

## PROPOSED CONDITIONS OF APPROVAL

June 13, 2025, Update

Applicant's proposal is hereby granted Preliminary Conditional Use Approval. Operating (Final) Approval is subject to completion of all Preliminary Approval Conditions listed below. Applicant shall adhere to the following conditions under the terms of approval of this Conditional Use Permit.

**Until Applicant completes the Preliminary Approval Conditions, Applicant shall not:**

- (A) Construct the internal haul road;
- (B) Construct the leachate ponds;
- (C) Construct the employee building; or
- (D) Construct the new landfill cell.

**Upon Applicant submitting** documentation demonstrating that the Preliminary Approval Conditions have been met, the Planning Official will issue a written notice of Operating Approval, at which time Applicant may initiate construction of items (A) through (D) above, subject to the Operating Approval Conditions below.

Operating Approval Conditions shall remain in effect for the duration of the Project. Failure by Applicant to comply with the Operating Approval Conditions may result in revocation of this Conditional Use Permit.

### **Preliminary Approval Conditions**

The following Preliminary Approval Conditions shall be completed during the four-year period that begins on the later of: (a) the date of final decision (including resolution of any appeals) of the Conditional Use Permit; or (b) from the date of Oregon Department of Environmental Quality (DEQ) approval of all required environmental permits (the "Preliminary Approval Period"). The Planning Official may grant one extension for up to a year prior to the expiration of the Preliminary Approval Period if Applicant makes a written extension request stating the reasons preventing completion within the Preliminary Approval Period. Failure to commence the Preliminary Approval Conditions within the Preliminary Approval Period shall render this Conditional Use Permit void.

**Phase 1 Preliminary Approval Conditions.** Only those activities necessary to complete the following conditions are authorized until all of these Phase 1 Preliminary Approval Conditions have been met.

**PA-1 Wetlands.** On Tax Lot 1200, Applicant shall prepare and obtain approval from the Oregon Department of State Lands of a wetland delineation. Applicant shall not locate any portion of the Project within the mitigation wetland and required buffer of the mitigation wetland as shown in Applicant's Exhibit 2.

**PA-2 Site Plan Map.** Applicant shall submit to the Planning Official a final site plan map of the approved proposal. The map shall contain a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.

**PA-3 Covenant.** If not already completed, the property owner shall sign a declaratory statement to be recorded into the County Deed Records for the subject property on which the conditional use is located that recognizes the rights of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules, and that recognizes the hazards associated with the area.

**PA-4 Screening.** Applicant shall install the landscape screening as shown in Applicant's Exhibit 2 and the Site Development Plan. The trees shall be at least eight feet tall upon planting and be of a species to reach a height of at least 40 feet upon maturity.

**Phase 2 Preliminary Approval Conditions.** Upon completion of the Phase 1 Preliminary Approval Conditions, Applicant may initiate the ground-disturbing activities identified in the following Phase 2 Preliminary Approval Conditions. Elements of this phase that do not include ground disturbance may be initiated in Phase 1.

**PA-5 Public Works.**

(A) Applicant shall provide calculations, design, and specifications for all proposed public infrastructure to Benton County Public Works staff for review and approval.

(B) Prior to receiving operating approval of this Conditional Use Permit, Applicant shall fulfill ONE of the following TWO options to meet the conditions for improvements noted above:

(i) Applicant shall construct the improvements noted above as required,  
OR

(ii) Applicant shall enter into an Agreement for Improvements (AFI) with the County. The AFI will require security for the full amount of the work to be

performed, plus a 20 percent contingency. The security may take the form of a bond, a conditional irrevocable line of credit, or a cash deposit. The security serves to ensure faithful performance of the required improvements, as outlined above, within 18 months of execution of the AFI.

(C) Upon completion of the proposed improvements to Coffin Butte Road as shown in the Engineer Plans attached as Applicant's Exhibit 2 and acceptance by the County Engineer, Applicant shall dedicate the improvements and any necessary additional right-of-way to the County.

(D) Applicant shall apply for and obtain a Post-Construction Stormwater Permit as required by BCC 99.670.

