

STAFF REPORT CONDITIONAL USE PERMIT

NATURE OF REQUEST:	Conditional Use Permit to expand Coffin Butte Landfill. Republic Services is proposing to expand existing landfill operations south of Coffin Butte Road, construct an 1,800 sq. ft. employee building with off-street parking, modify an access road, and relocate leachate activities, portions of a perimeter landfill road, an outbound scale, and construct a shop/maintenance area. The applicant is also proposing to modify access roads North of Coffin Butte Road.
APPLICABLE CODE CRITERIA:	Benton County Code (BCC) Section 51.505, Sections 51.705 through 51.840, Sections 53.205 through 53.235, Section 55.005, Section 60.005, Section 61.005, Section 63.005, Chapter 77, Sections 87.200 through 87.230, Chapter 99.
FILE NO.:	LU-24-027
PROJECT LOCATION:	29175 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 801 28972 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1101 and Tax Lot 1108 29000 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1107 29160 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1200
APPLICANT:	Republic Services
PROPERTY OWNER:	Valley Landfills Inc.
ZONE DESIGNATION:	Landfill Site (LS), Forest Conservation (FC)
COMPREHENSIVE PLAN DESIGNATION:	Landfill Site, Forestry
CAC PLANNING AREA:	Not active
STAFF CONTACT:	Petra Schuetz, petra.schuetz@bentoncountyor.gov

Summary of Staff Conclusion: After considering new information provided by the applicant, third party reviews of this new information, public comments, agency comments, and applicant responses to staff, public, and agency comments, staff recommends **approval with conditions** of the proposed Conditional Use application.

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Executive Summary

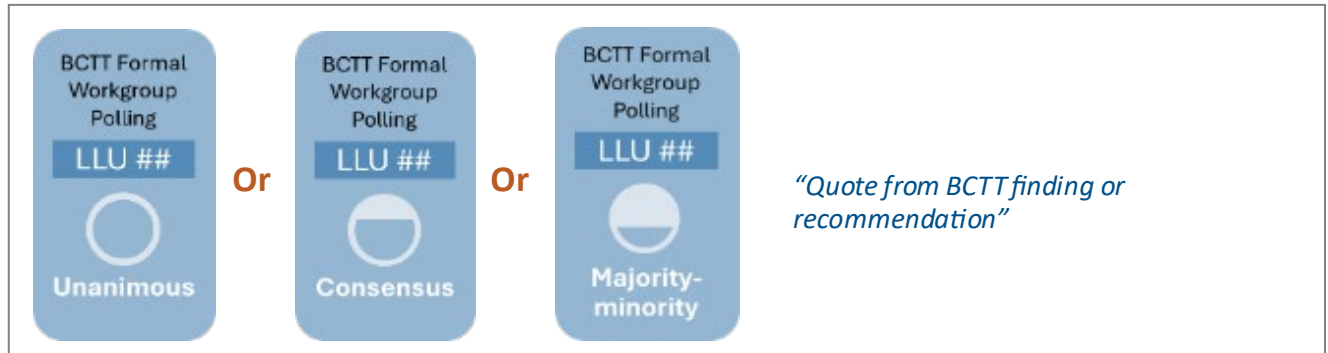
Valley Landfills, represented by Jeffrey G. Condit of Miller Nash LLP., submitted a conditional use application to expand an existing landfill (LU-24-027). In this report, Benton County staff do the following:

- **Describe the proposal and land use background.**
- **Describe the process for reviewing the proposed land use application.**
 - o Expansion of an existing landfill in the LS zone requires Conditional Use approval, as does the proposed development (employee building, shop, leachate ponds, and associated drives) ancillary to the landfill use in the FC zone.
 - o *Approval of a CUP by the County is only the initial step in the process to expand the landfill. VLI must also obtain permits from the Oregon Department of Environmental Quality (DEQ). (Exhibit BOP p.5)*
- **Provide findings specific to the proposal in response to all applicable standards and criteria of the Benton County Code (BCC).** Staff cite facts of the proposal and detail how and why, given those facts, each standard or criterion has or has not been met. Staff determined the application submission did not provide sufficient evidence to support a finding that odor and noise impacts would not “seriously interfere” with adjacent land uses.

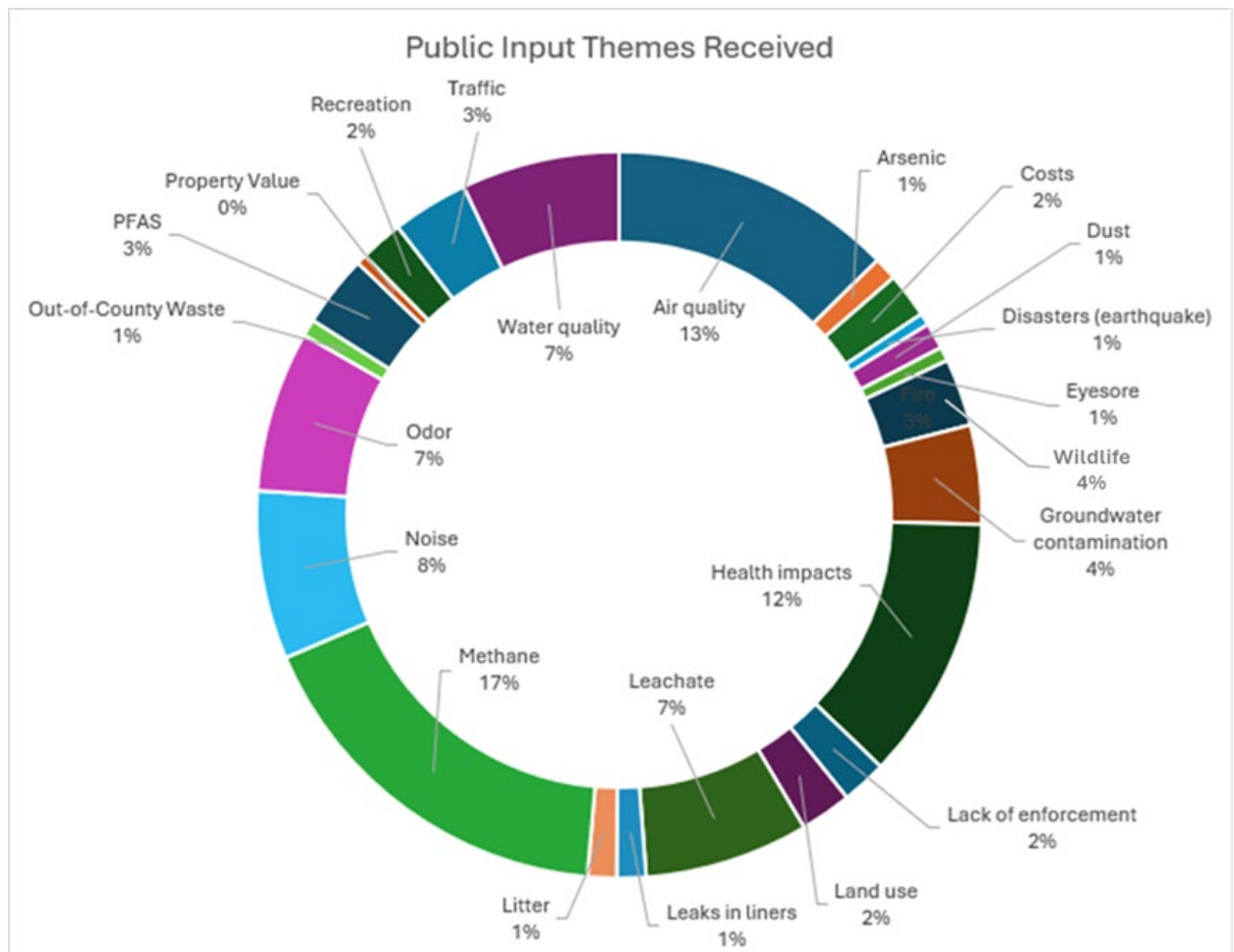
Planning staff have included findings and recommendations from the 2021 Benton County Talks Trash (BCTT) report as supplemental evidence regarding code interpretations. The BCTT Legal Issues and Land Use Review subcommittee’s findings and recommendations are the result of subcommittee member polling and are

accompanied by more comprehensive discussions within the larger report. As shown in the example in **Figure 1**, when BCTT findings are referenced within this report, they will include the polling reference number (beginning with “F-” for findings and “R-” for recommendations), the results of each finding (e.g. “unanimous”, “consensus”, “majority-minority”), and relevant quotations.

Figure 1. Example BCTT Findings Result Graphic



- **Recommend that the Benton County Planning Commission approve the application with conditions.**
- As of June 10, 2025, there were 1,961 records submitted via written comments. Following is a thematic graphic referencing the different comment topics and relative number of time or weight of the topics raised.



Exhibits

In the table below, rows highlighted in grey indicate exhibits which the applicant or Staff have added or revised since the previous Staff Report issued on April 22, 2025.

Applicant Exhibits		
In-text Citation	Date Submitted	Title
CL	1/15/2025	Cover Letter for Jan 15th Supplemental Materials
BOP	1/15/2025	Burden of Proof
BOPA	3/14/2025	ADDENDUM to Burden of Proof
E1	10/30/2024	Application form and fees
E2	3/14/2025 + 04/29/2025	Engineering Plans Cover Sheet (Sheet 1) Benton County Tax Lots and Zoning (Sheet 6) (REVISED Sheet 6 submitted 04/29/25) Existing Conditions (Sheet 3) Demolition Plan (Sheet 4) Overall Development Plan (Sheet 5) Development Area Layout (Sheet 6) Coffin Butte Road Proposed Rights-of-way (Sheet 7) Left Turn Traffic Plan (Sheet 8) North Road Plan (Sheet 9) Parking Infrastructure Plan (Sheet 10) Development Area Top of Waste Grades (Sheet 11) Development Area Phase 1 (Sheet 12) Development Area Phase 2 (Sheet 13) Top of Waste Phase 1 (Sheet 14) Top of Waste Phase 2 (Sheet 15) Top of Waste Phase 3 (Sheet 16) Top of Waste Phase 4 (Sheet 17) Stockpile Plan (Sheet 18) Landscape Plan (Sheet 19) South Stormwater Basin (Sheet 20) Wetpond-Detention Pond Combination Plan (Sheet 21) Wetpond-Detention Pond Combination Profiles (Cross-Sections AA and BB) (Sheet 22) Wetpond-Detention Pond Combination Profiles (Cross-Sections CC and DD) (Sheet 23) Cross-Sections (Sheets 24, 25, and 26) Traffic Details (Sheet 27) Development Area Layout (Sheet 28)
E3	10/30/2024	Vesting deeds to the tax lots contained in the Development Site
E4	10/30/2024	Wildlife habitat assessment and surveys
E5N	10/30/2024	Phase II geotechnical exploration report narrative
E5A	10/30/2024	Appendix A to phase II geotechnical exploration report
E5B	10/30/2024	Appendix B to phase II geotechnical exploration report
E5CD	10/30/2024	Appendix C & D to phase II geotechnical exploration report

E5E	10/30/2024	Appendix E to phase II geotechnical exploration report
E5F	10/30/2024	Appendix F to phase II geotechnical exploration report
E6	10/30/2024	Well logs for PW-2 and Berkland wells
E7	10/30/2024	Letter from CEC regarding Oregon DEQ permits and regulations
E8	10/30/2024	Map and list of adjacent and nearby properties
E9	10/30/2024	Map defining analysis area and showing odor complaints
E10	10/30/2024	Aerial image of topography and roads surrounding the landfill area
E11	10/30/2024	Noise study
E12	10/30/2024	Findings on odor
E13	10/30/2024	Memorandum regarding odor, methane, and hydrogen sulfide control at Coffin Butte Landfill
E14	10/30/2024	2024 Odor study
E15	4/29/2025 + 10/30/2024	Traffic Report and Addendum (to supplement E15 submitted 10.30.24)
E16	3/14/2025	Environmental and operational considerations
E17	3/14/2025	Preliminary drainage report
E18	10/30/2024	Aerial renderings of Coffin Butte Landfill showing proposed expansion area view corridors
E19	10/30/2024	Site lighting summary
E20	09/24/2024 + 01/15/2025	Fire risk assessment of Coffin Butte Landfill and Addendum (to supplement E20 submitted 01.15.25)
E21	06/13/2025	Proposed Conditions of Approval (revised to replace E21 submitted on 04.29.25)
E22	10/30/2024	Reclamation plan for expansion area
E23	10/30/2024	Oregon DEQ permit #306 materials
E24	10/30/2024	Oregon DEQ permit work plan
E25	10/30/2024	Oregon DEQ approval of work plan
E26	10/30/2024	Archaeological report
E27	1/15/2025	Leachate management summary
E28	10/30/24 + 1/15/2025	Republic Services letter to the Benton County Board of Commissioners regarding methane emissions and Addendum
E29	10/30/24 + 1/15/2025	Republic Services letter to the Benton County Board of Commissioners relating to arsenic and Addendum
E30	10/30/2024	Proposed Coffin Butte Landfill seismic design

E31	1/15/2025	Farm Lease between VLI and Agri-Industries, Inc.
E32	1/15/2025	Photos of farm and forest uses on adjacent properties
E33	3/14/2025	2025 Odor study
E34	3/14/2025	Benton County business database
CL2	4/29/2025	Cover Letter from Miller Nash RE: New Materials and Staff Report responses
APC	4/29/2025	Applicant Presentation Slides to Planning Commission
CL3	6/16/2025	Cover Letter from Miller Nash RE: June 6th File Submissions
E35	6/6/2025	Legal Arguments Memo from Miller Nash
E36	6/6/2025	June 2025 Odor Study
E37	6/6/2025	Memorandum Re: Beyond Toxics May 6th Testimony
E38	6/6/2025	Memorandum Re: Proposed Noise Mitigation
E39	6/6/2025	ODEQ 2019 Memorandum Re: CAOPR
E40	6/6/2025	Employee Exposure Report of Findings
E41	6/6/2025	Environmental Methane Compliance Report of Findings
E42	6/6/2025	Memorandum RE: Traffic Testimony
E43	6/6/2025	Memorandum RE: Wildlife and Habitat Testimony
E44	6/6/2025	Memorandum RE: Fire Risk Testimony
E45	6/6/2025	Cross Sections of Expansion Height
E46	6/6/2025	May 2025 Aerial Image of Existing Tarps
E47	6/6/2025	Memorandum Re: Construction Sequencing Testimony
E48	6/6/2025	Memorandum Re: Dry Climate Landfill Testimony
CL4	6/12/2025	Cover Letter from Miller Nash RE: June 12th File Submissions
E49	6/12/2025	Memorandum Re: Groundwater Testimony
E50	6/23/2025	Map of Groundwater Monitoring Network
CL5	6/23/2025	June 23 Cover Letter (1/2)
E51	6/23/2025	Odor Study Supplemental Information
CL6	6/23/2025	June 23 Cover Letter (2/2) on VNEQS Comments
E52	6/23/2025	Response to VNEQS Noise Comments
E53	6/23/2025	Response to VNEQS Odor Comments

E54	6/23/2025	Response to VNEQS Traffic Comments
E55	6/23/2025	Response to VNEQS Groundwater and Leachate Comments
E56	6/23/2025	Response to VNEQS Fire Risk Comments
E57	6/23/2025	Response to VNEQS Wildlife Comments
Benton County Exhibits		
In-text Citation	Title	
BC1	Compiled County Engineering and Public Works Comments	
BC2	Compiled Agency Comments	
BC3	Map of Testimony from within Analysis Area	
BC4	Benton County Notice to Outside Agencies	
BC5	Benton County Reviewing Consultants' Credentials	
BC6	Property Zoning Map	
BC7	Compiled Testimony from Adjacent Property Owners/Residents BC7.0 Map of Testimony from Adjacent Properties BC7.1 E. and L. Bradley BC7.2 J. Searls BC7.3 J. Geier BC7.4 C. and P. Merrill BC7.5 J. and P. Morrell BC7.6 R. Wilson BC7.7 G. Carlin BC7.8 L. A. Davis BC7.9 I. Finn BC7.10 A., C., and R. Holdorf BC7.11 D. Hackleman BC7.12 B. Briskey BC7.13 D. and N. Johnson BC7.14 G. Lind Flak	
BC8	Compiled Testimony from Opponents (referenced in the Staff Report) BC8.1 M. Yeager and R. Irish BC8.2 J. Kleinman representing VNEQS BC8.3 VNEQS BC8.4 M. Leavitt representing Beyond Toxics	

Figures

Figure 1. Example BCTT Findings Result Graphic

Figure 2. Development Area Map

Figure 3. Application Submittal Timeline

Figure 4. Written Comment Topics as of June 10, 2025

Figure 5. Map of Testimony from Adjacent Properties (Exhibit BC7.0)

