieve compliance with the relevant approval standards discussed above. They have not been demonstrated 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 (identified above) of this Code. The proposed conditions have not been shown to render compliance with the related approval standards feasible—possible, likely and reasonably certain to succeed.

DATED: October 29, 2025.

Respectfully submitted,

Jeffrey L. Kleinman

Jeffrey L. Kleinman, OSB No. 74372
Attorney for Valley Neighbors
for Environmental Quality

PROPOSED FINDINGS - NOISE

The Applicant has attempted to dismiss all the community's testimony as anecdotal or not credible compared to their paid consultants hired by Republic. Working with County staff, they have crafted many conditions of approval that are simply words on paper that have no actual chance of preventing or mitigating serious interference with uses on adjacent property or with the character of the area.

Additionally, the \$80,000 per year they want to give the County to MONITOR compliance with conditions of approval will not allow the County to ENFORCE any conditions. The record shows that DEQ no longer enforces noise regulations, and Benton County Code does not have any procedure for revocation of a conditional use permit, once issued. Enforcement would require lengthy and expensive judicial proceedings and would be totally funded by the County. Republic will not pay Benton County to sue them to force compliance. If conditions of approval are not met, there is no practical means of enforcement, and the violations will continue unabated.

Condition P2-2 relates to noise generated during "pre-commercial operations." Condition P2-2 does not set out specific necessary steps to abate noise above the level set by the condition, merely suggesting possible measures and not setting out consequences (cessation of work? revocation proceedings?) if the standard is not or cannot be met. Thus, this condition fails to meet the requirement that it renders compliance "possible, likely and reasonably certain to succeed." It does not.

Condition OP-3 relates to noise generated thereafter, during ongoing commercial operations, the long-term operation of the proposed dump. It suffers from similar defects, but they are far more numerous and extensive. Sound measurements mean nothing without a sound standard being set, compulsory continuous monitoring and reporting, and measures assuring compliance or shutting down the operation. Further, the condition covers only "on-site equipment," not arriving trucks or trailers delivering trash, with their own diesel engine and brake noise, back-up beepers, and clanging tailgates. Republic-owned or operated on-site equipment comprises roughly one percent (1%) of the vehicles operating on the site. A very small percentage of the arriving-and-departing truck traffic consists of Republic's own off-site vehicles and are somewhat subject to Republic's control. However, even Republic's trucks require and use regular back up beepers as this is required by law for their operation on public streets and roads.

The condition of approval to install proximity backup alarms on Republic-owned vehicles that work on the landfill full time will do nothing to prevent or mitigate the off-site noise that plagues adjacent properties, i.e., jake brakes, engine noise, banging doors, vector cannons, fireworks, etc. Again, there is no unbiased evidence in the record that condition of approval OP-3 will prevent or mitigate off-site noise impacts. They aren't even proposing to measure off-site noise - once a week they propose to measure noise from "on-site" equipment, and 3 years later they propose to do a study.

There is no independent evidence in the record that meets the burden of proof required to demonstrate that installing proximity backup alarms for Republic-owned, on-site equipment will not cause serious interference with uses on adjacent property.

Testimonies submitted and included in the Planning Commission proceedings:

Adjacent Property Owner/Resident Testimony (E. and L. Bradley, Exhibit BC7.1, p. 2):

"This proposal seriously interferes with the use of our property. Republic Services is currently in violation of County code 53.12. The last few years we have suffered through noise outside business hours, [...]"

Adjacent Property Owner/Resident Testimony (J. Searls, Exhibit BC7.2, p. 5):

"I believe an expansion will negatively impact the value of my property, farm and home. An expansion will bring more traffic and machinery closer to my home and family. The dump is already a nuisance for us. [...] We already hear big machinery and trucks operating during quiet hours of the night/ morning. [...] Sometimes I go out on our deck to enjoy the views and our land only to be hit with a noxious odor caused by the landfill. It is disgusting and worrisome and ruins the moment. The odors cause me to go back inside."

Adjacent Property Owner/Resident Testimony (C. Merril, Exhibit BC7.4, p. 2):

"The proposed expansion would seriously interfere with the character of the surrounding area and impose an undue burden on public resources, in violation of Benton County Code 53. 215 1) and (2). Specifically, this expansion raises major concerns about: [...] Odor and noise issues that degrade quality of life for residents and visitors. The blasting noise is excessive sometimes, and will shake my house and rattle my windows. [...]"

Adjacent Property Owner/Resident Testimony (G. Carlin, Exhibit BC7.7, p. 3-5):

Staff summary: The commenter expressed concern that the applicant's expected noise impacts were understated. The commenter disagreed with the conclusion of the applicant's sound consultant in their 2021 proposal - which posited that noise levels would not increase – citing subsequent temporary operations near the proposed expansion area that involved heavy equipment and generated significant noise. These activities, including the closing of truck doors, vehicle braking, and the use of horns, pile drivers, and backup alarms, according to the commenter, could be heard from two miles and scared their dogs from going outside. The commenter argued that if the expansion were approved, such noise would become a 5:30 a.m. to 6:00 p.m., daily and long-term situation, negatively affecting their property value.

Adjacent Property Owner/Resident Testimony (L.A. Davis, Exhibit BC7.8, p. 2):

"The operational noise is already so loud and obnoxious, with the rattling of windows as the sounds of the semi tractor trailers downshift and grind along, it would only increase with the expansion. Since there would be no cap on how much garbage could be brought in, the traffic and noise would only increase, disturbing the rural community atmosphere and turning it into a heavily industrialized area."

Adjacent Property Owner/Resident Testimony (I. Finn, Exhibit BC7.9, p. 2-3):

Staff Summary: The testimony highlights the noise impacts from the current landfill operations, which the commenter states begin as early as 4 a.m. in the summer and often continue until 8 or 9 p.m., six days a week. These include the sounds of diesel engines, banging metal doors, backup alarms, and fireworks used to deter birds. The noise regularly disrupts the speaker's ability to enjoy their landscaped property during the best times of the year. They express concern that the proposed expansion, which would move operations closer to their home and potentially extend activity to seven days a week, would exacerbate impacts, prevent peace from constant noise, and significantly interfere with the residential use of their property.

Adjacent Property Owner/Resident Testimony (R. Holdorf, Exhibit BC7.10, p. 2):

"In the past five years as Republic has ramped up business, the existing landfill has drastically changed the character of my neighborhood. [...] the truck motors and beeping backup noises echo through my window early in the morning."

Adjacent Property Owner/Resident Testimony (C. Holdorf, Exhibit BC7.10, p. 4):

"There is an endless stream of trucks and noise, [...]"

Additional noise testimony from adjacent properties can be found here:

Edwardsson 28840 Daystar Drive and 28903 Tampico Road Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0516_04282025_EDWARDSSON_Kenneth.pdf

Barb Fick live at 28984 Blaze Drive, Corvallis, 97330

28964 Blaze Drive, Corvallis, 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0519_04282025_FICK_Barbara.pdf

Ian Finn 28984 Blaze Drive, Corvallis, 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0546_04292025_FINN_Ian.pdf

Rose Holdorf 38483 Plowshares Road

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0099_10032025_Email_HOLDORF_Rose.pdf

Testimony from nearby properties:

Priya Thakkar 38987 Arena Rd

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0133_10052025_Email_THAKKAR_Priya.pdf

Dale Draeger 37420 Moss Rock Dr. Corvallis, Oregon 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0367_04202025_DRAEGER_Dale.pdf

Testimony from other affected persons:

Ken Kenaston 2870 SW Morris Ave, Corvallis, OR 97333.

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0130_10052025_Email_KE_NASTON_Ken.pdf

SUMMARY

If the staff proposed conditions of approval for off-site noise prevention and mitigation are examples of things the Commissioners believe are going to make it OK to approve this application, the Commissioners are sadly mistaken, and the Commissioners will be doing a profound disservice to constituents, visitors, and wildlife.