**PA-6 Construction Phase.** During construction of the expansion area for commercial use (construction of the leachate ponds, haul road, new landfill cell, and employee building), Applicant shall:

(A) Limit construction to the hours of 6 a.m. to 6 p.m.

(B) Limit any required blasting to the hours of 12 p.m. to 5 p.m.

(C) Conduct all blasting pursuant to its approved permit issue by the Oregon Department of Geology and Mineral Industries (DOGAMI).

(D) Obtain all required permits applicable to the work.

(E) Comply with all applicable DEQ regulations applicable to the work.

**Operating Approval Conditions (to be met for the duration of the Project).**

**OA-1 Hours of Operation.** Operating hours for disposal of waste in the landfill shall be as follows:

(A) Monday through Saturday, the site may open to commercial customers using the commercial tipping area starting at 5 a.m. and to all other customers starting at 8 a.m. The site shall close to both commercial and other customers at 5 p.m.

(B) On Sunday, the site will not open to any customers before 12 p.m. and will close to all customers no later than 5 p.m.

(C) Internal operations, including opening and closing of the site and equipment preparation and inspection, shall start no earlier than one hour prior to opening the site for commercial customers and shall conclude no later than two hours after closing the site to all customers.

(D) Following the start of commercial operations in the expansion area, scheduled infrastructure construction projects, such as new cell and gas facilities construction and road and driveway improvements, will be limited to the hours that the landfill is open to commercial customers. Emergency construction may occur outside these hours. An “emergency” is any unforeseen site condition that could result in property damage, affect site safety, or create negative off-site impacts.

(E) Staff or consultants may be on site or visit the site after the hours listed in sections A through D above for security, when necessary to respond to complaints or concerns, for equipment cleaning and maintenance, or to ensure that leachate disposal is adequately managed.

(F) During an emergency or when requested by a federal, state, or Benton County agency, Applicant may open the landfill outside the hours listed in sections A through D above.

#### **OA-2 Noise.**

(A) Prior to the start of commercial operations in the expansion area, Applicant shall verify by field measurement using a Type 1 sound level meter and overseen by a licensed engineer in the state of Oregon that sound levels of on-site equipment have been reduced by at least 10 dB compared to levels in Table 5.3 of the Noise Study dated September 25, 2023 (Applicant’s Exhibit 11). Mitigation measures could include but would not be limited to upgraded engine mufflers, quieter equipment, and local noise barriers around stationary equipment. This condition is limited to on-site vehicles. To verify equipment sound levels, remain 10 dB below the levels shown in the Noise Study:

(i) Sound levels from on-site equipment will be measured at least once each week using a sound level meter or application installed on a mobile device.

(ii) Additional measurements will be made every three years after commencement of operations in the expansion area using a Type 1 sound level meter and will be overseen by a licensed engineer in the state of Oregon. These triennial measurements will be used to prepare updated noise studies.

(B) Prior to the start of commercial operations in the expansion area, Applicant shall replace all tonal back-up alarms on its on-site equipment with ambient sensing back-up alarms.

**OA-3 Maintenance of Tree Buffer.** Applicant shall maintain the existing tree buffer along Hwy 99W and the new screening measures required in PA-4 above. Applicant will replace any dead trees during the rainy season.

**OA-4 Blue Heron Rookeries.** Applicant shall continue to monitor the eastern Great Blue Heron rookery in 2025, as recommended in Applicant's Addendum to the Final 2024 Wildlife Habitat Assessment and Surveys attached as Applicant's Exhibit 3. Applicant shall protect the eastern rookery and buffer areas as set forth in Exhibit 3 unless and until it is determined to be abandoned under the rules of the Oregon Department of Fish and Wildlife following the 2025 survey. Applicant shall comply with all Forest Practices Act requirements with regard to any active Great Blue Heron rookery.

**OA-6 Outdoor Lighting.** On all outdoor lighting, Applicant shall install light shields or use lights with the correct beam angle encased above and to the sides in order to channel the light downward and reduce the amount of light pollution.

**OA-7 Maximum Elevation.** The final grade of the new landfill cell shall not exceed 450 feet above mean sea level in elevation.

**OA-8 Compliance with Application Materials.** Applicant shall construct and operate the expanded landfill as described in the application materials, except as modified by these conditions of approval.