Figure 6. Photograph of Forest Buffer (Exhibit BC7.1)

Figure 7. Photo of July 2024 Fire (Exhibit BC7.1)

Figure 8. Map of Testimony from Analysis Area (Exhibit BC3)

Figure 9. 2023 Aerial Imagery of Tax Lot 1101

Figure 10. 2023 Aerial Imagery of Tax Lot 1200

Subject Property and Surrounding Area Zoning Map (Exhibit BC6)

I. FINDINGS OF FACT

1. The Coffin Butte landfill site was established as a disposal site in 1948 as an open burning dump. It was on property formerly part of the Camp Adair U. S. Army post.
2. In 1974, it was designated as a regional solid waste disposal site in the Chemeketa Region Solid Waste Management Plan. This plan was a coordinated, multi-agency planning effort for waste disposal in Linn, Benton, Polk, Marion and Yamhill Counties.
3. A “Solid Waste Management Plan for Benton County” was approved by the Planning Commission in 1977.
4. The Coffin Butte landfill site was zoned Forest Conservation until 1983. In 1983¹, the Benton County Comprehensive Plan and the Zoning Map were amended to apply Landfill Site Comprehensive Plan Map designation and Landfill Site (Benton County Code Chapter 77) zoning to approximately 266 acres. The property owners were granted Conditional Use approvals in 1994², 1997³, 2011⁴, 2013⁵, and 2015⁶.
5. In 2021, the property owners applied for Conditional Use approval for a landfill expansion (local case file LU 21-047), which was recommended for approval by the Solid Waste Advisory Council (SWAC) but denied by the Benton County Planning Commission. In 2022, the applicant appealed this denial to the Benton County Board of Commissioners (BOC) before withdrawing that appeal in favor of reserving the option to apply for another CUP in the future.
6. The BOC hired a consulting group in September 2022, to establish and facilitate a community workgroup, which established findings and recommendations for processing future Conditional Use permits. The workgroup detailed its processes and findings in the Benton County Talks Trash (BCTT) report, which was transmitted to the BOC in April 2023.
7. In an order made on July 2, 2024, the BOC delegated the landfill land use application review duties and responsibilities of SWAC to the Environmental and Natural Resources Advisory Committee (ENRAC)⁷. These duties and responsibilities are assigned in BCC 77.305 and charges the committee to review and make recommendations to the Planning Commission regarding Landfill Site development plans and narratives.
8. There are several substantial differences between this application and the Conditional Use proposal in 2021. Rather than proposing the closure of Coffin Butte Road, the applicant now proposes to widen a section of the road adjacent to the development site. As a result, the lifespan of the expanded landfill area will be six years (reduced from twelve), and the volume of waste disposed of will be halved. The applicant is no longer proposing that portions of the landfill’s working face⁸ or supporting infrastructure be located in any zone other than Landfill Site (LS) and Forest Conservation (FC).

¹ Local case file PC-83-07/L-83-7

² Local case file S-94-3, Approval of a 2.2 megawatt power generation facility on T10S, R4W, Section 18, Tax Lot 1100

³ Local case file S-97-58, Approval to expand the generating capacity of the power generation facility

⁴ Local case file LU-11-016, Approval for the construction of recycling and refuse transfer facility on T10S, R4W, Section 18, Tax Lot 801

⁵ Local case file LU-13-061, approval to use [T10S, R4W, Section 18] Tax Lots 1101 & 1104 as a stockpile and staging area

⁶ Local case file LU-15-001, approval to enhance a stormwater treatment facility on T10S, R6W, Section 13, Tax Lot 800

⁷ Order #D2024-048

⁸ In their application (Burden of Proof document), the applicant states that, “the ‘working face’ of the landfill is the area of active disposal of solid waste. At Coffin Butte, it is approximately half an acre in size.” In their June 6, 2025 Cover Letter (Exhibit CL3), the applicant corrects, “The Applicant reviewed the testimony that the working face in recent history has been larger than the one-half acre previously estimated, and corrects the record to reflect that the current working face size is between approximately 1.5 and 2 acres. There is no regulation or requirement that limits the working face to a particular size.”

II. PROJECT DESCRIPTION

Background

The “**subject property**” is 462 acres of land in unincorporated Benton County, approximately 6.5 miles north of Corvallis. It consists of 14 Tax Lots⁹ owned and/or operated by the applicant – Republic Services and Valley Landfills, Inc. on which there are existing or proposed landfill operations. The property includes Tax Lots within the County’s Landfill Site (LS), Forest Conservation (FC), and Exclusive Farm Use (EFU) zones.

Not including the Tax Lots where the development is proposed (the “development area”), the applicant described the current land uses on the subject property as existing landfill areas and accessory uses. In addition to this general description, the applicant identified a residential or vacant use and farm or forest uses on Tax Lot 104180001104 (in the FC zone), and a farm and open space use on Tax Lot 105130000902 (in the EFU zone).

The applicant described the development area Tax Lots and their current land uses as follows (Exhibit BOP p. 8 – 10):

- **Tax Lot 104180000801**, approximately 89 acres - [...] *already in use for the existing landfill area. The area of proposed improvement contains access roads, a scale house, and scales. These tax lots also contain Palustrine Emergent Wetland on the eastern portion.*
- **Tax Lot 104180001101**, approximately four acres - [...] *majority of this property is grass, while the eastern edge is treed. This tax lot is currently developed with VLI offices. This tax lot also contains Palustrine Emergent Wetland on the western and northwestern edge.*
- **Tax Lot 104180001107**, approximately 59 acres - [...] *currently developed with an access drive, leachate pretreatment and treatment buildings, parking and maneuvering areas, leachate ponds, and a permeate pond. Aside from the leachate ponds, the improvements on this tax lot are obsolete infrastructure that has not been used since the early 2000s. The existing improvements on Tax Lot 1107 are situated on the northern portion of the Development Site which is relatively level. From the currently developed area, the site slopes upward to the south, with an elevation change of 60-160 feet (to different points along Tampico Ridge). The undeveloped portions of the site are vegetated with grasses and trees. This tax lot contains a likely abandoned but mapped Great Blue Heron rookery (#2683) in the northwest quadrant, along with a small area of Palustrine Emergent Wetland in the northeast corner.*
- **Tax Lot 104180001108**, approximately 29 acres - [...] *already in use for the existing landfill area. The area of proposed improvement contains access roads, a scale house, and scales. These tax lots also contain Palustrine Emergent Wetland on the eastern portion.*
- **Tax Lot 104180001200**, approximately 82 acres - [...] *The northeast portion of the site contains native vegetation and trees. There is also a buffer of trees along the eastern property line, abutting Hwy 99W. The center portion of the site is currently developed with a gas-to-energy plant, gas blowers and flares, parking areas, and drive aisles. The approximately 20-acre center area that surrounds the gas-to-energy plant is leased by VLI to Agri-Industries, Inc., and has historically been farmed for grass. The lands south of the fields is steep, sloping topography that is vegetated with Douglas fir surrounded by native trees. This tax lot also contains a mapped but likely abandoned Great Blue Heron rookery #2716 in the north central area quadrant, along with Palustrine Emergent Wetland and Palustrine Forested Wetlands.*

The applicant adds to Exhibit BOP p. 11 that row crops are also farmed on the 20 acres of this Tax Lot that is leased to Agri-Industries, Inc.

⁹ The proposed development work will take place on Tax Lots 104180000801, 104180001101, 104180001107, 104180001108, 104180001200. Additional Tax Lots on the subject property include 104180000301, 104180000900, 104180001000, 104180001104, 104180001106, 105130000900, 105130000901, 105130000902, and 105130001000.

The subject property is accessed by Coffin Butte Road, which intersects US Highway 99W to the east and Soap Creek Road to the west. Coffin Butte Road cuts east-west through the property and separates the existing landfill area from the only remaining land in this LS zone not yet used for landfill operations.

Adjacent properties¹⁰ are owned by the applicant, individuals, or state entities such as the Oregon State Game Commission and Oregon Department of Fish and Wildlife (ODFW).

Proposal

The applicant requests a Conditional Use Permit to expand existing landfill operations to **Tax Lot 104180001107**, south of Coffin Butte Road within the Landfill Site (LS) zone. The proposal also includes:

- **Tax Lot 104180001101** -Construction of an 1,800-square-foot employee building and off-street parking on a portion of the subject property zoned FC;
- **Tax Lot 104180000801** - Modifications to an access road located on a portion of the subject property zoned FC;
- **Tax Lot 104180001108** - Modifications to an access road;
- **Tax Lot 104180001200** - Relocation of leachate ponds, loadout, sump, an outbound scale, portions of the perimeter landfill road, and a shop/maintenance building; and removal of existing landfill and leachate activities on the east side of the subject property within the FC zone.

To avoid confusion on definitions of site and ownership, this Staff Report identifies the “**development area**” as the five Tax Lots¹¹ (264 total acres) of the subject property where the conditional use is proposed (Figure 2 and Exhibit E2). The applicant refers to the development area as the “Development Site” in their Burden of Proof.

¹⁰ See Section V findings for BCC 53.215(1) for a comprehensive description of the “adjacent property”.

¹¹ The proposed development work will take place on Tax Lots 801, 1101, 1107, 1108, 1200.

Applicant's Exhibit E2, Sheet 6
Development Area Layout, including Maintenance Building

DEVELOPMENT AREA LAYOUT

DATE: JANUARY 2020 DRAWN BY: JAS
DATE SCALE: AS SHOWN CHECKED BY: JAS
PROJECT NO: 322-142
APPROVED BY: JAS

750' PROPOSED 10-FT CONTOUR

LEGEND

- PROPERTY BOUNDARY
- EXISTING LANDFILL BOUNDARY
- TAX LOT BOUNDARY
- ZONING BOUNDARY
- WETLAND MITIGATION BOUNDARY
- EXISTING 10-FT CONTOUR
- EXISTING 2-FT CONTOUR
- EXISTING PALUSTRINE FORESTED WETLAND
- EXISTING PALUSTRINE EMERGENT WETLAND
- PROPOSED 10-FT CONTOUR
- PROPOSED 2-FT CONTOUR

ENLARGED DETAIL
SCALE: 1"=50'

PROPOSED MAINTENANCE BUILDING
400 GALLON HOLDING TANK

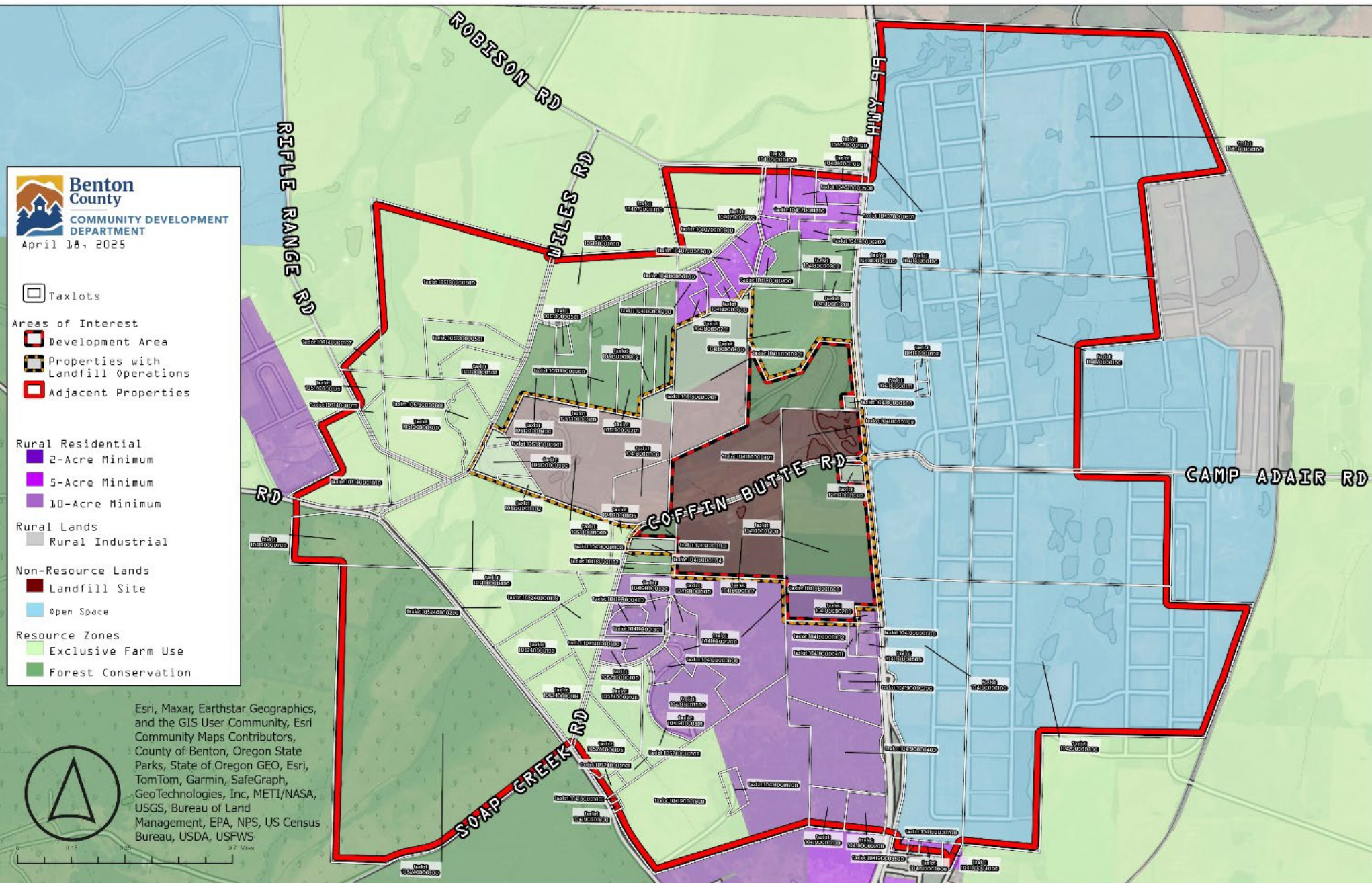
LOT 104-180001107
LOT 104-180001200

100'
50'
100'

When the Development Site is ready for waste disposal operations, the working face of the landfill will move from north of Coffin Butte Road to the Development Site. Disposal of waste will not be occurring north of Coffin Butte Road during the operation of the Development Site. The size of the working face at the Development Site will be roughly the same as the existing operation, and there will be only one working face operating at a time.

LU-24-027 Coffin Butte Landfill CUP Supplemental Staff Report

Subject Property and Surrounding Area Zoning Map (Exhibit BC6)



III. REVIEW PROCESS

As required by BCC Chapter 60 and 77, a Conditional Use permit is required for a landfill or its accessory uses in the Forest Conservation (FC) zone, and for the expansion of an existing landfill within the Landfill Site (LS) zone. The requirements for application and public notice are detailed in BCC Chapter 51, and relevant standards are detailed in the sections below.

The application-submittal and completeness timeline is displayed in **Figure 3**. As shown in Figure 3, while the application was submitted in July of 2024, due to multiple rounds of Completeness Review and a 58-day review timeframe extension request by the applicant, the beginning of the application review period was March 14, 2025. Due to Planning Commissioner absences in much of May and June, the expectation of multiple Planning Commission hearings, and an expected appeal to the Board of Commissioners, the first Planning Commission meeting was held April 29, 2025. This expedited hearing date resulted in reduced staff ability to review and incorporate public comments into the Staff Report and coordinate for clarity on agency comments. It also did not allow time for the Environment and Natural Resources Committee (ENRAC) commentary (received the evening of April 21, 2025) to be evaluated and included in the Staff Report. For these reasons, the initial Staff Report was focused primarily on a technical evaluation of the applicant's submission.

The Planning Commission held four hearings: April 29, May 1, May 6, and May 8, 2025. Due to the volume of testimony, the scheduled June 17 hearing was continued to July 8, 2025. An additional hearing is scheduled for July 9 to allow for additional oral testimony. Opportunity to submit new evidence will be available through the July 9 hearing, and possibly beyond should the record be held open for seven additional days for the limited purpose of responding to new written evidence submitted at the continued public hearing. ORS 197.797(6)(b).

This Supplemental Staff Report was prepared and released for Planning Commission and public review on June 26, 2025, approximately two weeks prior to the July 8 hearing. Staff evaluated the large volume of public comments, as well as additional applicant testimony, received through June 23 in the preparation of the Supplemental Staff Report.

The 150-day time limit to reach a final decision on the proposed application is September 26, 2025.