Commissioners, you have discretion in making this decision. There is plenty of evidence in the record regarding noise impacts from the proposed expansion and documenting serious interference with uses on adjacent property.

The burden of proof is on the applicant to demonstrate that their proposed use (even with the Conditions) will not violate the criteria (BCC53.215(1)). They have not met that burden of proof.

Proposed Finding: The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts of noise. It has not been demonstrated through independent evidence in the record that noise impacts can or will be mitigated through conditions of approval to not “seriously interfere” with adjacent properties, or with the character of the area. BCC 53.215(1).

PROPOSED FINDINGS - LITTER

The Applicant has attempted to dismiss all the community's testimony as anecdotal or not credible compared to their paid consultants hired by Republic. Working with County staff, they have crafted many conditions of approval that are simply words on paper that have no actual chance of preventing or mitigating serious interference with uses on adjacent property or with the character of the area.

Additionally, the \$80,000 per year they want to give the County to MONITOR compliance with conditions of approval will not allow the County to ENFORCE any conditions. Benton County Code does not have any procedure for revocation of a conditional use permit, once issued. Enforcement would require lengthy and expensive judicial proceedings and would be totally funded by the County. Republic will not pay Benton County to sue them to force compliance. If conditions of approval are not met, there is no practical means of enforcement, and the violations will continue unabated.

The litter control conditions of approval are utterly unworkable. There is no independent evidence in the record that the proposed fencing scheme will control windborne litter such as paper and plastic which renders adjacent cattle grazing lands (Krueger testimony) on adjacent EFU land unusable for that purpose. In addition, the adjacent non-profit horse therapy program, Bit by Bit, also experiences serious interference (Bradley and Starkey testimony) with their operations - they are prevented from using their pastures without full-time supervision because of the windswept and airborne litter from the landfill. The proposed expansion site will bring landfill operations even closer to both businesses.

For example, condition of approval OP- 9 requires two layers of ground level fencing. However, the ground level fencing will not prevent landfill litter from being lifted into the air by updrafts and deposited on adjacent or nearby property. And offering to pick up litter after it has been deposited and eaten by livestock is too little, too late. The lived experiences by adjacent properties from the current landfill operations and the prospect of expanded operations moving even closer, make litter and windblown trash a serious interference that cannot be prevented. The risk of disease or death of livestock on adjacent lands due to ingestion of landfill litter is real, documented in the record, and is not acceptable.

The proposal to pick up trash weekly along the nearby roads rings hollow because even with all the complaints, they don't do it now and cannot be believed when they say that they will do it in the future.

Daily roadside patrols are inadequate. Weekly clean up on affected farm properties is inadequate, as hourly patrolling is needed to protect livestock. Under the *Stop the Dump* line of cases, farmers and others need not accept strangers on their properties. The offer of such entry and performance of "services" is not mitigation. It is an acknowledgement that the serious interference caused by litter is real.

There is no unbiased evidence in the record that the proposed condition of approval OP (9) will prevent or mitigate serious interference with uses on adjacent property.

As discussed earlier, there are no consequences for violations. Condition OP-9 assures nothing.

The evidence in the record as to the frequency and volume of landfill litter deposition on adjacent land is overwhelming:

Adjacent Property Owner/Resident Testimony (E. and L. Bradley, Exhibit BC7.1, p. 2):
"[...] This proposed expansion would move the landfill even closer to our property line. We are one of the closest southern neighbors. The buffer land is no longer sufficient due to the growing pile of debris. This proposal seriously interferes with the use of our property. Republic Services is currently in violation of County code 53. 12. The last few years we have suffered through [...], plastic bags blowing from the landfill, over the trees, onto our property, [...]"

Adjacent Property Owner/Resident Testimony (J. Searls, Exhibit BC7.2, p. 5):
"I believe an expansion will negatively impact the value of my property, farm and home. [...] We already have daily litter along Highway 99. I am concerned that an expansion will exacerbate these problems."

Adjacent Property Owner/Resident Testimony (R. Wilson, Exhibit BC7.6, p. 2):
"[...] Due to our proximity to the landfill where we grass a herd of cattle for local food production, we have been finding a staggering increase of air blown trash coming from the dump. We get styrofoam, plastic bags, and metallic chip bag that become air born from the landfill and litter the pastures we use to raise livestock. This poses a significant risk to the animals. If a cow or calf were to eat a plastic bag or Styrofoam this would certainly mean their death. With an expansion to the landfill it can only be expected to intake more trash that will lead to more airborne plastics reaching susceptible animals, both wildlife and nearby associated livestock. We feel it is imperative that Republic Services is responsible for the care the material they take into the landfill and should use methods to prevent airborne debris from leaving their site. [...]"

Adjacent Property Owner/Resident Testimony (E. Finn, Exhibit BC7.9, p. 2):
*"The current operation on the north side of Coffin Butte Road seriously interferes with the use of my property due to [...], flying paper and plastic,[...]. [...] And if this expansion is approved, the annual trash tonnage limit will be removed thereby opening the door to yet more trash coming in every day. **Moving the proposed operation 2,000 feet closer to my home will exacerbate these impacts!**"*

Adjacent Property Owner/Resident Testimony (R. Holdorf, Exhibit BC7.10, p. 2)

"[...]

In the past five years as Republic has ramped up business, the existing landfill has drastically changed the character of my neighborhood. [...], I have to pick up more fly away garbage from our property, [...]"

Adjacent Property Owner/Resident Testimony (C. Holdorf, Exhibit BC7.10, p. 5)

"[...]

This landfill is already a health hazard and has a big negative impact to the community at large - as an eyesore, from the stench and from the garbage along the roads and in fields & yards, [...]"

Adjacent Property Owner/Resident Testimony (D. Hackleman, Exhibit BC7.11, p. 3, 4, 6):

"The vastly increased intake of refuse has already negatively impacted the value of my property. Refuse is apparent on Hwy99W in increasing amounts from improperly secured transport vehicles. [...] Observations: [...]

2. Airborne debris are being deposited on my property from the landfill at a rate that has been increasing during the last few years. I can supply photos of such material should these be necessary. The majority are plastic films such as bags and wrappers commonly discarded in refuse streams. [...]"

Adjacent Property Owner/Resident Testimony (G. Lind Flak, Exhibit BC7.14, p. 2):

"[...] Each morning, I drive on Coffin Butte Road, cross Hwy 99 and continue on Camp Adair Road on my way to work in Albany. Camp Adair Road is littered with trash as far as Independence Highway and even onto Hwy 20. Last summer, I followed a trail of pink insulation in the ditches and hanging from bushes and trees along the road, all the way from Hwy 20 to the Coffin Butte landfill in my neighborhood. There were bright pink pieces of insulation on Hwy 20 heading toward Corvallis, Independence Highway, Camp Adair Road, Hwy 99, and Coffin Butte Road up to the landfill entrance. A year later and I still see pieces of that pink insulation. It's disgusting we allow this to happen."