**OA-9 Odor Monitoring and Mitigation.**

(A) After Applicant completes construction of the new landfill cell, but prior to commencing disposal operations, Applicant shall determine a minimum of four odor survey points located on the perimeter of the development site boundary. Applicant shall designate two site personnel to be trained to detect odors on an n-butanol scale by using a Nasal Ranger Field Olfactometer or comparable technology. Each working day, one of the trained personnel will conduct at least one odor survey at each odor survey point and record the observations on a survey form, including data about the time, location, weather conditions, and intensity and description of any odor. If odors are detected, steps shall be taken to attempt to identify the source. If it is determined to be attributable to the Project, Applicant shall mitigate the source of the odor consistent with the practices set forth in Applicant's Exhibits 12 and 15. Applicant shall maintain the survey documentation and documentation about steps taken to mitigate odors detected at the survey points for a minimum of four years. A summary format of the information will be provided in Applicant's annual report to the County. In addition, while site personnel is conducting the daily odor patrol, he/she will wear a portable gas monitor (or similar portable device) set to measure the level of hydrogen sulfide (H<sub>2</sub>S), which at certain thresholds can indicate the presence of landfill gas odors. The monitor will be set to an appropriate threshold; if the monitor detects levels of H<sub>2</sub>S above the threshold, it will be recorded in the survey documentation and site personnel will promptly attempt to identify and mitigate the source of the elevated level if it is determined to be attributable to the Project.

(B) Applicant shall maintain a log of odor complaints that are received directly by the landfill (via phone, e-mail, or website) to include the following information (if provided): date, time, person making complaint, and location of reported odor. Applicant will maintain the log of odor complaints for five years. Applicant shall also maintain any odor complaints received via ODEQ for five years. Odor complaints which are verified by site personnel shall be remediated where possible.

**OA-10 Maintenance of Other Required Permits.** Applicant shall obtain and maintain all required federal, state, and Benton County permits for construction and operation of the landfill. Applicant shall file copies of all such permits with the Benton County Planning and Development Department within 30 days of issuance.

**OA-11 Compliance with Archeological Report Conditions.** Applicant will comply with the operational conditions set forth in Applicant's Exhibit 26.

**OA-12 Environmental Regulations.** Applicant shall comply with all applicable regulations adopted by DEQ, the United States Environmental Protection Agency (EPA), or any other agency of competent jurisdiction with regard to PFAS/PFOA, methane, and any other landfill gas component.

**OA-13 Site Operations.**

(A) The working face (area of active disposal operations) shall not exceed two acres in size unless it is necessary to increase the size to accommodate disposal due to a natural disaster such as a fire or other event requiring a larger working face to meet public health needs.

(B) Applicant shall install daily cover over the working face at the conclusion of every day that the expansion area is open to the public.

(C) Applicant shall provide interim daily cover of twelve inches of compacted soil on all areas of the expansion area not actively receiving waste in compliance with applicable rules and regulations.

(D) Applicant shall keep all landfill infrastructure in good repair, and shall repair as promptly as possible any disabled, damaged, or nonworking infrastructure.

(E) Applicant shall not develop a use, construct any structures, or make any site improvements that are not contained in the approved site plan (Applicant's Exhibit 2) unless such uses or facilities are outright permitted uses in the zone. Any other structures, uses, or site improvement not shown in the approved site plan will require a conditional use permit to modify the site plan.

(F) Applicant shall not accept regulated hazardous waste as defined in 40 CFR 258.20(b) at the site.

(G) Groundwater sampling wells shall be installed as provided in Applicant's Exhibit 2 and monitored in accordance with state and federal requirements.

(H) Litter-control patrols shall be performed at the site a minimum of once per week. Applicant shall take reasonable efforts to prevent litter from leaving the site.

#### **OA-15 Fire Protection.**

(A) Applicant shall maintain the 4000-gallon water truck in good repair so that it is fully available at all times to help extinguish fires. At such time as Applicant may replace or update the water truck or other firefighting infrastructure in the expansion area, such new truck or equipment will provide protection equal to or better than the truck or equipment being replaced.