Figure 3. Application Submittal Timeline

Event	Date	Additional Information
Pre-application conference	June 27, 2024	CDD requests additional information
Conditional Use application received by CDD	July 19, 2024	
CDD deems application to be incomplete	August 16, 2024	CDD requests additional information and provides advisory comments
Completeness response from applicant is received by CDD	October 30, 2024	
CDD requests additional information	December 11, 2025	CDD requests additional information and provides advisory comments
Additional information and a request to begin review is received by CDD	January 15, 2025	Applicant notifies CDD they would like review to begin
Applicant requests a 58 -day review extension	January 15 – March 14, 2025	Applicant says they will provide additional information and request an extension to do so
CDD deems application to be “complete”	January 15, 2025	The application review period begins. CDD awaits additional information from applicant
Additional information from applicant is received by CDD	March 14, 2025	End of the requested 58-day extension
Planning Commission hearings begin	April 29, May 1, May 6, May 8, 2025	Including staff report and applicant presentations and oral testimony from the public Applicant agrees to a 47-day extension of the 150-day review deadline
Additional information from applicant is received by CDD	June 6, June 12, June 16, June 23, 2025	Applicant submits new materials in response to public testimony and requests from County staff and engineers

Public Notice

A Conditional Use Application is reviewed as a quasi-judicial land use action, which requires notification of properties within at least 750 feet of the subject property if it is in the FC zone¹². According to directions from the Planning Commission, staff expanded the mailed notice perimeter to a quarter-mile (1,320 feet). The schedule for the public hearing was mailed to surrounding property owners, along with other relevant agencies and County departments, on March 19, 2025. The number of adjacent property owners that were notified in writing is 35. A legal ad¹³ was published in the Gazette Times on April 17, 2025.

In addition to exceeding the mailing notice distance requirements and extending the public comment period to several weeks, the County’s Public Information Officer developed and published several additional communications to enhance accessibility and provide procedural clarity including but not limited to:

¹² BCC 51.610(1)(c).

¹³ BCC 51.610(3)

- Seven Press Releases sent via FlashAlert
- 13 E-blasts targeted to E-news list, Solid Waste list, Media, IP list
- 13 Featured News posts published on the County website
- Three Newsletters distributed to the E-news list

The combined media “reach” is well over 10,000 people.

Agency Reviews

BCC 77.305 requires that the Benton County Environmental Health Division and the County’s Solid Waste Advisory Council (SWAC) review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. This BCC provision is procedural and does not include any additional standards against which to measure the Site Development Plan Map and narrative.

The Environmental Health Division no longer administers solid waste programs for Benton County. That responsibility was transferred to the Community Development Department. Accordingly, the Environmental Health Division has not submitted any comments or recommendations. The Benton County Board of Commissioners delegated review and recommendation duty from SWAC to the county Environmental and Natural Resource Advisory Committee (ENRAC) through Order #D2024-048 in July of 2024. A recommendation letter from ENRAC was not available to contract staff planners in time for inclusion within the initial Staff Report but is included with staff evaluation in this Supplemental Staff Report.

On March 20, 2025, Benton County provided notice of the proposal to Oregon Department of Environmental Quality (ODEQ), Oregon Department of Fish and Wildlife (ODFW), Oregon Department of State Lands (DSL), Oregon Department of Land Conservation and Development (DLCD), the Army Corps of Engineers, Adair Rural Fire District, Corvallis Fire Department, the City of Corvallis, and Adair Village. Comments received from these agencies are compiled and attached in Exhibit BC2.

IV. COMMENTS

Comments that address and apply to Benton County Code criteria will contribute to the Planning Commission deliberations. The Planning Commission can decide how and if a comment is applicable.

AGENCY COMMENTS

As of June 23, 2025 the County received responses from DOGAMI, ODFW, ENRAC, Adair Rural Fire District, and ODOT. These compiled responses are attached in Exhibit BC2.

Melissa Carley, Aggregate Permitting Reclamationist, Oregon Department of Geology and Mineral Industries – (MLRR) and DOGAMI

April 9, 2025

“DOGAMI has no comments on the proposed Land Use Application.”

Joe Stack, Regional Habitat Biologist, South Willamette Watershed, Oregon Department of Fish and Wildlife (ODFW)

Staff Summary and Response:

On April 11, 2025, Joe Stack, Regional Habitat Biologist for the Oregon Department of Fish and Wildlife (ODFW), submitted comments regarding the proposed expansion of the landfill. He identified two documented Great Blue Heron rookeries on the subject property—one on tax lot 1107 (western rookery) and one on tax lot 1200 (eastern rookery)—as sensitive habitats subject to protection under Benton County Code (BCC 87 - Goal 5 Resources) and ODFW’s Fish and Wildlife Habitat Mitigation Policy (OAR 635-415). Stack recommended that if either rookery is determined to be active, the applicant coordinate with ODFW to develop a mitigation plan that includes a 300-foot buffer and construction restrictions during the nesting season (February 15 – July 31).

Following review of the applicant’s Wildlife Habitat Assessment (Exhibit E4), Stack submitted revised comments on April 18, 2025. He noted that the eastern rookery exhibited nesting activity in 2022 and, under the Forest Practices Act, remains classified as active. While he acknowledged the applicant’s proposed protection measures as appropriate, Stack advised that additional survey efforts may be necessary to confirm the current status of the rookery. He further recommended coordination with the Oregon Department of Forestry to ensure compliance with relevant habitat protection standards.

Staff responds to the issue of the Great Blue Heron rookeries and Goal 5 resources in the CHAPTER 87 section of this report.

Jason Schindler, Chair, Benton County Environmental and Natural Resource Advisory Committee (ENRAC)

Staff Summary and Response:

April 16, 2025, ENRAC Chair Jason Schindler submitted a letter stating that the Committee recommends that the Planning Commission deny LU-24-027. Furthermore, the letter includes a list of the major topics that informed the ENRAC recommendation. These topics broadly included air pollution, methane emissions, water pollution, leachate, impact to local residents and community, economics, and regional impacts and coordination. Citing that the existing landfill already has an overestimated lifespan, the committee urged that end-of-life planning and closure strategies be addressed before any expansion is approved.

Finally, the Chair refers to an attached report, which includes supplemental documentation and statements or comments from individual members.

The ENRAC recommendation for denial did not include hypothetical (COAs) should the Benton County Planning Commission ultimately recommend approval¹⁴.

Aaron Harris, Fire Chief, Adair Rural Fire Protection District

Staff Summary and Response:

On April 21, 2025, Fire Chief Aaron C. Harris of the Adair Rural Fire Protection District submitted testimony recommending denial of land use application LU-24-027, citing concerns related to the proposed landfill expansion. Chief Harris outlined four primary issues: potential reductions in property tax revenue due to decreased property values near the landfill; increased traffic and associated emergency response demands; elevated fire risk tied to methane emissions, including findings from a current EPA investigation; and long-term challenges to sustaining a volunteer-based fire department.

Staff responds to the issues surrounding fire risks in the CHAPTER 53 and CHAPTER 60 sections of this report.

Arielle Childress, Traffic Analysis Engineer – ODOT Region 2

May 13, 2025

"I reviewed the submitted TIA and Response to Comments for the Coffin Butte Landfill Expansion development in Benton County and have no comments. It is our understanding that no direct access to a state highway has been proposed. Under such circumstance, this analysis has been required under the authority of the County and ODOT is serving as an additional reviewer."

Staff Response: On March 20, 2025, the County incorrectly addressed their emailed notice of the proposal to ODOT. Therefore, ODOT was unaware of the proposal until the applicant's transportation consultant requested ODOT's review on April 28, 2025 (included in Exhibit BC2, p. 68). Arielle Childress provided comment on May 13, 2025 and stated that the department had no concerns.

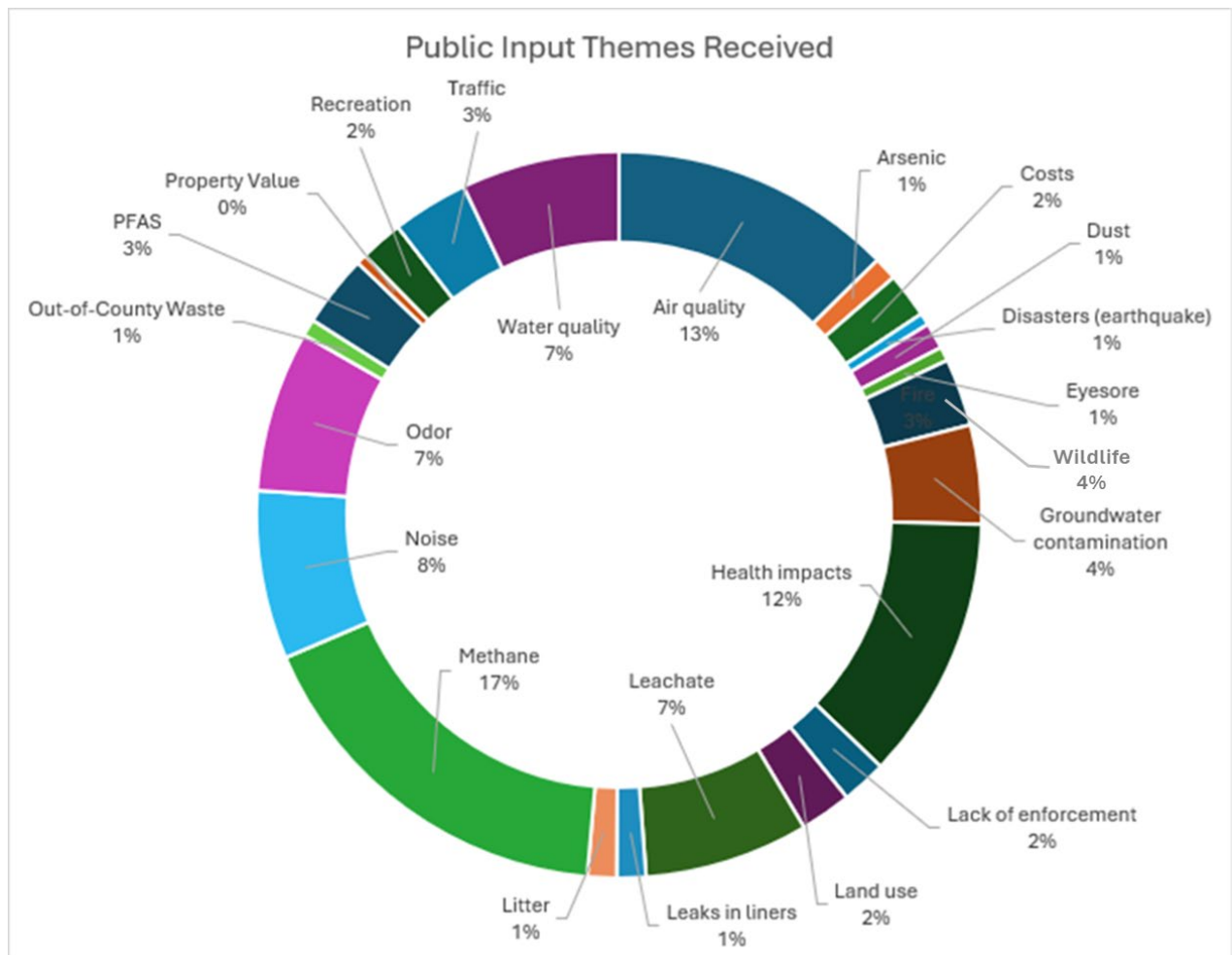
¹⁴ In the attached notes ("ENRAC Deliberations for CUP Expansion Application"), individual committee members used a work sheet to note their thoughts on potential conditions of approval (COAs). However, as stated at the beginning of the document regarding these notes, "No effort was made to aggregate language or find consensus per topic."

PUBLIC COMMENTS

The public comment period began on March 19, 2025. Members of the public could provide written testimony through an online form, email, postal mail, and hand delivery. On May 6 and 8, 2025, 44 members of the public gave oral testimony during the continued Planning Commission hearing.

Figure 4 is a representation of the topics included in the public comment as of June 10, 2025. The County received 1,961 records from written comments, all but four comments were in opposition.

Figure 4. Written Comment Topics as of June 10, 2025



Throughout this report, Staff have summarized or quoted specific opposition testimony that met one or more of the following criteria:

- The applicant referenced the comments directly in their responses;
- The testimony presented well-reasoned rationale linking the concerns to applicable code standards;
- Supporting evidence was provided to substantiate the claims made; or
- The testimony originated from property owners or residents located adjacent to the subject property.

These quotes or summaries are followed by an “Applicant Response”, when applicable, and a final “Staff Response”.

V. APPLICABLE CODE REVIEW

This section is the substantive focus of the Staff Report. Below, we list and quote all the Benton County Code (BCC) standards and criteria relevant to this application.

Text in italics within this Staff Report is quoted from the Benton County Code (BCC) .

In response, staff “**findings**” achieve the following:

1. Identify the approval standards, which is cited in the section above;
2. Set out the facts relied upon to meet the standard(s);
3. Explain how those facts lead to compliance with the standard(s); and
4. Show evidence that, when viewed as a whole, would permit a reasonable person to make that finding.

The applicant has the burden of proof to show compliance with the relevant requirements and standards and the applicant provided responses to standards in their narrative submittal, titled “Burden of Proof” (BOP). The “BOP” is one of the exhibits attached to- and referenced in- this report, as well as the applicant’s supplemental exhibits.

In the findings, staff often included direct quotes from the applicant’s BOP under the sub-heading “Applicant Response” and quotes or summaries of issues identified by opponents as “Opponent Testimony”. These are followed by a “**Staff Response**”. Staff responses begin with an indication of which Benton County department or third-party consultant has provided the response (e.g. “Public Works”, “Kellar Engineering”, “MFA- Engineering”, or “Planning”). The final staff response will always be from “Planning”, which is third-party consultant, Winterbrook Planning. Staff have also referred to findings from the BCTT formal work group in findings.

Relevant Code Chapters

The relevant requirements and standards are in the following chapters of the Benton County Code (BCC):

- BCC 51 Development Code Administration
- BCC 53 General Review Criteria and Procedures
- BCC 55 Exclusive Farm Use Zone (EFU)
- BCC 60 Forest Conservation Zone (FC)
- BCC 61 Open Space Zone (OS)
- BCC 63 Rural Residential Zone (RR)
- BCC 77 Landfill Site Zone (LS)
- BCC 87 Goal 5 Resources
- BCC 99 General Development Standards

CHAPTER 53 - GENERAL REVIEW CRITERIA AND PROCEDURES

CONDITIONAL USES

A conditional use permit is required for a landfill expansion in the LS zone and landfill use in the FC zone. The BCC Chapter 53 includes details of the requirements and criteria for an approved conditional use application.

53.210 Permit Required. A person shall obtain a conditional use permit from the County in order to establish a conditional use. The decision to issue a conditional use permit is discretionary.

Findings:

As stated in this standard, Benton County decision-makers must employ discretion when determining whether the applicant meets the following requirements to receive a conditional use permit. Because the conditional use

criteria contain words with a degree of ambiguity, analysis of the language is necessary before discussing how the text applies to the proposal. Generally, ambiguous terminology is to be interpreted by the text used, then the context, and then the legislative history.

In 2021, the BCTT LLU Subcommittee reviewed the BCC conditional use requirements for a landfill expansion and provided findings regarding their meaning, history, and typical practices. Direct quotes are located within text boxes. Regarding the first criterion (BCC 53.213.1) below, the subcommittee reviewed staff-provided materials from the previous 25 years of Benton County conditional use-legislative history and presented summaries of their findings. Staff have used BCTT formal workgroup findings regarding these summaries (LLU F-9a – c) to inform this analysis.

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

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

FINDINGS:

“Seriously interfere”

Applicant Response (Exhibit BOP p. 19):

The Benton County Code does not define “seriously interfere.” The use of the modifier “seriously” indicates that at least some level of interference is acceptable.

Staff Response, Planning: This phrase is not defined in the Benton County Code. The first paragraph of the applicant’s response above is consistent with staff’s interpretation that “seriously” indicates some permissible level of interference resulting from the proposed use.

Applicant Response, continued (Exhibit BOP p. 19):

During BCTT, staff indicated that “seriously interfere” has generally been applied to mean more than an inconvenience or irritation, but less than rendering the uses on adjacent property impossible. Staff Reported that county decision-makers have considered factors such as whether the proposed use makes it difficult to continue uses on the adjacent property; whether the proposed use creates significant disruption to the character of the area; and whether the proposed use conflicts, in a substantive way, with the purpose of the zone.