Additional litter testimony submitted:

Adjacent Property:

Krueger Testimony 28903 Tampico Road Corvallis Oregon 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0782_07092025_KRUEGER_Angela.pdf

Bradley Testimony 38578 Hwy 99W Corvallis Oregon 97330

McKenna - https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0774_07092025_BRADLEY_McKenna.pdf

Erin and Lowell Testimony 38578 Hwy 99W Corvallis Oregon 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0773_07092025_BRADLEY_Erin.pdf

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0739_06302025_BRADLEY_Erin.pdf)

[027/PlanningCommission/Public%20Testimony/T0739_06302025_BRADLEY_Erin.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0739_06302025_BRADLEY_Erin.pdf)

Bit by Bit Board 38578 Hwy 99W Corvallis Oregon 97330

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0772_07092025_BIT%20BY%20BIT)

[027/PlanningCommission/Public%20Testimony/T0772_07092025_BIT%20BY%20BIT](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0772_07092025_BIT%20BY%20BIT)
[Board.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0772_07092025_BIT%20BY%20BIT)

Ian Finn 28984 Blaze Drive, Corvallis, 97330

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0546_04292025_FINN_Ian.pdf)

[027/PlanningCommission/Public%20Testimony/T0546_04292025_FINN_Ian.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0546_04292025_FINN_Ian.pdf)

Rose Holdorf 38483 Plowshares Road

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0420_04212025_HOLDORF_Rose.pdf)

[027/PlanningCommission/Public%20Testimony/T0420_04212025_HOLDORF_Rose.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0420_04212025_HOLDORF_Rose.pdf)

Ryan Wilson 28903 Tampico Road Corvallis Oregon 97330

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0534_04282025_WILSON_Ryan.pdf)

[027/PlanningCommission/Public%20Testimony/T0534_04282025_WILSON_Ryan.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0534_04282025_WILSON_Ryan.pdf)

Barb Fick live at 28984 Blaze Drive, Corvallis, 97330

28964 Blaze Drive, Corvallis, 97330

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0519_04282025_FICK_Barbara.pdf)

[027/PlanningCommission/Public%20Testimony/T0519_04282025_FICK_Barbara.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0519_04282025_FICK_Barbara.pdf)

Rose Holdorf 38483 Plowshares Road

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0099_10032025_Email_H)

[027/BoardOfCommissioners/Written%20Testimony/BOC1_T0099_10032025_Email_H](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0099_10032025_Email_H)
[OLDORF_Rose.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0099_10032025_Email_H)

Kirsten Starkey 38578 Hwy 99W Corvallis Oregon 97330

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC2_T0659_10232025_Hearing)

[027/BoardOfCommissioners/Written%20Testimony/BOC2_T0659_10232025_Hearing](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC2_T0659_10232025_Hearing)
[STARKEY_Kirsten.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC2_T0659_10232025_Hearing)

Bruce Thomson 9153 NW Tanya Place Corvallis OR 97330

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0535_10202025_Email_TH)

[027/BoardOfCommissioners/Written%20Testimony/BOC1_T0535_10202025_Email_TH](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0535_10202025_Email_TH)
[OMSON_Bruce.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0535_10202025_Email_TH)

Nearby property testimony:

Doug Pollock – cyclist – Helm Drive Corvallis

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0442_04212025_POLLOCK_Doug.pdf

David Patte 37655 Zeolite Hills Rd, Corvallis, Oregon 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0439_04212025_PATTE_David.pdf

Margaret Herring 37831 Soap Creek Road

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0272_10082025_Form_HERRING_Margaret.pdf

Mark Yeager 37269 Helm Drive Corvallis

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0463_10192025_Email_YEAGER_Mark.pdf

Other affected property:

Friends of Polk County

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0392_04202025_WHEELER_Patricia.pdf

Robert Wheatcroft 7755 NE Logsdon Road, Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0471_10192025_Form_WHEATCROFT_Robert.pdf

Martha Truninger 1130 NW Overlook Dr Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0029_09042025_Email_TRUNINGER_Martha.pdf

SUMMARY

If the staff proposed conditions of approval, OP -9, for off-site litter prevention and mitigation are examples of things the Commissioners believe are going to make it OK to approve this application, Commissioners are sadly mistaken, and the Commissioners will be doing a profound disservice to constituents, visitors, and wildlife.

Commissioners, you have discretion in making this decision. There is plenty of evidence in the record regarding litter impacts from the proposed expansion and documenting serious interference with uses on adjacent property.

The burden of proof is on the applicant to demonstrate that their proposed use (even with the Conditions) will not violate the criteria (BCC53.215(1)). They have not met that burden of proof.

Proposed Finding - LITTER

The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts of litter or windblown trash. It has not been demonstrated that impacts from uncontrolled or uncontained trash can or will be mitigated through conditions of approval to not “seriously interfere” with adjacent properties, or with the character of the area.

PROPOSED FINDINGS - ODOR

The Applicant has attempted to dismiss all the community's testimony as anecdotal or not credible compared to their paid consultants hired by Republic. Working with County staff, they have crafted many conditions of approval that are simply words on paper that have no actual chance of preventing or mitigating serious interference with uses on adjacent property or with the character of the area.

Additionally, the \$80,000 per year they want to give the County to MONITOR compliance with conditions of approval will not allow the County to ENFORCE any conditions. Benton County Code does not have any procedure for revocation of a conditional use permit, once issued. Enforcement would require lengthy and expensive judicial proceedings and would be totally funded by the County. Republic will not pay Benton County to sue them to force compliance. If conditions of approval are not met, there is no practical means of enforcement, and the violations will continue unabated.

Conditions of approval OP-2, Site Operations, and OP-4, Odor, do not, in any way, mitigate or prevent serious interference with uses on adjacent property or character of the area due to odor impacts. For the expansion site, six days a week, a minimum of a two-acre working face will be open from 5 a.m. to 7 p.m. on average, allowing landfill gases to escape to the atmosphere. On Sundays, the working face will be open from 11 a.m. until 6 p.m.

In addition, documented landfill gas leaks from holes in tarps covering the landfill and escaping gases at methane extraction points (see EPA inspection reports 2022 and 2024 in the record) allow releases of odors to the atmosphere at numerous locations continuously, 24 hours per day.

Covering the working face (OP-2) does nothing to prevent or manage odor migration throughout the region during the course of the working day. Hundreds of odor complaints have been documented, filed with Oregon DEQ, and submitted to the Disposal Site Advisory Committee (DSAC).

The premise of condition of approval OP-4 is that the "anecdotal" reports of serious odor interference with uses on adjacent property are not believed unless verified by the Nasal Ranger. The odor issues are real and will not be mitigated by monitoring with landfill-paid consultants or staff. Monitoring is not mitigation. And even if it is verified that an odor issue is occurring, the proposed condition of approval does not contain any proposed remedy for the odor interference. There are no consequences for odor interference with uses of adjacent property or character of the area.

The evidence in the record as to the frequency and of landfill odor serious interference on adjacent land is overwhelming:

Adjacent Property Owner/Resident Testimony (E. and L. Bradley, Exhibit BC7.1, p. 2):

"This proposal seriously interferes with the use of our property. Republic Services is currently in violation of County code 53. 12. [...] Some days the odor is unbearable."

Adjacent Property Owner/Resident Testimony (J. Searls, Exhibit BC7.2, p. 2):

"I have concerns about how this will negatively impact my property and farm. It is our goal to provide perennial and annual crops for our community each year from our land- as well as provide farm services throughout the valley. [...] An expansion of the landfill could harm our soil and air quality making it harder to produce crops.

It is hard to smile at our farm sometimes when noxious odors from the Coffin Butte Landfill infiltrate our property. These odors/ gases already cause problems and they are out of control. An expansion of the landfill will bring the piles of garbage (future dump cells) physically closer to my farm which will create a bigger odor problem."

Adjacent Property Owner/Resident Testimony (J. Searls, Exhibit BC7.2, p. 5):

"I believe an expansion will negatively impact the value of my property, farm and home. An expansion will bring more traffic and machinery closer to my home and family. The dump is already a nuisance for us.

We can already smell the horrible odors that bleed out Coffin Butte Landfill.

Adjacent Property Owner/Resident Testimony (C. Merrill, Exhibit BC7.4, p. 2):

"Specifically, this expansion raises major concerns about: [...]