(B) Applicant shall maintain a log of all fire incidents on Applicant's property use for landfill activities and accessory uses. Applicant will provide a verbal report of any fire events that have occurred since the last meeting at each Benton County Disposal Site Advisory Committee meeting. Applicant shall ensure that it is reporting such fire incidents to DEQ.

(C) Applicant shall conduct semi-annual fire-protection and emergency-preparedness training of its on-site personnel.

#### **OA-16 Groundwater Monitoring.**

(A) Well Volume Impacts. The Applicant shall take the follow methodological, step-by-approach to monitoring and evaluation of potential groundwater impacts to wells on adjacent properties.

(i) As part of the proposed expansion project and prior to excavation of the new cell in the expansion area, a network of four monitoring wells will be constructed along the southern side of the development.

(Anticipated/approximate well locations are shown on Exhibit 50, though terrain and other ground conditions may dictate some adjustment in placement). Water levels in these four wells will be regularly monitored as part of the CBL routine monitoring program. These wells will effectively function as "sentinel" wells to provide an added level of monitoring.

(ii) Should these four new wells show four successive decreases demonstrating a 10% decrease in the potentiometric surface over the baseline established prior to excavation, or a dramatic change across two events (not associated with local climactic conditions or residential water use), the Applicant will request the ability to evaluate yield and water levels at residential wells. As part of this analysis VLI may install additional sentinel wells to the south of the four new monitoring wells.

(iii) If the sentinel wells show a decrease that is affecting neighbors that is unrelated to local climate conditions or changes in residential use, VLI will conduct outreach to those neighbors to evaluate and implement mutually agreeable solutions at VLI's expense.

(iv) VLI will remain open to discussion with interested residents about their wells and water levels and will promptly respond to any concerns or complaints.

(B) **Arsenic.** The four sentinel wells noted above will also be used to obtain background water quality data prior to placement of waste in the new cell. In addition, the Applicant, subject to property-owner approval, will sample the domestic water wells immediately south of the landfill (i.e., along Blaze Drive and Ploughshares Road) for arsenic once a year to track levels moving forward. This sampling program will begin before landfill construction to establish a baseline for arsenic concentrations in those wells. If changes in arsenic concentrations above baseline levels are measured and can be attributed to landfill operations, the Applicant will work with property owners to remedy the condition.

#### **Advisory Notices.**

**Advisory 1. Endangered Species Act.** Federal law requires that Applicant comply with the federal Endangered Species Act and is responsible for obtaining any required permit approvals from the U.S. Fish and Wildlife Service. Failure to do so may be a violation of federal law.

#### **Advisory 2. Public Works.**

(A) Existing survey monuments must be preserved and protected. Any survey monuments disturbed during construction must be replaced at the expense of Applicant or Applicant's contractor.

(B) All public improvements shall be subject to a three-year warranty period. At the start of the three-year warranty period, Applicant shall provide Benton County Public Works with a warranty bond in the amount of 15 percent of the value of the work performed within the Benton County right-of-way.

(C) Applicant shall apply and obtain approval for a Permit to Perform Work in the Benton County right-of-way for all work within County rights-of-way. The permit will be issued when construction drawings are approved and all supporting documentation has been provided to the County.

(D) Applicant shall provide the County with a unit-price cost estimate for the work to be performed within Benton County rights-of-way. This estimate shall include trenching, backfilling, paving, striping, signing, grading/restoration, seeding, mulching,



fence replacement, and any required landscaping. Permit fees will be 4 percent of the estimate provided.

(E) Applicant shall obtain a DEQ 1200-C permit and a Benton County ESC permit prior to the start of land-disturbing activities.

(F) Applicant shall obtain approval for all required local, state, and federal permits prior to start of land-disturbing activities.

(G) Construction and post-construction storm drainage discharge shall conform to the standards and tenets established by Oregon Drainage Law and shall conform to all DEQ and Benton County stormwater quality standards using Oregon Department of Transportation erosion- and sediment-control details and best management practices.

**Advisory 3. Wetlands.** Prior to ground disturbance, Applicant shall prepare and obtain approval from the Oregon Department of State Lands of a wetland delineation and removal-fill permit. Any amount of disturbance to a compensatory mitigation area requires a removal-fill permit. A federal permit may be required by the U.S. Army Corps of Engineers.