Staff Response, Planning:

The language that applicant used in their response is consistent with staff’s understanding and matches that from the BCTT finding regarding the legislative history of the phrase:



“[...] In applying the term “seriously interfere”, Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered factors such as: does the proposed use make it difficult to continue uses on the adjacent property; would it create significant disruption to the character of the area; would it conflict, in a substantive way, with the purpose of the zone. [...] In the past, ‘seriously interfere’ has generally been applied as meaning more than an inconvenience or irritation but is a lesser threshold than rendering the uses on adjacent property impossible. Speculated effect on property values has not been a primary consideration in determining serious interference. [...]”

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 7-9):

Staff Summary: VNEQS attorney Jeffrey Kleinman argues that the phrase “seriously interfere” in BCC 53.215(1) is synonymous with the “Farm Impacts” test in ORS 215.296 and thus the county should evaluate whether the proposed landfill expansion in its entirety will “force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.” Mr. Kleinman argues generally that the movement of “the operation” to the south requires the applicant to show that the entire landfill expansion will satisfy the Farm Impacts test, and generally refers to “the farm impacts that will occur” with movement of the landfill operation to the south, and to “other affected farms.”

Applicant Response (Exhibit E35 p. 2-6):

Mr. Kleinman appears to argue that any interference that is more than insignificant is serious. That is not consistent with the express language of the Benton County Development Code. The interpretation that VLI proposed in its Burden of Proof, and with which staff concurred in the Staff Report, was based upon the BCTT analysis. That analysis was based not just on the input from the lawyers, but primarily on research by County planning staff about how the County has historically interpreted the conditional use criteria in past land use decisions. The Planning Commission should bear in mind that the conditional use criteria in BCC 53.215 apply to all conditional uses under the Benton Development Code. If the County adopts a much more restrictive definition with regard to this application, then the County will have to apply that interpretation in any future CUP application for any conditional use in the Code. If the County adopts a more restrictive interpretation for this application than its historic interpretation, that affects the plausibility of the interpretation. If the County adopts a more restrictive interpretation for the application and then reverts to its historic interpretation in future applications, that is a due process issue. As an applicant, VLI expects to be judged based upon the text of Code and consistent the County's past practice.

Mr. Kleinman's construction of the term "significant" is not relevant because that term is not used in BCC 53.215(1).

Staff Response, Planning:

Proposed development occurs in two zones: the LS Zone and the FC Zone.

The Farm Impacts test applies to a conditional use in farm and forest zones. Under OAR 660-006-0025(4)(d), the proposed development in the FC zone is required to satisfy OAR 660-006-0025(5), which is identical to the Farm Impacts test in ORS 215.296. These rules are implemented in BCC 60.220. The applicant proposes some development within the FC zone including an employee building and leachate ponds. For the proposed development in the FC zone, the applicant is required to satisfy the Farm Impacts test.

Both applicant and opposition testimony folded FC zone impact analysis into the overall proposed expansion. Due to this conflation, staff noted in the first Staff Report that FC Zone standards were not met, because LS zone standards (noise and odor impacts on adjacent uses) were not met. Findings relating to FC Zone standards are found in Chapter 60 findings, later in this Staff Report.

However, the Farm Impacts test does not apply to development proposed in the LS zone. BCC 53.215(1) applies. The meaning of the phrase “seriously interfere” is a matter of local law, and the county is not bound to interpret the phrase to be synonymous with or apply the Farm Impacts test to the proposed development in the LS zone.

Staff agrees with the applicant that the words used (“seriously interfere”) in the LS Zone are different than the standard farm and forest impacts test language, derived directly from ORS 215.296, that applies to the FC Zone.

Staff does not agree that the words used in LS Zone should be interpreted to mean the same thing as different words used in the FC Zone. Staff continues to recommend that the Planning Commission evaluate LS Zone conditional use requirements related to “seriously interfere” consistent with BCTT finding LLU F-9a quoted above.

Context of Existing Use

Applicant and opponent testimony also disagree on how impacts from the proposed expansion should be assessed in the Staff Report and analysis.

Applicant Response (Exhibit BOP p. 19):

There has been an approved landfill in this area for over 50 years. This analysis has to be conducted in the context of the existing approved landfill operation: whether the proposed expansion creates additional, different, or increased impacts as compared to the existing operation, and whether these impacts, if any, when viewed through the lens of the existing operation, “seriously interfere” with adjacent properties.

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 5):

“It is not just the southward movement of Republic’s operation that will cause the increased, adverse impacts in question. Rather, that movement will serve to sustain a dump operation which would otherwise be greatly constrained in scope. Thus, this proposal cannot be characterized as one for a preexisting use, inherently accepted as part of the character of the area. The character of the area entails a large operating landfill north of Coffin Butte Road that is close to shutting down. Its past role in establishing the character of the area cannot be “grandfathered” into the present time, much less the future. To the extent that you may be advised to the contrary, we strongly (but respectfully) disagree. The application must be treated as one for a brand new landfill, because that is precisely what it is.”

Applicant Response (Exhibit 35 Legal Arguments, p. 1):

I. Response to Mr. Kleinman’s Sections I and II (Introduction and General Comments)

A. New Landfill. Mr. Kleinman argues that this CUP for expansion of the landfill should be treated as an application for a new landfill. That is not a plausible interpretation. The proposed expansion is on land specifically designated for landfill use, for which zoning was adopted with the intention of providing for future expansion of the landfill. A landfill has been operating in this area for 70 years, and the expansion area will be part of the landfill operation that includes areas north of Coffin Butte Road.

Staff Response, Planning:

Staff understands that Mr. Kleinman would prefer that the proposal be considered a new use, with no existing landfill, for the purpose of evaluating conditional use impacts. However, evaluating an expansion of an existing use as an entirely new use would not be consistent with staff experience or County practice. Staff agrees with the applicant that this conditional use review is specific to the expansion of the landfill. Thus, the existing landfill operations, as they have been previously approved by Benton County, are important context, and they form the “base case” from which potential impacts may be measured.

In the following discussion of whether the proposed landfill expansion will “seriously interfere” with uses on adjacent properties, with the character of the area, and with the purpose of the zones, staff have individually responded to the following types of potential impacts: noise, odor, traffic, water quality, visual impacts, litter, fire risk, wildlife, and air quality.

These nine types of impacts are the focus of this finding because:

- These are typical direct impacts related to landfill uses;
- These were identified by the applicant as potential off-site impacts;
- These issues have been raised and addressed in prior application processes by staff and neighbors; and
- These issues were commonly identified in public testimony by opponents

“Adjacent property” Interpretation:

Applicant Response, “adjacent property” (Exhibit BOP p.19¹⁵):

The Benton County Code does not define the term “adjacent.” Absent a special definition, the courts ordinarily resort to the dictionary definitions, assuming that the legislature (or, in this case, the County Commissioners) meant to use a word of common usage in its ordinary sense.

*Webster’s Third New International Dictionary defines “adjacent” as “not distant or far off * * *: nearby but not touching * * *relatively near and having nothing of the same kind intervening: having a common border: ABUTTING, TOUCHING; living nearby or sitting or standing close relatively near or close together: immediately preceding or following with nothing of the same kind intervening.” (Capitalized emphasis in the original.)¹⁹*

Because the application is to expand the existing landfill operation, Applicant started with a base site that includes all tax lots on which existing landfill operations and accessory uses are located, plus all tax lots constituting the Development Site on which the Project will be located (the “Landfill Boundary”). Applicant then identified properties abutting the Landfill Boundary (the “Adjacent Properties”) and the properties abutting the Adjacent Properties (the “Nearby Properties”). See Figure 1, below.

¹⁵ We have not included the text of one footnote within this quote, which provided the citation for a dictionary definition.

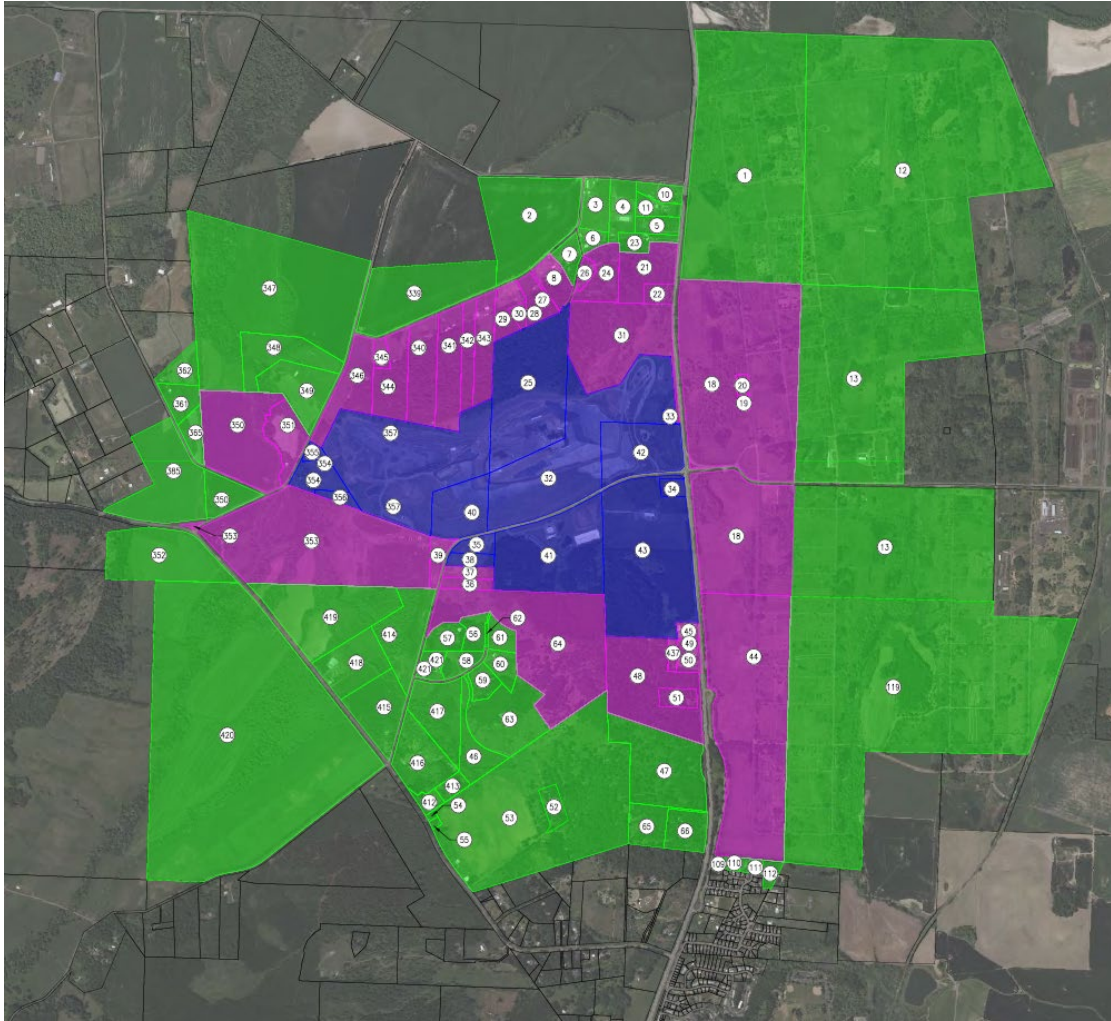


Figure 1 (Adjacent and Nearby Properties). Full-size version and tax lot list attached as Exhibit 8.

This analysis covers both the Adjacent Properties and the Nearby Properties. Although Applicant does not believe that the text of the criterion requires it to look beyond the Adjacent Properties, the Nearby Properties are included to demonstrate compliance with the criteria even in the context of a broader scope of review

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p.9):

“One can assume for the sake of argument that, as staff states, “adjacent property” includes the adjacent and nearby properties mapped on page 20 of the Staff Report. It would be nothing short of bizarre for conditional use criteria to be concerned only with directly abutting properties, especially in light of the size, scale, and diverse intense impacts of the use proposed here. At the same time, properties as to which serious interference can be demonstrated should be included within the definition of adjacent property, in order to give effect to the purpose and intent of the conditional use criteria.”

Applicant Response (Exhibit E35, p. 3):

II. Response to Mr. Kleinman’s Section III (Conditional Use Approval Standards)

[...]

Interference with Uses on Adjacent Property. BCC 53.215(1) requires an analysis of the impacts on adjacent property and on the character of the area. VLI identified the adjacent properties based upon the definition of “adjacent” in Webster’s Third New International Dictionary, which, as Mr. Kleinman notes, is the dictionary preferred by LUBA and the appellate courts when construing terms of common usage. See BOP at 19-20. VLI identified adjacent properties, not just adjacent to the expansion area, but adjacent to the existing landfill plus the expansion area; VLI also included in its analysis properties abutting the adjacent properties. While VLI does not necessarily agree that this expansive view of “adjacent” is required by the Benton County Code, the Staff Report concurs that this captures all of the “adjacent properties.”

Staff Response, Planning:

Staff concurs with all parties that “adjacent property” is not defined in the code, and that the dictionary definition of “adjacent” provided by the applicant indicates properties both touching and nearby the subject property would reasonably meet this definition. Staff also notes that “adjacent” would typically mean “abutting” for land use review purposes. Due to area ownership patterns and scale of the proposed development, an inclusive definition of “adjacent” is merited. Consistent with that view, staff is evaluating properties identified as “nearby” as well as properties identified as “adjacent” in review of this standard.

Evaluation of impacts on “adjacent” properties includes all the properties identified as “adjacent” (purple) or “nearby” (green) in Figure 1 of Exhibit BOP (included above, and in Exhibit 8). Staff concludes that this inclusive definition is sufficient to capture the intent of a code standard that evaluates impact on “adjacent” properties. As of the writing of this Supplemental Staff Report, the County has received comments from 14 addresses within the “adjacent” area; this Staff Report identifies and responds to these.

Applicant Response, “uses on adjacent properties”:

The applicant described the uses on “adjacent and nearby” properties in their full BOP, which was submitted to the county on January 15, 2025. The applicant submitted an addendum to the BOP on March 14, 2025 (Exhibit BOPA) which included brief supplemental information regarding the Benton County Business Database (Exhibit 34).¹⁶

The applicant’s response in the full BOP (Exhibit BOP p. 20-22) is quoted below. As the reader will see in the quote below, there are footnotes that we have not included here. These footnotes list ID numbers assigned by the applicant, which correspond to labels on the map in Exhibit 8. The Tax Lot IDs, property owner names, and zoning of each labeled lot are listed on a separate page in Exhibit 8.

The 16 tax lots that consist of the existing and proposed landfill areas and accessory uses are owned by VLI.²⁰ These properties are zoned LS and FC. The Adjacent and Nearby Properties east of Highway 99W are predominately in public ownership, are zoned OS, and are managed as the E.E. Wilson Wildlife Area.²¹ The Wildlife Area is open to the public year-round for birding, hiking, limited hunting, and fishing. There are four small rural residential (RR-5) Nearby Properties owned by individual property owners at the very south end of the adjacent property.²² These properties are occupied by dwellings and some outbuildings.

The Adjacent and Nearby Properties north of the landfill and east of Wiles Road are generally on the north side of Coffin Butte and are shielded from the landfill by the ridge. The Adjacent Properties to the landfill are zoned FC and are generally owned by individuals and trusts and appear to be in small woodlot management or small-scale farming or livestock operations.²³ Ex. 32, pages 12-20. Several of these properties have residences and farm outbuildings, but it

¹⁶ The supplemental information provided in Exhibit 34 does not appear to materially alter or enhance the information provided in the January 15, 2025 BOP.

is unclear from observation whether they are being operated for commercial farm or forest operations within the meaning of BCC 51.020 (15) or (24). Ex. 32, pages 12-20. The large parcel northwest of the landfill is owned by the Oregon Department of Fish and Wildlife and is operated as a part of the E.E. Wilson

Wildlife Area.²⁴ Ex. 32, pages 34-35. The FC-zoned properties north of the Wildlife Area appear to be vacant or used for small-scale farming operations.²⁵ Ex. 32, pages 21-23. These are owned by individuals, except for Tax Lot 0300, which is owned by Peltier Real Estate Company, a wholly owned subsidiary of Republic Services, Inc.²⁶ The Peltier property is vacant and is not being used or proposed for use by VLI for the existing landfill or the proposed Project. The Nearby Properties to the north of these Adjacent Properties are zoned RR-5 and owned by individuals²⁷ or are zoned EFU and owned by an LLC and appear to be in commercial farm use (grass seed, row crops).²⁸

The Adjacent and Nearby Properties east of the landfill and west of Wiles Road are zoned EFU and owned by individuals and trusts and appear to be in commercial farm use within the meaning of BCC 51.020.²⁹

The Adjacent and Nearby Properties to the southwest of the landfill between Wiles Road and Soap Creek Road are zoned EFU and owned by individuals³⁰ or are owned by VLI or Peltier Real Estate Company, a wholly owned subsidiary of Republic Services, Inc., and leased to Agri-Industries, Inc., for farm use.³¹ See Ex. 31, page 8. The Nearby Properties southwest of Tampico Road are zoned EFU and are owned or controlled by Oregon State University and are used for research farm use.³²

The Adjacent Properties to the south of the landfill are zoned FC or RR-10 and are owned by individuals,³³ Peltier Real Estate Company, a wholly owned subsidiary of Republic Services Inc.,³⁴ or VLI.³⁵ These parcels are vacant or are in residential use. The Nearby Properties to the south of these Adjacent Properties are zoned EFU³⁶ or RR-10³⁷ and are owned by individuals or VLI.³⁸ These lots appear to be vacant, in residential use, or in farm use.