- [...] many times the odor is so strong that people will not come over to visit, and I can not be outside and enjoy my property. [...]*
- Odor and noise issues that degrade quality of life for residents and visitors. The blasting noise is excessive sometimes, and will shake my house and rattle my windows."*

Adjacent Property Owner/Resident Testimony (P. Morrel, Exhibit BC7.5, p. 3):

*"I am hoping that the expansion proposal will be denied for a variety of reasons. Some of the more pressing concerns are bulleted below:
[...]*

Odors from the landfill have obviously increased as the amount of waste they receive has increased. Unfortunately, since reporting the odors doesn't result in any real action by the State and certainly not the landfill. As a result, we don't bother to complain. I can't imagine how many more days I'll need to keep my house windows closed if the size of the landfill increases."

Adjacent Property Owner/Resident Testimony (J. Morrel, Exhibit BC7.5, p. 6):

"Odor Issues: Odors are a reality at any landfill, although we do appreciate Republic's attempts to minimise this issue through landfill gas collection, tarping and daily cover. However, moving the landfill further south will inevitably result in increased odor complaints. As noted earlier, we have

noted many more days when we can detect the landfill, but normally do not complain as we see little purpose, especially when we learned that most of these complaints go to the State who then talks to the landfill operators and dismisses them. Residents will be forced to deal with increasing odors. The smell alone is an issue, but recent reports from flyovers suggest that methane levels are often far in excess of minimum effects levels. Expansion will further increase local methane exposure regardless of attempts to capture some of the releases. This has the potential to impact the health of local residents."

Adjacent Property Owner/Resident Testimony (L. A. Davis, Exhibit BC7.8, p. 2):

"The smell is so bad at times I have to stay inside, which interferes with the numerous chores that have to be done. It not only affects my property, but I was at Adair Park with my dog the other day and had to immediately return home due to the horrendous methane stench. It's a lovely park that should be shared by all, but it's not possible if you can't breathe and your eyes start watering."

Adjacent Property Owner/Resident Testimony (I. Finn, Exhibit BC7.9, p. 2):

"[...] The odors from the existing facility seriously interfere with the use of my property. When the odors occur, you must stay indoors and close your windows. We know the landfill is leaking large amounts of methane, but with the methane come lots of other toxic landfill gases that are likely endangering our health. Being essentially right next door to my house, the proposed expansion will seriously interfere with my use of my property. [...]"

Adjacent Property Owner/Resident Testimony (R. Holdorf, Exhibit BC7.10, p. 2):

*"[...] it smells worse and more frequently than I ever remember in my 36 years of calling this place my home, [...]
The proposed expansion could devastate the assets my family has cultivated on this land. Building a new landfill cell on the opposite side of Coffin Butte Road keeps me up at night. After 36 years, will we be forced to move? Will we lose all property value?"*

Adjacent Property Owner/Resident Testimony (C. Holdorf, Exhibit BC7.10, p. 4):

*"There is [...] an almost constant stench at all times of day and night.
I am very concerned that if Republic is allowed to start a new landfill on the south side of Coffin Butte Rd, our property value would plummet [...] This, in addition to the certainty of more noise, worse odors, [...]"*

Adjacent Property Owner/Resident Testimony (A. Holdorf, Exhibit BC7.10, p. 6):

"We pay in the stronger -than -ever smell of the landfill on the frequent —more frequent than ever — mornings when its nuisance gases seep through the still air."

Adjacent Property Owner/Resident Testimony (D. Hackleman, Exhibit BC7.11, p. 3, 4, 7):

"The vastly increased intake of refuse has already negatively impacted the value of my property.[...] Odors that were uncommon for decades are on the increase [...]"

Observations:

Page 3 of 7

PROPOSED FINDINGS - ODOR

1. *The air quality at my residence and all the others on the North side of the Butte seems to be increasingly affected by odors believed to be emanating from the landfill as it is now growing at a far greater rate than it was in prior years. It is suspected that this is due to the increased elevation and change of the location of the dumping sites, but may also be impacted by covering practices. This last year, I have noticed many days in which an odor is present, however I have been remiss in reporting each day of an odor event as they are so frequent. Once I am indoors, the filtering in my HVAC system reduces the intensity. I do not measure the composition of the emissions detected. These odors are those of decaying organic matter. [...]*

I chose this property based on its qualities for residence, agriculture, forestry and radio telecommunications. These uses have been identified in the legal documents I prepared regarding my land use. [...]

Residence: [...]

Odors and audio emissions from the landfill have been on the increase over the last several years. While odors have been present frequently, I have not sent in very many notes regarding odors or audio emissions. At this time, odors are present frequently, and do detract from the ambiance of my residence. Odors are present even during periods in which the landfill is closed."

Adjacent Property Owner/Resident Testimony (B. Briskey, Exhibit BC7.12, p. 2):

"My property shares 1580 feet of fence line with the NW corner of the landfill and the topology brings the smell right to us anytime there's a south component to the wind direction. [...] Since Republic moved all the refuse out of Cell 6 and Knife River blasted to remove more of the Butte at that NW corner, we've already experienced more odor [...]

*I haven't complained about the odor because, hey, I live next to a dump. But the **increase in odor** is also raising my awareness to the apparent lack of mitigation and potential long-term damage from toxicity exposure. I hosted business associates once and the stench forced me to cancel the meeting and everyone left — I haven't been able to host events since then."*

ADDITIONAL ODOR TESTIMONY IN THE RECORD:

Adjacent property testimony:

Jeff Morrell 38464 Highway 99W

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0351_04192025_MORRELL_Jeffrey.pdf

Tisha Morrell 38464 Highway 99W

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0147_10052025_Email_MORRELL_Tisha.pdf

Jeff Morrell 38464 Highway 99W

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0146_10052025_Form_MORRELL_Jeffrey.pdf

Nearby testimony:

Priya Thakkar 38987 Arena Rd

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0133_10052025_Email_THAKKAR_Priya.pdf

Priya Thakkar 38987 Arena Rd

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0134_10052025_Email_THAKKAR_Priya.pdf

Faye Yoshihara 37461 Soap Creek Rd. Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0107_10032025_Email_YOSHIMURA_Faye.pdf

Elizabeth Patte 37655 Zeolite Hills Rd., Corvallis 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0440_04212025_PATTE_Elizabeth.pdf

Janet Ohman 37609 Soap Creek Rd. Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0385_04202025_OHMAN_Janet.pdf

Dale Draeger 37420 Moss Rock Dr. Corvallis, Oregon 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0367_04202025_DRAEGER_Dale.pdf

Bruce Cowger 37194 Helm Drive, Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0106_04132025_COWGER_Bruce.pdf

Bruce Cowger 37194 Helm Drive, Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0123_10052025_Email_COWGER_Bruce.pdf

Faye Yoshihara 37461 Soap Creek Rd. Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0069_03312025_YOSHIHARA_Faye.pdf

Other affected property testimony:

Robert Wheatcroft 7755 NE Logsdon Road, Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0471_10192025_Form1_WHEATCROFT_Robert.pdf

Mark Henkels 7540 NE Pettibone Drive, Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0040_03252025_HENKELS_Mark.pdf

Pam Castle 993 NW Cypress Avenue Corvallis, OR 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0033_03232025_CASTLE_Pamela.pdf

Carol Walsh 990 NW Highland Terrace Ave

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0027_03212025_WALSH_Carol.pdf

Tremaine Arkley 9775 Hultman Rd Independence, OR 97351

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0065_09262025_Mail_ARKLEY_Tremaine.pdf

Ken Kenaston 2870 SW Morris Ave, Corvallis, OR 97333.

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0130_10052025_Email_KENASTON_Ken.pdf

Ken Kenaston 2870 SW Morris Ave, Corvallis, OR 97333

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0131_10052025_Email_KENASTON_Ken.pdf

Steve Michaels 1215 NW Kainui Drive Corvallis, Oregon

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0151_10062025_Email_MICHAELS_Steve.pdf

Greg Paulson 993 NW Cypress Ave, Corvallis, 97330

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0166_10062025_Form_PAULSON_Gregory.pdf

SUMMARY

If the staff proposed conditions of approval, OP-2 and OP-4, for off-site odor prevention and mitigation are examples of things the Commissioners believe are going to make it OK to approve this application, Commissioners are sadly mistaken, and the Commissioners will be doing a profound disservice to constituents, visitors, and wildlife.