Staff Response, Planning:

For staff review of BCC 53.215(1), the list of properties included by the applicant as “adjacent” or “nearby” will be evaluated against identified impacts, including testimony from property owners within this area, to determine whether the proposed expansion will seriously interfere with uses on these “adjacent” properties. For ease of review, adjacent property owner comments are included as exhibits directly attached to the Supplemental Staff Report.

Adjacent Property Owner or Resident Comments

As of June 10, the County received comments from residents or owners of 14 adjacent properties. Copies of their compiled¹⁷ testimony are included in Exhibit BC7, as listed in Table 0-1. Staff include **Figure 5** (Exhibit BC7.0) depicting the location of these properties to provide context to the testimony.

Many commenters state that increased adverse impacts from landfill expansion are linked to (a) closer proximity to the landfill expansion area and/or (b) increased intensity of use due to the removal of the existing tonnage cap. Common concerns included worsening odor and air quality – often associated with health risks- along with increased noise, light pollution, airborne debris or litter, and negative effects on groundwater, wells, wildlife (including heron rookeries), and their farming operations. Many also cited concerns about reduced livability, lower property values, negative impacts on recreation, traffic, visual aesthetics, and fire risk. Numerous

¹⁷ Several commentors submitted written testimony more than once throughout the public comment period. In Exhibit BC7, Staff have compiled the testimony which are referenced in the findings.

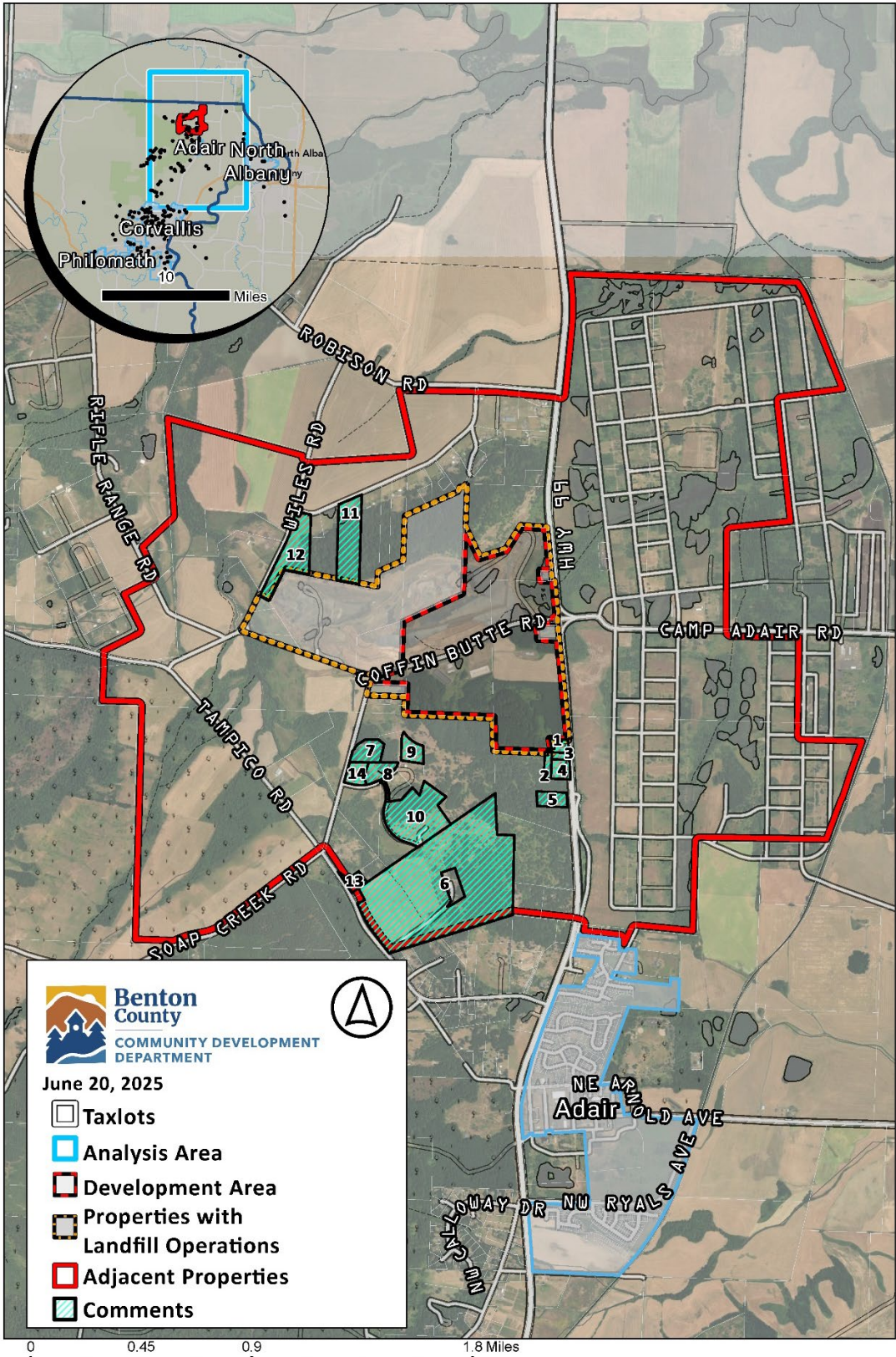
commenters referenced BCC 53.215 conditional use criteria, particularly provisions related to impacts on adjacent properties, and argued that the expansion would not meet these standards. Some bolstered their claims with first-person anecdotes, photographs, and reports to illustrate the severity of existing and anticipated impacts.

In the section below, “Application: Potential impacts on uses of adjacent property”, Staff include quotes from testimony regarding impacts on adjacent uses and a sample of testimony covering the various concerns raised. staff include applicant responses, when relevant, and address the issues in the findings.

Table 0-1 . Comments received from owners or renters of adjacent property

INT. REF.	NAME	TLID
BC7.1	E. and L. Bradley	104190000200
BC7.2	J. Searls	104190000401
BC7.3	J. Geier	104190000500
BC7.4	C. and P. Merrill	104190000600
BC7.5	J. and P. Morrell	104190000700
BC7.6	R. Wilson	104190001800
BC7.7	G. Carlin	10419B000400
BC7.8	L. A. Davis	10419B000500
BC7.9	I. Finn	10419B001300
BC7.10	A., C., and R. Holdorf	10419B001500
BC7.11	D. Hackleman	105130000200
BC7.12	B. Briskey	105130000400
BC7.13	D. and N. Johnson	105240000101
BC7.14	G. Lind Flak	105240000400

Figure 5. Map of Testimony from Adjacent Properties (Exhibit BC7.0)



County of Benton, Oregon State Parks, State of Oregon GEO, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, USFWS, County of Benton, Oregon State Parks, State of Oregon GEO, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USFWS, Maxar

Application: Potential impacts on uses of adjacent property

Noise

The April 22, 2025 staff report recommended denial due to modeled noise impacts on an adjacent property and staff contract engineering concerns with the analysis. The applicant supplemented, but did not replace, their original noise analysis, and provided suggested conditions to mitigate impacts. Multiple neighbors and VNEQS provided testimony on noise impacts. The applicant provided responses to opposition testimony on noise impacts. This supplemental staff report includes:

1. The applicant's original noise study and response to this criterion;
2. Adjacent property testimony;
3. Opponent testimony (VNEQS);
4. Applicant updated noise analysis with suggested conditions and responses to opponent testimony;
5. Updated staff contract engineering evaluation of the updated noise analysis and suggested conditions; and
6. Updated staff planning response with proposed conditions of approval.

Applicant Response (Exhibit BOP p. 28-30):

[...] the following off-site impacts from the Project may potentially affect the Adjacent Properties: (a) noise; (b) odor; (c) traffic; (d) water (well capacity/groundwater impacts); and (e) visual impacts. These impacts are primarily generated by the working face, which will move from north of Coffin Butte Road to the Project area south of Coffin Butte Road. Once moved, the landfill area to the north of Coffin Butte Road will not be used for disposal operations. There will be only one working face in operation at any time.

Current conditions on the Adjacent and Nearby Properties include the off-site impacts from the existing Coffin Butte Landfill. The question is thus whether the anticipated off-site impacts resulting from the Project differ from the current offsite impacts in a way that will "seriously interfere" with the uses of the Adjacent and Nearby Properties.

a. Noise. *Greenbusch Group, Inc. ("Greenbusch") assessed the noise impacts from the proposed expansion (Ex. 11). Greenbusch applied OAR 340-035-0035, which regulates sound emissions from commercial and industrial uses (the "DEQ Noise Rule").⁴⁰ As explained below and in Exhibit 11, Greenbusch determined that the predicted sound levels from the Project will "comply with the applicable regulatory criteria without the inclusion of noise mitigation."⁴¹*

⁴⁰ DEQ has adopted noise standards but does not enforce them itself.

⁴¹ In its 2021 study, Greenbusch concluded that the prior application would require mitigation measures in order to comply with the DEQ Noise Rule. The updated study, attached as Exhibit 11, concludes that no such measures are required by the 2024 proposal.

As noted by Greenbusch, the Project will not change the character of operations at the landfill. Accordingly, noise impacts from the Project will be similar in kind to current conditions, where noise is produced by equipment such as dozers, excavators, compactors, tipping machines, and truck traffic. When the Development Site is opened, active landfill operations will move from north of Coffin Butte Road to the Development Site, so overall noise impacts will not appreciably change as compared to the current conditions (and could even diminish).

The DEQ Noise Rule establishes sound-level limits as measured from “noise sensitive property.” Noise sensitive property, in turn, means property “normally used for sleeping, or normally used as schools, churches, hospitals or public libraries.” OAR 340-035-0015(38). The closest noise-sensitive uses to the Project are shown on Exhibit 11, Figure 5.1.⁴²

42 The closest noise-sensitive use is the residential home on Tax Lot 1104.

Applying the DEQ Noise Rule, noise impacts would be measured 25 feet toward the landfill from the point of noise-sensitive building closest to the landfill or the point on the noise-sensitive property line closest to the landfill (whichever is farthest from the landfill). Greenbusch applied stricter standards than those required by the DEQ Noise Rule as follows:

(i) The DEQ Noise Rule imposes different limits for commercial and industrial sound sources depending on whether the site has been previously used as a commercial or industrial site. Limits are stricter for sites that have not been previously used as a commercial or industrial site. The Project would be considered a new sound source located on a previously used site, and thus subject to the less-stringent limit. Nonetheless, Greenbusch evaluated the anticipated increase over existing sound levels using the limits that apply to previously unused sites.

(ii) Motor vehicle sound emissions are measured within 1,000 feet of the noise-sensitive use. OAR 340-035-0030. As explained by Greenbusch, the type of motor vehicle use at the Project is exempt from the sound limits in OAR 340-035-0030. Nonetheless, Greenbusch evaluated the sound levels from anticipated motor vehicle use at the Project and determined that they would fall under the sound-level limits imposed by OAR 340- 035-0030

(iii) Operating hours at the landfill extend into both daytime and nighttime hours for purposes of the DEQ Noise Rule. Greenbusch assessed compliance using the more stringent nighttime sound-level limits.

Greenbusch took a number of measurements of existing sound levels and used those measurements to model two different scenarios to analyze anticipated noise impacts from the Project. Based on these models, Greenbusch concluded that “[p]redicted sound levels from trucks using the landfill and on-site equipment comply with OAR sound limits at all nearby noise sensitive properties under both modeling scenarios.” Because Greenbusch analyzed the noise-sensitive properties closest to the Development Site and because sound dissipates over distance, these conclusions necessarily apply to all noise-sensitive properties that are Adjacent or Nearby Properties to the Landfill Boundary.

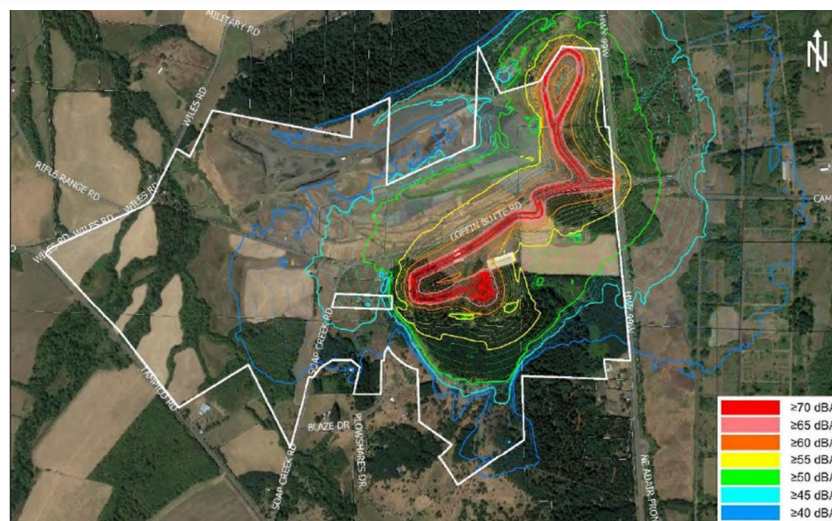
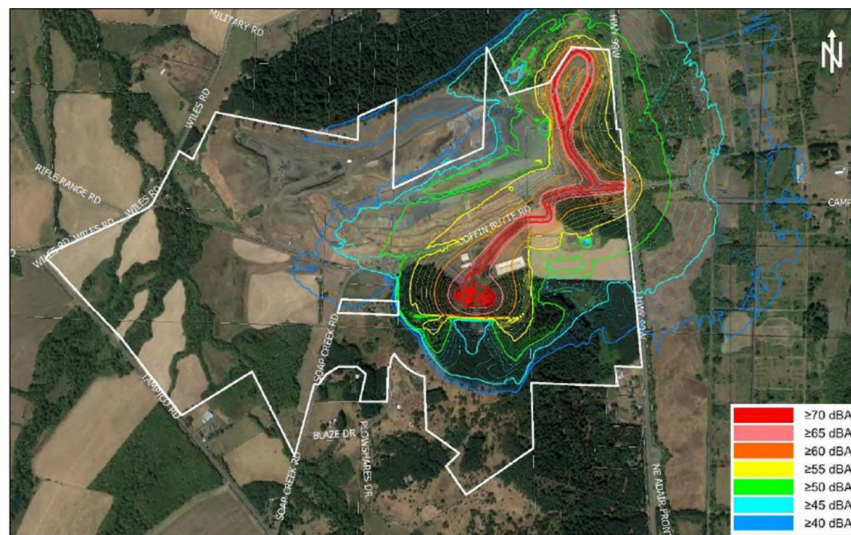
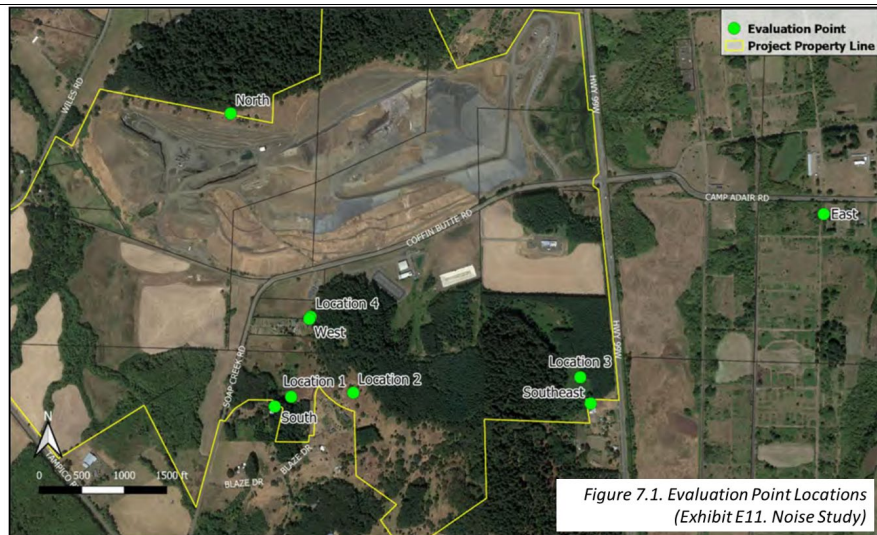
In addition, although not required by the DEQ regulations, Applicant has replaced back-up alarms on its on-site equipment with ambient sensing broadband back-up alarms as a voluntary noise-mitigation measure.⁴³

43 Hauling trucks and other trucks coming to the site will still use standard back-up alarms.

Finally, the Greenbusch analysis demonstrates that anticipated off-site noise impacts from the Project will not be materially different from existing conditions.