Commissioners, you have discretion in making this decision. There is plenty of evidence in the record regarding odor impacts from the proposed expansion and documenting serious interference with uses on adjacent property.

The burden of proof is on the applicant to demonstrate that their proposed use (even with the Conditions) will not violate the criteria (BCC53.215(1)). They have not met that burden of proof.

Proposed Finding (Odor): The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts of odor. It has not been demonstrated that odor impacts can or will be mitigated through conditions of approval to not “seriously interfere” with adjacent properties, or with the character of the area. BCC 53.215(1).

PROPOSED FINDINGS - GROUNDWATER QUALITY

The Applicant has not met the burden of proof to demonstrate that groundwater quality will be protected sufficiently to avoid impacts on uses of adjacent property and no undue burden on public utilities.

The Applicant's claims regarding protection of groundwater quality are based on two presumptions:

- That their landfill liner system will not leak.
- That their sparse network of monitoring wells will detect leachate plumes resulting from any leaks that do occur.

The first of these presumptions runs counter to the conclusions of the US EPA, which has been cited multiple times in the record. On other matters, the Applicant has urged deference to the expertise of the US EPA. But on this matter, they ask for deference their own speculative prediction that their new liner system will not fail.

The second presumption runs counter to the analysis of independent experts on the Benton County Disposal Site Advisory Committee (DSAC), given in a July 2025 subcommittee report which is also included in the record.

That report concludes that the existing monitoring wells are likely both too shallow and too sparse to be inadequate to be sure of detecting a leachate plume from the existing landfill. Specifically, regarding the east side of the development area, it states: *"Only three shallow wells in this critical area is not of adequate density to capture potential groundwater flow paths toward EE Wilson [Wildlife Area]."*

The applicant has not proposed any new compliance-boundary monitoring wells in that direction, so the current deficiencies in the monitoring program will be amplified by an expansion that will be a new potential source of contamination.

The proposed new conditions of approval that relate to groundwater quality (P1-1(B), P2-4(B) and OP-5(B)) are entirely focused on the area south of the landfill, despite that Applicant's consultants have repeatedly claimed that the expected direction of groundwater flow will be toward the north and east.

Thus these proposed conditions of approval do nothing to address risks to groundwater quality in the direction in which the Applicant claims that groundwater is most likely to move.

The Applicant has spent considerable effort on trying to dismiss concerns arising from anomalously high levels of arsenic toward the east of the existing landfill. However their arguments have not stood up to scientific scrutiny.

The issue remains unresolved due to the same limitations of their monitoring network, as identified in the DSAC subcommittee report. They have not accounted for the higher density of landfill leachate, which (as demonstrated by modeling results included in the record) will cause a leachate plume to move downward relative to freshwater. This means that even if their compliance-boundary wells are in the right direction to intercept a plume from a leak, those wells are likely not deep enough.

A leachate plume migrating east from the landfill poses a threat to a regional resource, the Willamette basin-fill aquifer. This is relied on not just by nearby residents and landowners, but by the Luckiamute Domestic Water Cooperative and the City of Independence, both of which have well fields as have been mentioned in public testimony.

The record shows no evidence that either the Luckiamute Domestic Water Cooperative or the City of Independence were notified or requested to comment. The Luckiamute Watershed Council has stated their opposition to the proposed new landfill, citing (among other reasons)

The evidence in the record as to concerns about protecting groundwater quality and deficiencies in Republic's groundwater monitoring network is significant, for example:

Luckiamute Watershed Council / Jordan Perez

"Expanding the landfill would increase leachate volume in a region with high rainfall and complex hydrology. Runoff and leachate enter Soap Creek, which flows into the Luckiamute River just upstream of the Luckiamute State Natural Area, a vital habitat for fish, wildlife, and native vegetation. This increases the risk of pollutants such as heavy metals and PFAS reaching both the Luckiamute and Willamette Rivers. PFAS are persistent, toxic, and are known to be detected in all fish tissue sampled downstream of landfill leachate sites, posing risks to ecosystem health. The Willamette basin-fill aquifer beneath and around Coffin Butte provides essential groundwater for Polk County farms and rural residents. Landfill liners are known to fail over time, jeopardizing these critical water resources. Expansion would further increase waste load, heightening long-term risks to wetlands and critical buffer areas. The buffers required as part of Coffin Butte's permit have become overrun with invasive species such as yellow-flag iris, reed canary grass, meadow knapweed, and bamboo, which spread along Soap Creek and into nearby habitats. Spread of invasives undermines years of restoration efforts and suggests that expansion would only amplify ecological damage to these areas."

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0394_10152025_Email_PEREZ_Jordan_Luckiamute-Watershed-Council.pdf

DSAC Groundwater Subcommittee. Considerations for Improving the Groundwater/Surface Water Monitoring System. July 9, 2025

"Well Assessment. Monitoring wells currently used in the compliance and detection systems vary in age dating back to the late -1970s. However, the majority of the wells and piezometers currently in use were installed in the mid-1990s (about 30 years ago). While there is no recognized functional life of a monitoring well, processes such as sedimentation, mineralization and biofouling within the well can inhibit the long-term effectiveness of the well. An assessment of the condition of these wells was not found in this review."

"Additional East Side Wells. The two east-side compliance wells (26 and 27) were drilled in 2011, and are completed in low permeability silt and clay. These two well locations are important because they are intended to monitor potential impacts from recent and ongoing landfilling operations in cells 4 and 5A. Along with well 9S, wells 26 and 27 are the only groundwater monitoring points between the landfill and the EE Wilson Wildlife Area. Only three shallow wells in this critical area is not of adequate density to capture potential groundwater flow paths toward EE Wilson. It is recommended that at least one additional well be placed north of well 27 to monitor groundwater closer to cell 5a. The representativeness of samples from well 26 should be further evaluated because the water levels in the well do not appear to respond to seasonal variations in rainfall similar to other site wells. It is possible that well 26 is hydraulically connected to the adjacent storm water pond, and samples may not be fully representative of groundwater. This recommendation may be conducted under the well assessment (see above item #1).

The annual reports identify the difficulty in sampling wells 26 and 27 because of low recharge rates. The geologic logs for these two wells show they are completed in clay and silt. It would be beneficial to understand the full thickness and depth of this low permeability clay material, and most importantly at what depth does the clay contact the more permeable underlying basalt. This geologic information is not shown on the drilling logs. Deeper wells in this area, completed across the clay/basalt contact, should be considered to be certain that deeper, more transmissive groundwater flow paths toward EE Wilson are adequately monitored."

"EE Wilson. Well 9S, located near Hwy 99W, is the closest monitoring well to EE Wilson. The companion well 9D was abandoned during drilling because pressurized saline water was encountered around 100 feet in depth. The saline water was reported as connate water (water of deposition). Because of the lack of a deep downgradient well on the east side, installing several shallow/deep well pairs on EE Wilson property near 99W should be considered to help ensure this wildlife area is protected."

"The SWDP 306 requires sampling of Soap Creek because it is likely that groundwater flowing from the western boundary of the landfill discharges to this surface water. Currently, samples from Soap Creek appear to be collected by dipping a sample bottle or clean bucket directly into the stream. This is a poor technique to determine if groundwater discharge is occurring. Mixing and dilution with surface water would likely over-whelm any chemical signal resulting from groundwater discharge."

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0459_10182025_Email_GEIER_Joel.pdf

Adjacent Property Owner/Resident Testimony (J. Geier, Exhibit BC7.X, p. 1):

We and our neighbors rely on our wells for clean drinking water for our families, for livestock, and for irrigating our vegetable gardens and small-scale farms.

Adjacent Property Owner/Resident Testimony (J. Searls, Exhibit BC7.2, p. 2):

"I have concerns about how this will negatively impact my property and farm. It is our goal to provide perennial and annual crops for our community each year from our land- as well as provide farm services throughout the valley."

Adjacent Property Owner/Resident Testimony (I. Finn, Exhibit BC7.9, p. 2):

"Groundwater contamination & well reliability — My residence relies on a domestic well. Two older un-lined cells north of Coffin Butte Road (closed in the 1970s) reportedly generate ~2 million gallons of leachate annually, though no full estimate of groundwater migration is provided. Even modern lined cells are subject to eventual failure under heavy loading and puncture risk. Placing new cells closer to my well increases risk of contamination. Further, the proposal to excavate ~3.5 million cubic yards of material just north of my property will alter local hydrogeology, potentially dewatering or reducing yield of my well. Once impacted there can be no reasonable mitigation to repair the damage done to my water supply."

Adjacent Property Owner/Resident Testimony (R. Holdorf, Exhibit BC7.10, p. x):

"After 36 years, will we be forced to move? ... Will our well water become contaminated and undrinkable, or dry up?"

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0099_10032025_Email_HOLDORF_Rose.pdf

Adjacent Property Owner/Resident Testimony (A. Holdorf, Exhibit BC7.10, p. x):

"" We've stared with worry at our countertop water pitcher, wondering: How will we know if or when our groundwater is unsafe to drink? Will the first sign be a cancer diagnosis, a neurological condition? Why are we and our neighbors bearing the cost of the applicant's business operations?"

Adjacent Property Owner/Resident Testimony (G. Carlin, April 27, 2025):

"At Coffin Butte's proposed cell, even if best practices are followed, there is no guarantee that ground water won't be polluted, or that timely reporting will be done. Once neighborhood well water is polluted, the only recourses left neighbors are litigation and then relocation."

Page 4 of 8

PROPOSED FINDINGS - GROUNDWATER QUALITY

Adjacent Property Owners/Residents Ken and Sarah Edwardsson

Our property, and that of many surrounding parcels depend on well water as our primary source of drinking water. Additionally, spring water from Tampico Ridge is also the sole source for livestock watering in support of our farming activities. Despite historical ground and surface water contamination on record, and knowing that there is a fractured basalt system underlying the landfill site, contamination of our aquifer remains a significant risk to our livelihood, and to the value of our property. Benton County has not provided an assessment of the risk or mitigation plan to prevent a future aquifer contamination. Information and analysis conducted on the aquifer to date has been insufficient, on that basis we are strongly against a landfill expansion

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0196_10072025_Email_EDWARDDSSON_Ken-Sarah.pdf

Nearby property owner/resident: Priya Thakkar

*"My family has a well that can be disrupted by the proposed expansion that would disrupt the function of the area's water. Mining a huge hole around the new proposed site can affect water levels in the area, potentially reducing the water levels and causing our well to run dry ... affecting our ability to provide water for our garden, water for our animals, and water for our family. We rely on water for just about every facet of our life in this area, so this would seriously interfere with the character of the area and cause an undue burden on the local residents. **This clearly interferes with uses of nearby property and character of the area BCC 53.215 (1)**"*

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0133_10052025_Email_THAKKAR_Priya.pdf

Nearby resident/property owner Doug Pollock

"there is no regular, independent auditing process to ensure compliance with the landfill's operating permit and waste management laws. If there were a regular, independent auditing process for solid waste, I am certain its findings would reflect my findings: hazardous and prohibited items are routinely disposed of in the solid waste, in violation of state laws; there is currently no effective enforcement mechanism to ensure compliance or hold organizations responsible.

Given this situation, approving the landfill expansion would be irresponsible and would certainly increase and perpetuate waste violations. These hazardous/prohibited materials would further contribute to the dump's toxic legacy. This includes direct emissions from the

landfill, as well as the hazardous leachate which currently ends up in the Willamette River, without treatment for many highly toxic compounds, including PFAS chemicals. This toxic legacy clearly imposes "an undue burden on public resources", in violation of Benton County Code 53.215 (1) and (2)."

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0482_10192025_Email_POLL_OCK_Doug.pdf

Nearby residents/property owners Debora L. and K. Norman Johnson

Over the past 30 years we have watched as:

- *The landfill's wetland mitigation projects have gone from ponds with native plant species heavily used by waterfowl, to ponds overgrown by invasive species....*

We oppose the landfill expansion proposal because we believe that:

- *The natural environment on the lands owned by Republic Services in and around the landfill will continue to be degraded and destroyed.*
- *The expansion that we have watched over the past 30 years that has resulted in most of the refuse coming from distant locations has impacted both the community and the environment. The landfill was poorly located in and around wetlands out of necessity for the 40,000 troops housed at Camp Adair during WWII. Expanding the landfill in this fragile environment should not be continued.*
- *The groundwater that provides the water that we drink and the water we use for our large vegetable gardens could be irreversibly contaminated.*

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0341_10132025_Email_JOHN_SON_DeboraandNorm.pdf

Former Planning Commission member Jennifer Gervais

"Leachate disposal is not the only drinking water concern. So far, there are no good data on whether chemicals from the landfill are leaching into local aquifers and wells. It seems that there have not been comprehensive, systematic surveys. However, some of the landfill cells are unlined, others may not be, and all liners eventually fail. Who will try to clean the aquifer? Who will pay for it? Is it even possible? Likely not. Potable water is a precious and increasingly rare public resource. Risking it so Republic Services can make more money at

our expense seems a poor return on County investment. We've already got the problem. Why are we risking making it even worse?"

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0408_10152025_Email_GERV_AIS_Jennifer.pdf

Corvallis resident Greg Shiffer

"The expansion of the Coffin Butte landfill would generate millions of additional gallons of leachate each year contaminated with PFAS, heavy metals, and other hazardous pollutants that currently pass through the Corvallis and Salem wastewater treatment plants largely unfiltered and enter the Willamette River, not to mention the unknown quantities of leachate that inevitably enter the groundwater and the river completely untreated. And I say inevitably because any reputable scientist will tell you that all landfill liners eventually leak (the EPA has acknowledged this as well), and monitoring systems only detect a fraction of the these leaks."

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC2_T0661_10232025_Hearing_SHIFFER_Greg.pdf

Nearby resident and business owner: Emily Wells, Nature's Way Playschool

We cannot teach children to care for the natural world while allowing it to be irreplaceably abused and destroyed in their own backyard. My child drinks the water here. My students drink the water here. We must be able to trust its safety. The choice before you is simple: protect the health of our children and the environment they will inherit—or prioritize the expansion of a landfill and the profits of an out-of-state corporation.

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0262_10072025_Email_WELLS_Emily.pdf

Nearby property owner Margaret Herring:

I purchased my home on Soap Creek Road (37831) in 1990, where my husband and I lived for 22 years and raised our two children. We still own our home in the Soap Creek Valley. ... But it is what we cannot see that worries us the most. ... We have learned that the geology of the valley allows seepage of toxins into our wells that we depend on for drinking water.

We have learned that PFAS and other toxins from landfill leachate are released into the Willamette River that we had trusted to be clean enough for our children to swim.

[https://www.bentoncountyor.gov/wp-content/uploads/LU-24-](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0272_10082025_Form_HERRI)

[027/BoardOfCommissioners/Written%20Testimony/BOC1_T0272_10082025_Form_HERRI](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0272_10082025_Form_HERRI)
[NG_Margaret.pdf](https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0272_10082025_Form_HERRI)

SUMMARY

The Applicant has not met the burden of proof to demonstrate that groundwater quality will be protected sufficiently to avoid impacts on uses of adjacent property and no undue burden on public utilities.

The Applicant's claims regarding the efficacy of their liner system and groundwater quality monitoring wells are contradicted by conclusions of the US EPA regarding landfill liners, and by the Benton County DSAC regarding the monitoring network.