Given that the proposal does not materially change the off-site noise impacts from current conditions and complies with all regulatory criteria even without mitigation, and further given that Applicant has engaged in additional mitigation measures, the off-site noise impacts of the Project will not “seriously interfere” with the use of Adjacent and Nearby Properties.

Applicant Response (Exhibit E11 p. 12-15):



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, [...]"

Adjacent Property Owner/Resident Testimony (D. Hackleman, Exhibit BC7.11, p. 3, 4, 5-6, 7):

"Odors that were uncommon for decades are on the increase and noise from the vehicular operations is heard more as the landfill height increases.

[...]

Observations: [...]

4. In addition, the ambient audio noise at the hilltop due to the vehicular and equipment operations at the landfill during operating hours is significantly greater than it was when fewer vehicles were traversing the area and when the landfill dump site was not as elevated. This does reduce the quality of the conditions at the geodesic dome.

5. The noise floor (a technical term related to telecommunications) has increased from S 1 as measured by radio apparatus in 1990 to S6 as measured this year. This represents an increase in the local electronic noise from radio sources of approximately 30dB, or a factor of 1000. This increase has reduced the quality of the site for telecommunications operations. It is unclear as to the source of this radio noise, it is under investigation. The noise floor at my residence on the North Side of the Butte has remained at S 1 and not increased. [...]

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. [...]

Radio Telecommunications: [...]"

Staff Summary: The commenter reported that the summit of Coffin Butte serves as a key location for radio telecommunications and has been developed with several improvements since 1980. These include multiple towers, a geodesic dome, solar power systems, and equipment supporting amateur radio and emergency communication functions. The property hosts an amateur radio repeater used by the Soap Creek Valley Amateur Radio community and is adjunct to the Benton County Emergency Services network. The commenter stated that these systems depend on unobstructed "line-of-sight" (straight-line) transmission and noted that maintaining the landfill surface at least 50 feet below the property's lower boundary is crucial to avoid signal interference. The testimony indicates that while there is current interference, the projected increase in landfill volume could reduce the functional lifespan of the telecommunications site due to potential signal obstruction occurring sooner than previously expected.

"Residence:

[...]

Noises (back-up beepers, etc.) are heard more often lately during the operations, disturbing the ambiance as well."

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

"I'm also concerned about the blasting that would take place since we already experience noise often beginning as early as 5: 30 am when trucks begin arriving, [...]"

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 11-13):

"Dump operations are proposed to be conducted from 5:00 AM to 5:00 PM, Monday through Saturday and noon to 5:00 PM on Sunday. (However, movement of heavy equipment regularly starts by 4:00 A.M., to prepare the fill for the arrival of trash.) It would be difficult to overstate the extent to which landfill-related noises will "seriously interfere with uses on adjacent property." Hundreds of heavy diesel trucks hauling waste to the site, climbing the working face of the fill, traveling over the fill itself, and braking

down the slope and departing from the site will produce a nearly constant heavy roar and squeal, most intrusive during the warmer months when residents are trying to enjoy being outdoors on their property. The dumping operation itself will produce the regular sounds of vehicle hydraulics and clanging tailgates as loads are dumped. Perhaps worst of all will be the high-intensity chirping of back up beepers (whether or not outfitted to be triggered only by proximity to obstacles³), on both the haul trucks and landfill equipment such as bulldozers. Noise impacts alone will render adjacent properties nearly unlivable.

3The applicant proposes to require proximity-generated buzzers for their own equipment. These devices produce an alarm-clock-like buzzing which is louder than the traditional beeping.

[...]

Valley Neighbors generally agree with staff's findings. However, we would reinforce them with the following modifications:

(1) Even hypothetical compliance with DEQ noise standards, which are effectively unenforceable in any event⁴, may seriously interfere with uses on adjacent property. The proposed conditional use and the disturbing sounds it will generate are simply incompatible with adjacent residential uses, and even with the outdoor activities of small farm operators who have placed comments into the record.

4 Sadly, this is putting it very mildly. The applicant's representative testified on May 1 that DEQ no longer conducts enforcement. DEQ in fact stopped updating noise regulations in 1991, which is when it ceased noise enforcement. The applicant is not constrained by DEQ regulations.

(2) The science of acoustics does not lend itself to straight-line calculations. For example, based upon the height of the fill at any given time, varying atmospheric conditions, and the occasionally sheltering effect of the fill itself, properties further away may suffer greater impacts than "the closest noise-sensitive properties." Thus, the applicant did not meet its burden of proof when it only evaluated potential noise impacts on those properties and their uses, and not on other properties within the as-defined adjacent area.

(3) The applicant is only able to exercise some semblance of control over its own vehicles. The vehicles of other haulers and private customers will be entirely out of their control. Assurance of compliance with any relevant or agreed noise standards will be impossible.

Applicant Response (Exhibit CL3, p. 2):

The Applicant submits the attached June 6, 2025, memorandum, prepared by The Greenbusch Group, Inc. ("Greenbusch") proposing mitigation measures to further reduce sound levels at the closest noise-sensitive uses during the quietest hour (Applicant's Ex. 38). The report details several modifications to on-site equipment that will reduce ambient noise levels at the nearest noise-sensitive use during the quietest hour from 11 dba to 6 dba, which is a substantial reduction. Greenbusch's memorandum proposes a condition of approval to ensure implementation prior to commencement of commercial landfill operations in the expansion area. This addresses the concern raised by MFA regarding exceedance of the Noise Rule during the quietest hours.

Applicant Response (Exhibit E35, p. 3-4):

II. Response to Mr. Kleinman's Section III (Conditional Use Approval Standards)

[...]

As part of its post-hearing submittal, VLI has submitted [a revised Noise Study] dated June 2025 ("June 2025 Noise Analysis") to address the concerns in the Staff Report that led to staff's recommendations for denial and to recommend additional mitigation measures.

a. DEQ Noise Rule. Mr. Kleinman implies the DEQ Noise Control Regulations for Industry and Commerce (OAR 340-035-0035) (the "Noise Rule") are unenforceable and out of date. DEQ does not enforce its noise control regulations because the legislature

withdrew DEQ's funding to do so. See OAR 340-035-0110. The Noise Rule has been updated since 1991, however, and is applied by cities, counties, and other state agencies in other contexts. See, e.g., Mingo v. Morrow Cnty., ____ Or LUBA ____ (LUBA Nos. 2011-014, 2011-016, and 2011-017) (June 1, 2011) ("Mingo I") (wind energy facility noise). The Noise Rule is an accepted benchmark for determining noise impacts on surrounding properties, particularly in the absence of any County noise rules.

b. Back-Up Beepers. Mr. Kleinman argues that the proximity alarms that will be installed on VLI's vehicles instead of back-up beepers are even noisier. Mr. Kleinman cites no evidence in support of this allegation. VLI is actually proposing to install ambient-sensing broadband back-up alarms that use white noise that adjusts based upon ambient sound levels. These are much quieter than tonal alarms. June 2025 Noise Analysis.

Applicant Response (Exhibit E53, p. 1-3):

Staff summary: The applicant responds to opponent testimony from VNEQS in their June 10, 2025 letter (Exhibit BC8.3) on adverse noise impacts. In response to VNEQS' argument that the applicant did not take into consideration the noise increases that would result from the removal of a tonnage cap, the applicant replied that additional fill capacity would not mean more noise.

In response to VNEQS' argument that the applicant did not consider the noise impacts of site preparation, the applicant stated that the Benton County Code does not regulate construction noise and that this is exempt from Oregon Administrative Rules sound limits.

In response to VNEQS' argument that DEQ noise standards are insufficient to address land use compatibility, the applicant replied that DEQ noise regulations are based on comprehensive EPA health and welfare criteria and provide robust protection, and that the proposal will remain well below those standards.

In response to VNEQS' noise concerns regarding the applicant's (since revised) proposal to conduct landfill operations and site preparation "after and before" operating hours, the applicant stated that any operations conducted outside of the 5 a.m. to 5 p.m. hours would "not generate any notable levels of noise".

Staff Response, MFA – Engineering (Exhibit BC1, p. 4):

Exhibit 38: Memorandum – Additional Noise Mitigation

Exhibit Description: Exhibit 38 includes a memorandum dated June 6, 2025, prepared by The Greenbush Group, Inc. containing updated information related to the Applicants proposed noise mitigation measures.

Comments: MFA recommends removing the following statement on page 2: "Verification measurements may need to be made outside of normal operating hours to reduce noise contributions from other sources." Findings: The above-referenced statement implies that sound measurements could be taken using a different method than was used to establish the baseline data for the 2023 assessment for the previous noise evaluation. It also may result in running the equipment outside of permitted operating hours, which would be counter to the purpose of focusing on noise mitigation. Otherwise, MFA is aligned with the proposed approach.

Staff Response, Planning:

The applicant identified the closest noise-sensitive properties (residential uses) and evaluated potential noise impacts on these uses. The applicant did not evaluate noise impacts on other adjacent properties at greater distances. Staff concurs with the applicant and the submitted expert testimony that if noise does not seriously

interfere with close noise-sensitive uses, it will not seriously interfere with noise-sensitive uses farther away, as noise diminishes over distance.

Staff originally recommended denial due to noise impacts on an adjacent property, proposed essentially unlimited hours of operation, and an unclear path to mitigation of noise impacts. In updated materials, the applicant proposed conditions relating to more limited hours of operation and noise mitigation. Staff engineering review found the applicant's proposed mitigation to be viable and added clarifying recommendations. Staff recommends **Conditions OP-2(A-B)**, mitigating and monitoring noise levels (including a requirement that noise study occur during operating hours) and replacing tonal back-up alarms on site equipment.

Radio Telecommunications (Noise Floor). While not classically related to noise production, staff addresses the telecommunications noise floor issue here. Dr. Hackleman notes that the landfill must stay at least 50 feet below his lower property line to avoid impacts on telecommunication. Staff presume that Dr. Hackleman refers to the rear (southern) property lines located near the crest of Coffin Butte, though Dr. Hackleman did not specify the elevation below which the expansion would need to remain. The elevation across Dr. Hackleman's rear property line ranges from approximately 620 to 740 feet above mean sea level (MSL). According to applicant's exhibit E45; the top of waste of the proposed landfill expansion elevation is 450 feet MSL. Therefore, staff understands this concern can be resolved with a condition limiting the landfill expansion height to the elevation proposed.

Recommended **Condition OP-5** limiting maximum landfill height to 450 feet will address telecommunication height concerns. Recommended **Condition OP-5** limiting maximum landfill height to 450 feet above MSL will address telecommunication height concerns.

Staff finds that noise from the proposed landfill expansion can be mitigated through conditions of approval to not "seriously interfere" with adjacent properties.

Odor

The applicant originally responded to the issue of odor impacts in the full BOP dated January 15, 2025 (Exhibit BOP p. 30-33), and in an addendum dated March 14, 2025 (Exhibit BOPA p. 1-3). Staff recommended denial based on identified technical concerns with these studies, as discussed in the first (April 22, 2025) staff report. The applicant updated their odor analysis to respond to staff-identified technical concerns. The new odor analysis is provided in Exhibit E36, and further supplemented in Exhibit E51. These exhibits are summarized below, followed by opponent testimony, applicant responses, and staff engineering and planning responses.

Applicant Response (Exhibit E36, p. 22-25):

4.0 Results

Tables 6 and 7 summarize the peak, off-site, 1-hour pollutant concentrations for each modeling scenario in units of micrograms per meter cubed (ug/m3). Each pollutant impact was then compared to its odor threshold via a ratio called dilution to threshold or D/T (i.e., maximum impact divided by odor threshold). A D/T ratio of one indicates that roughly half of people can detect an odor at a given location for a given hour. A D/T of 7 is expected to result in a odor "nuisance" in most states, though this number is variable and not quantified in Oregon. See Figure 8 for the peak, off-site impact locations. Figures 9 through Figure 12 show the odor concentration contours from the two pollutants in each scenario with the highest D/T values. For each scenario, NOx had the highest D/T with the tipper engines as driving sources, and dimethyl sulfide had the highest D/T with the fugitive landfill surface as the driving source. All six of the remaining pollutants would show similar contours to dimethyl sulfide as they have the same driving source.

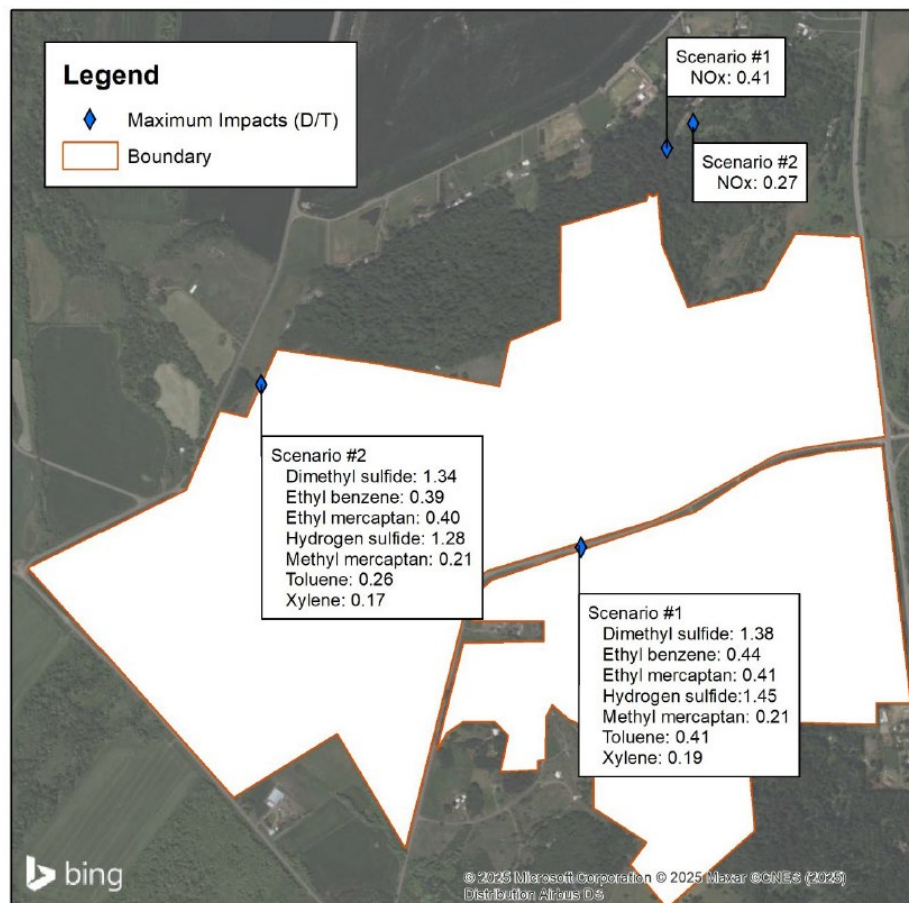
Table 6. Scenario #1: 2023 Model Results

Odor Pollutant	Max Impact (ug/m3)	Odor Threshold (ug/m3)	Max D/T	Driving Source	Max Impact Easting UTM Zone 10 (m)	Max Impact Northing UTM Zone 10 (m)
Dimethyl sulfide (methyl sulfide)	3.51	2.54	1.38	FUG	481,595	4,949,280
Ethyl benzene	3.85	8.68	0.44	FUG	481,595	4,949,280
Ethyl mercaptan (ethanethiol)	1.03	2.54	0.41	FUG	481,595	4,949,280
Hydrogen sulfide	9.52	6.55	1.45	FUG	481,595	4,949,280
Methyl mercaptan	0.87	4.13	0.21	FUG	481,595	4,949,280
NOx (as NO2)	769.18	1,881.62	0.41	TIP2 and TIP3	481,845	4,950,455
Toluene	28.54	97.99	0.29	FUG	481,595	4,949,280
Xylene (mixture)	10.11	52.10	0.19	FUG	481,595	4,949,280

Table 7. Scenario #2: 2052 Model Results

Odor Pollutant	Max Impact (ug/m3)	Odor Threshold (ug/m3)	Max D/T	Driving Source	Max Impact Easting UTM Zone 10 (m)	Max Impact Northing UTM Zone 10 (m)
Dimethyl sulfide (methyl sulfide)	3.41	2.54	1.34	FUG	480,620	4,949,730
Ethyl benzene	3.39	8.68	0.39	FUG	480,620	4,949,730
Ethyl mercaptan (ethanethiol)	1.01	2.54	0.40	FUG	480,620	4,949,730
Hydrogen sulfide	8.36	6.55	1.28	FUG	480,620	4,949,730
Methyl mercaptan	0.85	4.13	0.21	FUG	480,620	4,949,730
NOx (as NO2)	511.58	1,881.62	0.27	TIP2 and TIP3	481,920	4,950,530
Toluene	25.03	97.99	0.26	FUG	480,620	4,949,730
Xylene (mixture)	8.84	52.10	0.17	FUG	480,620	4,949,730

Figure 9. Peak 1-Hour Off-site Odor Impact Locations



Odor pollutants individually exceeded a D/T value of 1 for both hydrogen sulfide and dimethyl sulfide in this analysis. This is potentially detectable, but far below nuisance levels. However, there appears to be no significant change in odor impact from Scenario #1 to Scenario #2. Landfill gas generation from the landfill is expected to significantly increase from 2023 to 2052, increasing odor pollutants, however the landfill will be higher in elevation at that time which helps with dispersion. Scenario #1 shows the higher impacts from Nox as relocating the tipper engines and AI source to the southern expansion area is much better for modeling, having a larger buffer to the North and being at a lower elevation.

Based on the odor results in Scenario #1 and #2, a third scenario in the middle of expansion does not seem necessary. This middle scenario would show results in between Scenario #1 and #2 with slight differences based on landfill mound height in the expansion area and would certainly show D/T values less than 1 for all pollutants.

5.0 Conclusions and Uncertainty Analysis

Conclusions for both odor modeling and complaint analyses are described below. In addition, a discussion on uncertainty in this report is detailed in Section 5.3

5.1 Modeling Conclusions

Since DEQ has not specified a protocol for odor evaluations, this study modeled pollutants individually so that predicted off-site concentrations could be directly evaluated against the individual pollutant's published odor detection threshold to determine whether the individual

pollutant may be detectable in residential or commercial land use areas. This evaluation was accomplished using a D/T ratio for each pollutant modeled (i.e., maximum 1-hour pollutant concentration modeled divided by its odor threshold).

Based upon the modeling results of the two scenarios, the following conclusions are presented:

- Peak, off-site, 1-hour pollutant concentrations for Scenario #1 (2023 actual operations) showed hydrogen sulfide and dimethyl sulfide slightly over the detection threshold, but not nearly at nuisance levels.*
- Peak, off-site, 1-hour pollutant concentrations for Scenario #2 (2052 proposed operations) also showed hydrogen sulfide and dimethyl sulfide slightly over the detection threshold, but not nearly at nuisance levels.*
- Peak, off-site, 1-hour pollutant concentrations for Scenario #2 (2052 proposed operations) showed no significant change in odor impacts compared to Scenario #1 (2023 actual operation) for all pollutants except NOx. The decrease in NOx impact was due to the change in tipper and AI location, with an increase in all other pollutants based on increased landfill gas generation.*
- Peak impact locations were all north of the landfill boundary for NOx in Scenario #1 and Scenario #2. Landfill gas odor constituents were highest on Coffin Butte Road in Scenario #1 and on the Northwest property boundary in Scenario #2.*
- Moving operations to the proposed expansion area will move the predicted peak, off-site 1-hour impact locations, but impacts would remain below the nuisance levels for all pollutants.*

Typically, odors become a nuisance at or above 7 D/T [13, 14]. Therefore, this study concludes that the proposed expansion Project will not cause detectable off-site nuisance odor impacts at nearby residential or commercial areas.

5.2 Odor Complaint Conclusions

The odor complaint analysis for complaints logged in 2022 through 2024 indicated the following conclusions:

- Complaint locations ranged from adjacent to CBLF to as far as seven miles away.*
- Most complaints were located Southwest and South of CBLF, requiring wind from the North or Northeast to be coming from the landfill.*
- Dominant wind patterns come from the South-Southeast and West based on the meteorological dataset.*
- Complaints peaked in the morning from 8:00 AM to 11:00 AM.*
- Complaints specifically peaked in winter months, possibly due to thermal inversions. Colder temperatures have less thermal mixing which leads to higher air quality and odor impacts.*
- Correlating the complaint location to wind data during the complaint time showed only 1% of complaints “likely” to come from the landfill and 58% to be “possible” from the landfill.*

5.3 Uncertainty Analysis

Odor modeling is inherently complex and subjective, leading to significant uncertainty. The model performed to average emission rates and ran them over hour averages of on-site meteorological data for a whole year from November 1st 2004 through October 31st 2005. The maximum hourly impact at each off-site receptor was presented, but does not take into account shorter term (less than 1 hour) timeframes when odor concentrations could be higher with the right meteorological conditions. In addition, AERMOD has limitations at low wind speeds and is not able to model thermal inversions which could be present around CBLF.

In addition, the odor detection thresholds for each pollutant are highly varied depending on the person. In general, these odor thresholds are based on a concentration where half of the general public is able to detect the smell at a specific time and location. Certain odorous chemicals can also have an additive effect, where their smells are similar enough that the concentrations of each constituent can be added to compare to a detection threshold. During a February 2025 meeting with SCS and the County's consultants, it was agreed to model pollutants individually so that predicted off-site concentrations could be directly evaluated against the individual pollutant's published odor detection threshold to determine whether the individual pollutant may be detectable in residential or commercial land use areas. However, even when considering an additive effect, the D/T remains below 7 for the top five pollutants summed together.

These limitations have the potential to underpredict odor concentrations. It is possible for odors to be detectable by people that are sensitive to particular odors, especially in low wind or thermal inversion conditions. Uncertainty is also present in the odor complaint review. The time recorded for the complaint does not necessarily line up with the timeframe an odor was detected by the complainant. Thus it is hard to determine the actual wind direction/speed when the odor was detected. Another issue with analyzing complaints is that significant amounts of information are missing from each complaint. To get a full understanding of CBLF's contribution to the odor, each complaint would ideally include exact time and location the odor was detected, and a description of the odor at that time frame for comparison.

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:

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."*

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 14-15):

"[...] The evidence placed in the record will strongly support your staff's determination."

In addition, commissioners should not assume that some community members would be unaffected by or benefit from this proposal because the landfill and its working face would be further away than before. If the current fill (and the expansion into the quarry to its west) reach full capacity and this application is not approved, then the impacts other than residual fumes and odors (which are supposed to be controlled in the first place) would for the most part disappear. That is the baseline condition you must measure against, not the supposed baseline of an operating dump. [...]"

One characteristic that can be drawn from the preexisting operation, though, is the applicant's manner of operating a landfill. In this regard, please be aware that the voluminous application materials on file do

not disclose that Republic's Pollyannaish description of its methane emissions overlooks an ongoing action by the US Environmental Protection Agency. (Please see the recap attached as Exhibit B.) Simply stated, the EPA does not believe Republic's numbers and has the dump under investigation.

This reflects the way this operator operates. Leaking malodorous, unhealthy methane (that also contains airborne PFAS and many other air pollutants as described by the applicant during its May 1 testimony) onto adjacent properties will interfere with all uses on those properties, and with the character of the area (however "area" is defined)."

Opponent Testimony (VNEQS, Exhibit BC8.3, p. 11-12):

Staff Summary: This testimony was dated June 10, 2025. The commenters reference the applicant's May 29, 2025 presentation materials (Exhibit APC), Benton County staff responses from the April 22, 2025 Staff Report, and the applicant's "odor submission" (it is unclear to which version of the odor study they refer). The commenters argue that the applicant's odor study underestimates the amount of waste in place; specifies an incorrect final closure year; underestimates fugitive emissions; excludes valid odor complaints; and is inconsistent with "Carbon Mapper" (Eklund testimony), and lived experience.

Applicant Response (Exhibit CL3, p. 1-2):

The Applicant submits the attached revised Odor Dispersion Modeling Study dated June 2025 (Applicant's Ex. 36) prepared by SCS Engineers. In accordance with the recommendation of the County's odor consultants at Maul Foster & Alongi (MFA), SCS Engineers has changed the methodology for measuring final height to account for the differing final heights across the landfill area. The revised study confirms that odor generated by the landfill expansion will not be at nuisance levels off site. It also demonstrates that the expansion will not significantly increase odor levels above those generated by the existing landfill if the expansion were not constructed. For these reasons, the revised study fully addresses the issues raised in the Staff Report and demonstrates that the expansion will not interfere with uses on surrounding property. The Applicant also submits the Attached June 6, 2025, memorandum from SCS Engineers (Applicant's Ex. 37) responding to the comments and analysis prepared by Mason Leavitt of Beyond Toxics and presented at the May 6, 2025, hearing.

Applicant Response (Exhibit E35, p. 4):

II. Response to Mr. Kleinman's Section III (Conditional Use Approval Standards) [...]

As part of its post-hearing submittal, VLI has submitted an updated Odor Analysis to address the concerns in the Staff Report that led to staff's recommendations for denial.

Applicant Response (Exhibit E53, SCS Engineers response to June 10 VNEQS Odor Testimony, p. 1-2):

The VNEQS states that "the odor consultant's assertion that 1% of odor complaints are "likely" caused by the landfill" [Testimony Page 5] and "Applicant's consultants then conclude that only 1% "likely" originate from the landfill" [Testimony Page 10]. These statements are misleading as they both take the odor complaint analysis results out of context by failing to mention the results were based upon correlation to wind conditions measured on-site. If complaints did not include location and/or time stamps, then they could not be properly correlated to the Landfill as the potential odor source.

Flaw #1 translates cubic yards to tons and mentions these are roughly comparable, but gives no reference to that comparison. Landfill municipal solid waste (MSW) does compress over time, but this will end up with less volume as well. Coffin Butte's Waste in Place report for

2023 noted only 21,537,961 tons in the landfill by the end of 2023. A standard ratio of 0.6 tons per cubic yard is used in the industry, which is significantly less than what the Testimony implies.

Flaw #2 mentions that the closure year is incorrect. Years of capacity in both the current landfill area and expansion area are estimates. Year 2052 was determined (as mentioned in Section 3.2 of the Modeling Study) assuming 2023 waste acceptance rates continued moving forward until the full capacity of 41,110,068 tons was reached.

Flaw #3 cites inconsistencies in landfill gas collection efficiency. There are various estimations of collection efficiency at landfills, and all are quite variable. The EPA has determined a conservative default efficiency of 75% which is referenced on Page 10 of the Modeling Study. VNEQS is using Carbon Mapper to estimate collection efficiency in this Flaw citation, but gives no data to backup its claim. A brief aerial map of methane at the Landfill from Carbon Mapper does not seem to give an accurate representation of annual landfill gas fugitive emissions. These total fugitive emissions then would need to be compared to the total amount of gas collected to estimate collection efficiency.

Flaw #4 correctly notes that increased surface area will allow more area for fugitive gas to escape. This will be combated with additional gas collection wells in the new expansion area, as required under Federal and State air regulations. However, regardless of where waste is deposited it will be emitting the same amount of gas over time.

Flaw #5 mentions that the 84 odor complaints were “cherry picked” from the hundreds of odor complaints filled out by residents. As mentioned in Section 2.7 of the Modeling Study, Coffin Butte maintains a log of odor complaints received from the public and the Oregon Department of Environmental Quality (DEQ). All odor complaints in this log from 2022 through 2024 were assessed and none were left out. If additional complaints were recorded and not submitted to the Landfill’s log, SCS is willing to perform a more expansive analysis if the complaint data can be supplied.

Staff Response, MFA Engineering (Exhibit BC1, p. 1-4):

Exhibit 36: Revised Odor Dispersion Modeling Study

Exhibit Description: Exhibit 36 presents an odor dispersion modeling analysis of potential nuisance odor impacts from the existing and proposed operating scenarios for the landfill. Scenario #1 represents actual operations for 2023 (e.g., the existing scenario), and Scenario #2 represents the future operation during the estimated closure year in 2052. Scenario #2 is based on the assumption that the landfill will accept 930,373 tons of organic waste materials annually from 2023 to 2052, and that the design capacity for the landfill is limited to 41,110,068 tons. The revised Odor Study addresses MFA’s comments on the initial Odor Study that requested adjustment of the input parameters for the modeled fugitive landfill gas (LFG) emissions unit representations for Scenarios #1 and #2. Specifically, MFA requested SCS adjust the release height for the landfill surface area source representations to more closely align with the actual and future surface heights, and to set the initial vertical dimension for each area source representation to zero. Section 3.3.1 describes how SCS Engineers divided the landfill surface into a grid with 63 distinct 20,000 square meter areas. Each grid was represented in the dispersion model as a unique area source representation with a modeled release height based on the average elevation of each grid cell. This approach more accurately represents the landfill topography in the dispersion model and is in general alignment with MFA’s recommendation. In addition, Table 3 presents the modeled release parameters for each area source representation included in the revised Odor Study. As shown in Table 3, no initial vertical dimension was included for any area source representation, which is in agreement with the MFA recommendation to conservatively set the initial vertical dimension to zero.

The revised Odor Study concludes that the proposed expansion of the landfill will not cause offsite nuisance odor impacts at nearby residential or commercial areas because the predicted dilution-to-odor threshold (D/T) for both scenarios is well below the commonly accepted nuisance threshold of 7 D/T.

Findings: MFA generally agrees with the dispersion modeling techniques and methodologies used by SCS Engineers to produce the results presented in the revised Odor Study. The revised Odor Study is based on actual measured data, including actual flowrates for the flare, current waste acceptance volumes for the landfill, onsite meteorological data, onsite terrain data, and actual operating hours for the tipper engines, as well as Oregon Department of Environmental Quality (ODEQ)-approved emission rates for the eight highest odor-causing pollutants potentially emitted by the landfill. This represents the best available data for conducting an odor dispersion modeling assessment.

Oregon does not have a recognized, regulatory threshold that determines when a nuisance condition exists. Because of this, the Applicant relied on a D/T threshold of 7 to make the conclusion that the proposed expansion will not create a nuisance condition. Table 1 prepared by the St. Croix Sensory Inc. presents various D/Ts with brief descriptions for what odors are likely to be expected at the associated D/T. As shown in Table 1, a D/T below 1 would likely have no noticeable odors in the community, while a D/T of 7 is the ambient odor level sometimes considered to be a nuisance..

Table 1. Odor Index Examples¹

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

Reference

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

The results of the revised Odor Study adequately demonstrates that Scenarios #1 and #2 are unlikely to exceed a nuisance D/T of 7. It is reasonable, for each scenario evaluated, that two odor pollutants (dimethyl sulfide and hydrogen sulfide) were predicted to be between the "no odor noticeable" D/T threshold of 1 and the "just noticeable" D/T threshold of 2, which aligns with the public's experience that there are some detectable odors from the landfill. However, based on the results of the revised Odor Study, it is unlikely that potential odors from the landfill will rise to the level at which a nuisance condition will be created, as indicated by the two highest predicted odor pollutants, dimethyl sulfide and hydrogen sulfide, resulting in a maximum D/T of 1.45 and 1.38 in Scenario #1, and 1.34 and 1.28 in Scenario #2, both of which are well below the nuisance D/T of 7.