The proposed new conditions of approval that relate to groundwater quality (P1-1(B), P2-4(B) and OP-5(B)) do nothing to address the risk of contaminants moving east from the development area.

The burden of proof is on the applicant to demonstrate that their proposed use (even with the Conditions) will not violate the criteria (BCC53.215(1)). They have not met that burden of proof.

Proposed Finding (Groundwater Availability): The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts on groundwater quantity and availability in wells and natural springs, as well as soil moisture for tree farms. The applicant's consultants propose future studies to evaluate the possibility of significant uncertainties on this issue, but only after granting of this application, and with no clear, legally binding process for evaluation of results or mitigation in the event of impacts that "seriously interfere" with adjacent properties, or with the character of the area. County staff have acknowledged their lack of expertise to evaluate groundwater quantity and availability issues, and have not demonstrated the capacity for assessing or enforcing the applicant's proposed conditions of approval to address potential impacts to groundwater availability. Thus, it has not been demonstrated that impacts upon groundwater wells, natural springs, and soil moisture can or will be mitigated through conditions of approval to not "seriously interfere" with adjacent properties, or with the character of the area. BCC 53.215(1).

PROPOSED FINDINGS - GROUNDWATER AVAILABILITY (QUANTITY)

The Applicant's own evidence shows that groundwater levels on adjacent properties south of their proposed development could be negatively impacted by as much as 17 feet. This impact results from their need to excavate a large hole on the north end of Tampico Ridge, in order to accommodate the proposed new landfill.

The Applicant's consultants acknowledge that impacts on groundwater are uncertain due to the complicated nature of groundwater connections in bedrock of this type (fractured basalt). Alternative calculations by an expert in fractured rock hydrogeology show that the impacts on water levels could be worse, possibly as severe as 100 ft in certain cases.

Lowering of groundwater levels, even if no worse than predicted by the Applicant's consultants, would interfere with established uses on adjacent properties in three main ways:

- Reduction in soil moisture in the root zones of trees, resulting in a reduction or loss of timber production on private forestland.
- Reduction or loss of flow to natural springs and spring-fed ponds that support livestock and wildlife.
- Reduction or loss of flow to wells that provide water for household use, livestock, vegetable gardens, and small farms.

Each of these impacts, in itself, is sufficient cause to reject this application under BCC 53.215 (1).

These impacts, elaborated in more detail below, are possible on at least ten properties included within the Applicant's delineation of adjacent properties (Kipper, Carlin, Fick/Finn, Bradley, Holdorf, Searls, Merrill, Frazier/Davis, Gibbs, and Edwardsson properties). Thus this finding is not subject to challenge based on differing interpretations of the term "adjacent."

The related conditions of approval proposed by Applicant, county staff and their consultants (P1-1(A), P2-4(A) and OP-5(A)), fail to provide reasonable assurance that significant impacts on adjacent uses can be prevented.

Benton County Code does not have any procedure for revocation of a conditional use permit, once issued. Enforcement would require lengthy and expensive judicial proceedings and would be totally funded by the County. Republic will not pay Benton County to sue them to force compliance. If conditions of approval are not met, there is no practical means of enforcement, and the violations will continue unabated.

Neither the Applicant nor county staff nor their consultants have provided any supporting analysis to demonstrate that the proposed site investigation and monitoring plan called for in P1-1(A) and P2-4(A) will be sufficient to identify the risk of impacts before they occur and become permanent. In particular, neither analysis nor reasoning is provided to explain why four "sentinel wells" will be sufficient, nor where those wells

should be placed to guarantee their effectiveness as "sentinels" to give advance notice of potential impacts on adjacent properties.

None of these proposed conditions of approval provide any means of mitigation or remedy, in the event of actual impacts, beyond a weak statement that "VLI will conduct outreach to those property owners to evaluate and implement mutually agreeable solutions."

All of the proposed conditions give wide latitude for the Applicant to give their own interpretation of whether not an actual impact occurs, with no clear framework for independent review and adjudication.

Most notably, none of the proposed conditions of approval are relevant to the potential impacts on soil moisture in the root zones of trees on Tampico Ridge. Neither the Applicant nor County staff have anticipated or addressed this impact.

Reduction in soil moisture in the root zones of trees is a natural consequence of lower groundwater levels. During periods of the year without rainfall, soil moisture is maintained by capillary action which draws water up from water-saturated portions of the rock or soil. Thus when groundwater levels fall, soil moisture levels also fall.

The importance of soil moisture for timber production is clear from the title of an article cited in written testimony¹: "Soil moisture is a main driver of growth response of coastal Douglas-fir with high spatial variability."

As stated in verbal testimony (Robert Kipper, October 23), lower soil moisture would result in slower growth of Douglas-fir on the Kipper family's woodlot, resulting in fewer board-feet of production per year.

When combined with summer drought and/or more extreme climate events such as heat domes, cited in written testimony (Bob Kipper, October 6, 2025), low soil moisture could lead to drought stress, tree death, and elevated wildfire risk which could have devastating consequences for the Kipper family's woodlot.

Reduction or loss of flow to natural springs and spring-fed ponds would clearly impact existing uses, including livestock grazing and enjoyment of wildlife, which have been cited in written and verbal testimony by multiple owners/residents of adjacent properties.

At least one natural spring on Tampico Ridge, on adjacent property close to the boundary of the development area, has a water right registered with the Oregon Water Resources Department (OWRD) under certificate number 70845, as stated in testimony by Richard Kipper.

¹ BOC1_T0548 - Oct 20, 2025 - GEIER Joel, p.8

OWRD is the state agency with primary responsibility for groundwater quantity, as made clear by the Oregon Legislative Policy and Research Office², but OWRD has not been consulted in this process. Staff have instead improperly deferred to the Applicant's claim that Oregon DEQ regulates all aspects of groundwater.

Reduction or loss of flow to wells would be a serious disruption of both residential and agricultural uses of adjacent property.

Written testimony has stated that many wells on Tampico Ridge have pumps placed in fractured zones within the basalt, as documented by well drilling logs on file with OWRD. If the seasonal water level in a well drops below that level due to impacts of this development, the pump will not produce water.

Written testimony (Geier, October 20, 2025) also notes that deepening a well may not be an option due to the risk of saline water at greater depths. This risk is borne out by the DSAC subcommittee report on groundwater monitoring (also on record) which notes saline water at 100 ft depth in Republic's own well, MW-9D.

Thus even if the Applicant agrees to pay to deepen an impacted well, there is no guarantee that this will yield usable water. Other potential remedies (such as installing water tanks and having water trucked in) would amount to a permanent impact on use of those properties.

The Applicant has failed to demonstrate that the proposed development would not put household wells, irrigation wells, natural springs, and seasonal soil moisture levels at risk. **Thus the Applicant has not met their burden of proof to show that these foreseeable impacts on existing uses can be prevented or even mitigated.**

The evidence in the record regarding these concerns is substantial, including but not limited to:

- ENRAC (Record ID. BC015 Compiled Agency Comments, p. 50)
- J. Searls (Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 318)
- C. Merrill (Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338 – 339)
- D. Hackleman (Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 351)
- B. Briskey (Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 356)

The following statements are highlighted.

² Groundwater Management in Oregon. Report by Legislative Policy and Research Office (LPRO), January 10, 2025. Attached as Exhibit 1.

Adjacent Property Owner/Resident Testimony (Ro. Kipper, Exhibit BC7.X, p. 1):

"I am a private citizen speaking on behalf of my family's fourth generation 80 acre woodlot north of Corvallis (Benton County Tax Account Numbers 005920 and 314862). Our Douglas fir timber stand is directly adjacent to the Republic Services' southern Coffin Butte Landfill buffer zone."
https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0173_10062025_Email_KIPPER_Robert.pdf

Adjacent Property Owner/Resident Testimony (Richard Kipper, Exhibit BC7.X, p. 1):

"I am writing on behalf of my family's 80-acres located on the east slope of Tampico Ridge adjacent to Oregon highway 99W. This property has been in our family since the 1940's and is an important part of our family history going on four generations now. The property ... includes a persistent natural pond fed by hillside springs that is frequently visited by wildlife. Our Douglas fir timber forest continues from the corner down the slope to the east to 99W directly adjacent to the Republic Services' southern Coffin Butte Landfill buffer zone. Several year-round springs flow from the hillside that maintain our persistent pond used by wildlife as documented by our trail camera. Cougar, bobcat, black bear, deer, elk and all species identified in the applicant's wildlife report frequent this area on and between our property and the landfill's conservation zone.

We also consider this persistent pond as potentially being used in a fire emergency. Our water right to the pond is recorded with the state water resources department under certificate number 70845 (HB-2153).

This then is the second even larger objection to the proposed expansion of landfill activities on to our ridge. The likely drying out of our year-round springs and loss of the persistent pond would forever alter the traditional use and character of our property. Republic Services' analysis of the hydrology of the water that flows through and out of this basalt ridge is inadequate to have any assurance this expansion on to Tampico Ridge will not destroy our water sources. It is not unreasonable to think the hard rock blasting and excavation of a deep hole necessary to prepare the proposed new cell, and the excavation of larger and deeper leachate retention pond on the north side will inevitably pull water toward these massive holes and away from our northeast side of the ridge, drying out our year-round springs. This ... is a most unacceptable change to the use and character of our adjoining property [Benton County Code 53.215 (1)]"

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0174_10062025_Email_KIPPER_Richard.pdf

Adjacent Property Owner/Resident Testimony: Ken and Sarah Edwardsson,

"Our property, and that of many surrounding parcels depend on well water as our primary source of drinking water. Additionally, spring water from Tampico Ridge is also the sole source for livestock watering in support of our farming activities. ...Information and analysis conducted on the aquifer to date has been insufficient , on that basis we are strongly against a landfill expansion."

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0196_10072025_Email_EDWAROSSON_Ken-Sarah.pdf

Adjacent Property Owner/Resident Testimony (J. Geier, Exhibit BC7.X, p. 1):

We and our neighbors rely on our wells for clean drinking water for our families, for livestock, and for irrigating our vegetable gardens and small-scale farms.

Adjacent Property Owner/Resident Testimony (J. Searls, Exhibit BC7.2, p. 2):

"I have concerns about how this will negatively impact my property and farm. It is our goal to provide perennial and annual crops for our community each year from our land- as well as provide farm services throughout the valley."

Adjacent Property Owner/Resident Testimony (E. Bradley, Exhibit BC7.X, p. 2):

"Expanding the landfill ...would almost certainly compromise our water source , placing our farm's well ... at risk."

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/PlanningCommission/Public%20Testimony/T0739_06302025_BRADLEY_Erin.pdf

Adjacent Property Owner/Resident Testimony (J. Searls, Exhibit BC7.2, p. 2):

"I have concerns about how this will negatively impact my property and farm. It is our goal to provide perennial and annual crops for our community each year from our land- as well as provide farm services throughout the valley."

Adjacent Property Owner/Resident Testimony (I. Finn, Exhibit BC7.9, p. 2):

"Groundwater contamination & well reliability — My residence relies on a domestic well. Two older unlined cells north of Coffin Butte Road (closed in the 1970s) reportedly generate ~2 million gallons of leachate annually, though no full estimate of groundwater migration is provided. Even modern lined cells are subject to eventual failure under heavy loading and puncture risk. Placing new cells closer to my well increases risk of contamination. Further, the proposal to excavate ~3.5 million cubic yards of material just north of my property will alter local hydrogeology, potentially dewatering or reducing yield of my well. Once impacted there can be no reasonable mitigation to repair the damage done to my water supply."

Adjacent Property Owner/Resident Testimony (R. Holdorf, Exhibit BC7.10, p. 2):

"After 36 years, will we be forced to move? ... Will our well water become contaminated and undrinkable, or dry up?"

Nearby Property Owner/Resident Priya Thakkar 38987 Arena Rd

*"My family has a well that can be disrupted by the proposed expansion that would disrupt the function of the area's water. Mining a huge hole around the new proposed site can affect water levels in the area, **potentially ...causing our well water to be contaminated**, affecting our ability to provide water for our garden, water for our animals, and water for our family. We rely on water for just about every facet of our life in this area, so this would seriously interfere with the character of the area and cause an undue burden on the local residents. **This clearly interferes with uses of nearby property and character of the area BCC 53.215 (1)**"*

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0133_10052025_Email_THAKAR_Priya.pdf

Suzanne Ortiz 4580 NW University Pl Apt 2 Corvallis, OR 97330-1669

"The rock below the landfill site is fractured basalt and geologists & hydrologists gave testimony at the Planning Commission hearings about how water moves unpredictability through fractured basalt. The massive amount of rock that has to be hauled out of the ridge to make the crater for the new landfill will require detonations and Republic Services could not answer questions from immediate neighbors about their fears of having their well water disappear overnight. Republic Services will only begin to monitor the area after the landfill becomes operational, not before or during the preparation phase, and that will be too late for any landowner whose well water disappears."

https://www.bentoncountyor.gov/wp-content/uploads/LU-24-027/BoardOfCommissioners/Written%20Testimony/BOC1_T0265_10072025_Email_ORTIZ_Suzanne.pdf

SUMMARY

The Applicant's own evidence shows that groundwater levels on adjacent properties south of their proposed development could be negatively impacted.

Lowering of groundwater levels, even if no worse than predicted by the Applicant's consultants, would interfere with established uses on adjacent properties in three main ways:

- Reduction in soil moisture in the root zones of trees, resulting in a reduction or loss of timber production on private forestland.
- Reduction or loss of flow to natural springs and spring-fed ponds that support livestock and wildlife.
- Reduction or loss of flow to wells that provide water for household use, livestock, vegetable gardens, and small farms.

Each of these impacts, in itself, is sufficient cause to reject this application under BCC 53.215 (1).

These impacts are possible on at least ten properties included within the Applicant's delineation of adjacent properties, and thus this finding is not subject to challenge based on differing interpretations of the term "adjacent."

The conditions of approval proposed by Applicant, county staff and their consultants (P1-1(A), P2-4(A) and OP-5(A)) are not sufficient to guarantee that these impacts on existing uses can be prevented, nor do they provide any viable means to mitigate or remedy the impacts. The proposed conditions do not even address the risk that impacts on soil moisture due to lower groundwater levels could negatively impact existing forestry uses.

The burden of proof is on the applicant to demonstrate that their proposed use (even with the Conditions) will not violate the criteria (BCC53.215(1)). They have not met that burden of proof.

Proposed Finding (Groundwater Availability): The applicant has not met the required burden of proof with respect to serious interference with uses on adjacent property, or serious interference with the character of the area with respect to the impacts on groundwater quantity and availability in wells and natural springs, as well as soil moisture for tree farms. The applicant's consultants propose future studies to evaluate the possibility of significant uncertainties on this issue, but only after granting of this application, and with no clear, legally binding process for evaluation of results or mitigation in the event of impacts that "seriously interfere" with adjacent properties, or with the character of the area. The state agency with primary responsibility for groundwater quantity and administration of water rights, OWRD, has not been consulted. County staff have acknowledged their lack of expertise to evaluate groundwater quantity and availability issues, and have not demonstrated the capacity for assessing or enforcing the applicant's proposed conditions of approval to address potential impacts to groundwater availability. Thus, it has not been demonstrated that impacts upon groundwater wells, natural springs, and soil moisture can or will be mitigated through conditions of approval to not "seriously interfere" with adjacent properties, or with the character of the area. BCC 53.215(1).