As stated on the ODEQ website [<https://www.oregon.gov/deq/aq/pages/nuisance-odor.aspx>], "State law prohibits businesses from emitting odors which cause a nuisance. ODEQ is responsible for implementing those laws." Instead, nuisance conditions, including odors and odor control measures, are addressed in

Oregon Administrative Rule (OAR) Chapter 340 Division 208. The ODEQ has issued guidance for implementing strategies for responding to public odor complaints and addressing the issue of mitigating them. Permitted facilities identified as having an odor issue by the ODEQ will be requested to submit an odor abatement proposal for evaluation and to enter into an enforceable Best Work Practices Agreement, which may include progressive or tiered levels of control. The landfill currently operates under an existing air permit (Title V Operating Permit No. 02-9502-TV-01) issued by the ODEQ. Therefore, there are regulatory steps enforceable by the ODEQ that would lead to a resolution in the event that nuisance odors were determined to be caused by the landfill. MFA is not aware of the ODEQ determining that odors from the landfill are currently causing a nuisance to the surrounding community. As a result, MFA does not believe an odor abatement agreement has been established between the ODEQ and the landfill (which would require odor mitigation measures). It is for the following reasons that MFA agrees with the Applicant that a nuisance condition will not be created upon completion of the proposed expansion:

- The ODEQ has not established that a nuisance condition exists at the landfill or taken steps to mitigate the issue.*
- The revised Odor Study adequately demonstrates that emissions from the landfill will not exceed a D/T of 7.*

Recommended Conditions for Approval:

- 36.1 *Applicant's evidence submitted to support the conclusion that the proposed expansion will not seriously interfere with uses on adjacent properties or with the character of the area with regard to odor impacts is based on Applicant's submitted odor studies' assumption that the maximum organic waste acceptance will be no more than 41,110,068 tons by 2052. Accordingly, a condition of approval is appropriate to align with the Applicant's studies' assumed total organic waste acceptance volume, with provision that the annual organic waste acceptance volumes are within 10% of the modeled 930,373 tons per year through 2052.*
- 36.2 *During the first 48 months of landfill operations, the Applicant shall employ at its cost the services of a qualified third-party for an independent verification of the daily odor surveys conducted using certified inspectors with training in how to appropriately use a Nasal Ranger Field Olfactometer. Applicant is required to perform independent third-party verification at least once every 30 days and the third-party survey shall be documented and recorded. The standard D/T dial settings for a Nasal Ranger Field Olfactometer are set to 2, 4, 7, 15, 30, and 60. If independent verification results in a measured D/T of 4 or greater, Applicant shall immediately take steps to mitigate the odor level measured by independent verification. In addition, if Applicant consistently measures lower D/T values than the independent third-party, County should consider extending the independent third-party verification surveys beyond the 48-month timeframe.*

Staff Response, Planning: Staff acknowledges that odor impacts are difficult to evaluate. Staff appreciates the evolution and refinement of the applicant's odor analysis and findings over the past year in response to staff concerns. Different people have different levels of sensitivity, weather systems produce different odor patterns, and there are many sources of odor. But there is a science-based method of evaluating odor, and odor levels can be quantified. Therefore, staff places high value on technical analysis in relation to the odor produced by the proposed expansion. With a focus on technical analysis to evaluate this issue, staff also places a high value on technical review of the applicant's methodology and results.

The applicant's odor submission reviewed in the April 22, 2025, Staff Report concluded that expected emissions resulted in a D/T (Dilution / Threshold) level below 0.5 at property boundaries. Essentially meaning most of the population would be unable to smell the odor produced by the landfill, even at the property line.

However, staff had two significant concerns with the applicant's analysis:

1. Odor-sensitive uses. The analysis did not identify adjacent uses that are likely to be more sensitive to odor impacts. For example, a residential use is likely to be more sensitive to odor impacts than a farmed field.

Locations of odor-sensitive uses were not clearly defined in the odor analysis or mapping, and the potential impact on these uses was not specifically evaluated.

2. As identified in the MFA engineering response, several technical elements of the analysis were inadequately supported.

Due to these concerns, and the lack of options for conditions to mitigate these concerns, staff recommended denial of the application.

This Supplemental Staff Report provides an overview of adjacent property owner testimony related to odor above, for additional context on this issue. The applicant submitted an updated odor study (Applicant Exhibit 36) and an updated legal argument (Applicant Exhibit 35). The updated odor study was reviewed by staff contract engineers; the updated staff engineering response is provided above.

Staff notes that the updated odor study (Applicant Ex. 36) still does not provide an analysis of odor impacts on adjacent odor-sensitive uses. At the writing of this Supplemental Staff Report, expected D/T values were not provided for adjacent properties, and odor impacts from the proposed landfill expansion on those properties are not specifically addressed in the application materials.

The changes in methodology based on staff feedback produced different results in the updated odor study. Expected D/T values modeled in the updated odor study have increased from under 0.5 to 1.4 (see Figure 9 above, relating to odor units) at points within the development area and at the property boundary.. The analysis now indicates that odor from the landfill is detectable at the boundary of the landfill in the modeled “typical” scenario, which is more consistent with neighbor testimony. As described in Exhibit 36 and noted in the staff engineering response, odor levels are not constant – the model describes odor produced in a “typical” set of assumptions.

The question for staff and Planning Commissioners is: Does the expected odor from the proposed expansion rise to the level of “seriously interfere”? Staff notes that the project is a landfill expansion in a landfill zone that allows landfill expansion through a conditional use process. Landfills typically produce odors that many people find objectionable. The County could not have anticipated application of a standard of “no detectable odor,” as no landfill could meet that requirement, and the zone would not serve a purpose.

The applicant’s analysis indicates that odor units will typically be between 1 and 2 at the area of highest concentration along the property boundary. As noted in Staff Engineering Response, Table 1 and Figure 9 above, the landfill at that northwest boundary will typically produce a detectable odor below levels common in a city (4) or generally considered a nuisance (7). As noted by staff engineering consultants, “nuisance” level odor can be considered to “seriously interfere”.

Staff engineering consultants have reviewed and determined the applicants odor study follows reasonable assumptions and modeling protocols. The results of the updated study indicate typical odor levels below 7 for everyone affected by odor from the landfill expansion. The expansion model shows that it will ultimately produce lower odor levels than the existing landfill.

The applicant’s evidence submitted to support staff’s conclusion that the landfill expansion will not seriously interfere with uses on adjacent properties or with the character of the area with regard to odor impacts is based on applicant’s submitted odor studies’ assumption that annual waste acceptance will be 930,373 tons or less from 2023 to 2052. Accordingly, a condition of approval is authorized by BCC 53.220 and is appropriate to ensure that the applicant’s studies’ assumed amount of waste acceptance is not exceeded on an annual basis.

The applicant proposed conditions of approval to monitor and log odors (**Conditions OP-7(A-B)**); staff engineering consultants recommended additional conditions to require outside review of odor monitoring, as well as limit the

amount of trash the landfill intakes to be consistent with the applicant's odor model (**Conditions OP-7(C-D)**). Recommended **Condition OP-5** limits landfill height to the proposed and modeled height of 450 feet above sea level. With these conditions, it is reasonable to assume typical odor levels will be minimal, instances of higher odor can be detected and mitigated, and expected odor levels will not "seriously interfere" with adjacent land uses. Therefore, staff recommends approval of the proposed expansion with conditions.

Traffic

Applicant Response (Exhibit BOP p. 33-34):

***c. Traffic.** Transight Consulting, LLC ("Transight") prepared a Transportation Impact Analysis ("TIA") for the proposed expansion (Ex. 15). Similar to the other off-site impacts, although the Project is a proposed "expansion," the nature of landfill operations means the Project will not result in a material increase in traffic impacts.*

Coffin Butte Landfill and the proposed improvements are served from Coffin Butte Road. Coffin Butte Road is a Major Collector Street and is identified as a Freight Route on the County TSP.

As discussed in the TIA, the anticipated changes to traffic are limited and consist of the following:

"Private passenger vehicles using the landfill will continue to use the scales and services on the north side of Coffin Butte Road, with these consolidated materials then hauled by commercial truck to the expansion site for disposal. Commercial account users will also be required to use the current scales to weigh in, then will be directed to the expansion area to dispose of materials. These private and commercial vehicles will use a new outbound scale near the expansion site exit, will pay the appropriate fees, and will then exit onto Coffin Butte Road.

"As a result of retaining the scales on the north side of Coffin Butte Road for the expansion there will be internal trips between the north and south sides of Coffin Butte Road."

As further discussed in the TIA, trip generation for landfill uses is not determined by landfill size, but rather by the population of the areas served.

VLI is expanding Coffin Butte Road to include bicycle lanes and shoulders and a westbound left-turn lane to avoid impacts to through traffic on Coffin Butte Road.⁴⁵

⁴⁵ The preliminary turn-lane design includes enough queue storage for four semitrucks.

The TIA is based on four sets of traffic counts taken from 2021 to 2023. These counts all reflect very low traffic volumes in the vicinity of the landfill. In addition, future traffic increases attributable to the landfill are based on projected population growth, which is minimal (approximately 1 percent annually in the Linn-Benton area, 1 percent or lower in Linn County, and approximately 1.7 percent statewide in Oregon).

The TIA concludes as follows:

"This report shows that the proposed landfill expansion provides minimal impacts to Benton County and ODOT transportation facilities. The proposed expansion site will not alter public trip routing, emergency ingress or egress, and it will retain the current landfill access routes. This layout maintains current functional designations identified in the

County's Transportation System Plan and the design optimizes travel safety for patrons and employees."

The TIA analyzes the expected traffic impacts from the Project as far as those impacts extend from the Landfill Boundary (which is not far) and found that transportation facilities in the area will continue to function well within applicable County standards. Thus, the additional trips generated from the expansion, if any, and the minor changes in traffic patterns will not "seriously interfere" with the use of Adjacent Properties or Nearby Properties.

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

"Traffic using the landfill is already excessive. A few years ago there was an accident in my neighbors frontage. More traffic means more potential for accidents."

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

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

- *Traffic increases that pose safety risks on nearby roads and pathways. The increased traffic has started creating sinking of the roadway."*

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

Staff Summary: The commenter expresses concern that, although the current proposal no longer includes the immediate closure of Coffin Butte Road, that may be part of a broader plan to continue expanding the landfill. The commenter argues that the road is a critical route for residents of the Soap Creek Valley, especially during winter conditions, and that its closure would reduce emergency response times and force travel on narrow or unimproved roads. The testimony also criticizes the proposal for limiting road improvements to the immediate project area, leaving broader infrastructure costs to local residents and the county.

Opponent Testimony (M. Yeager, R. Irish, Exhibit BC8.1, p. 4):

"Estimate of Future Volumes:

The TIA provides a discussion regarding estimation of future trip generation beginning on page 10. The TIA found that site trip generation for uses similar to Coffin Butte was related to tonnage, and tonnage was in turn related to the population served. Annual population growth for the Linn - Benton area was estimated to be just under 1%, and approximately 1. 7% for Oregon.

While the TIA provided an analysis method for how to estimate future site generated trips, the analysis was incomplete and, in any event, not used. The TIA contains no estimates (or the related performance analysis) for future site generated traffic or driveway and intersection movements. Even if a future year volumes/analysis had been provided based on the TIA's discussion, it would have been limited to use of a local area growth factor to estimate an increase in tonnage based on population growth. In this situation, the use of a local area population increase alone would be insufficient.

The reason is that Coffin Butte has been operating under an annual cap of 1. 1 million tons for the past several years and has consistently operated at or just under the cap threshold. The area's population has increased steadily over that time, but the tonnage processed by Coffin Butte has essentially remained flat and just under the cap. That suggests the tonnage cap has effectively depressed site trip generation by forcing the facility to limit non -local commercial use. The depressed volumes include the time period when vehicle trip data was collected for the TIA, meaning that simply adjusting those volumes based on population increases would not capture the full future demand. In addition, and perhaps even more importantly, if the expansion is approved the existing tonnage cap will go away altogether. The area served by the facility would expand due to an increase in non-local commercial users (by a currently unknown amount) along with associated trip generation and transportation system impacts.

An accurate estimate and analysis of future vehicle volumes that accounts for increases in local population, service area, and non -local commercial customers is needed in order to adequately evaluate the impact of the proposed expansion and its impact on the transportation system.”

Applicant Response (Exhibit CL3, p. 6):

The Applicant submits the attached May 23, 2025, memorandum from Transight Consulting (Applicant’s Ex. 40), addressing testimony in opposition regarding traffic. Transight explains how the new traffic pattern will not impede traffic flow on Coffin Butte Road and that Coffin Butte Road and connecting roads are more than adequate to address the traffic from the current landfill and the expansion.

Applicant Response (Exhibit E54, p. 1-6):

Staff summary: The applicant responds to opponent testimony from VNEQS in their June 10, 2025, letter (Exhibit BC8.3) on adverse traffic impacts. In response to VNEQS’s assertion that the applicant failed to consider traffic increases resulting from the potential removal of the tonnage cap under the proposed CUP, the applicant stated that the traffic analysis incorporated a 50% increase in trips based on projected population growth and current operating conditions. This approach, they argue, provides a conservative estimate that adequately accounts for potential impacts, even if the tonnage cap were lifted.

In response to VNEQS’s assertion that the traffic analysis failed to account for the landfill’s expansion into the former quarry site (“Cell 6”) and the site preparation required for the proposed expansion area, the applicant explained that a separate analysis for Cell 6 was unnecessary because the lateral shift in operations would not increase trips beyond existing conditions. Additionally, they noted that the traffic study incorporated recent activity related to the preparation of Cell 6, which they contend reflects a traffic level comparable to what would be expected for preparing the proposed expansion area.

In regard to the VNEQS argument that site preparation for the proposed expansion will require around 270,000 one-way trips across Coffin Butte Road (which would not have been an element of Cell 6 preparation), the applicant acknowledges that the method of hauling has not yet been determined but will be within a Benton County-approved traffic-control plan. VNEQS also asserted that daily cross-Coffin Butte Road traffic would impede public and emergency service use of the road. To this, the applicant responded that the project maintains existing scale access to prevent traffic backups, includes road upgrades and a new turn lane to meet county standards, and ensures unimpeded public and emergency access along Coffin Butte Road.

Staff Response, Public Works (Exhibit BC1 p. 29-31):

[...]

Coffin Butte Road, and the easterly segment of Soap Creek Road carry the functional classification of Major Collector. Neither facility meets current standards for this classification as specified in the TSP. [...]

Improvement of Coffin Butte Road to this standard will provide additional lane width and wide shoulders for vehicle stops and to accommodate bicycle, pedestrian, and emergency access where this function is currently very limited. [...]

Benton County staff have cooperated with Kellar Engineering in this review process, and we concur with their findings and conditions regarding the Traffic Impact Analysis. [...]

Staff Response, Kellar Engineering (Exhibit BC1 p. 27):

1. Kellar Engineering (KE) has reviewed the submitted Coffin Butte Landfill Expansion Traffic Impact Analysis (TIA) dated February 26, 2024 and the formal response to public comments memorandum dated May 23, 2025 by Transight Consulting, LLC.
2. KE has also reviewed the letter provided by Mark Yeager dated April 21, 2025 pertaining to his review of the TIA. The referenced letter cited deficiencies within the TIA and recommended denial of the proposed application. KE concurs that there are some areas where the TIA could provide more site specific analysis; however, it would not likely result in traffic volume increases that would be enough to change the projected intersection LOS operations in the TIA to be at a poor LOS. KE recommends that Transight Consulting, LLC provided a formal written response to this letter.
3. Below are two comments related to the TIA in opposition letters. KE's responses are below in [underlined text].
 - The applicant's TIA seems to have withstood staff and consultant scrutiny thus far. However, it is not clear that the TIA and its reviewers understood that the Knife River quarry operation on land leased from Republic had ceased. Republic has now prepared that portion of its property for landfill use, and commenced to fill it. That use will have traffic impacts which are substantially different from and more intense than those generated by Knife River.
KE recommends that Transight Consulting, LLC provide a formal written comment response to address the above comment.
 - Applicant proposing to route so much landfill traffic on that road that even the Applicant's own traffic consultant acknowledges that functionality will be degraded.
Per the May 23, 2025 Memorandum by Transight Consulting, LLC, the projected volume on Coffin Butte Road will be below the typical rural collector volume threshold. Please refer to Transight Consulting's response to Comment 4 in the Memorandum.

Staff Response, Planning:

Staff notes that Applicant Exhibit 54 was submitted June 23rd, after Kellar Engineering comments on June 18th. Exhibit 54 provides the formal written responses requested by the Kellar Engineering comments. Applicant has provided qualified expert responses to the detailed issues raised by VQNES. Staff concurs with engineering and transportation comments, as well as the applicant's conclusion. Transportation impacts from the proposed landfill expansion are minimal and are not expected to "seriously interfere" with adjacent land uses. Staff recommends **Conditions OP-6, and P2-1(A-N)** requiring consistency with the proposed application and public works and roadway construction requirements.

Water Quality

Applicant Response (Exhibit BOP p. 34 -35):

d. Water—Well Capacity and/or Groundwater Impacts. Tuppan Consultants, LLC ("Tuppan") assessed environmental and operational considerations related to the Project (Ex. 16), and Civil & Environmental Consultants, Inc. ("CEC") prepared a preliminary drainage report for the proposed expansion (Ex. 17). These documents outline the natural dynamics of groundwater flow in the area, the groundwater use associated with the Coffin Butte Landfill, and the existing and proposed drainage systems serving the landfill. As explained below and in Exhibits 16 and 17, the proposed expansion will have no effect on the landfill's use of groundwater in the area and will not materially change offsite impacts on groundwater quality. As described by Tuppan, current surface-water drainage from the operations areas of the landfill drain through a number of systems designed to remove site-related compounds from stormwater before it discharges to creeks that flow off site. These systems include a settlement pond and a

bioswale that was recently upgraded to include a subsurface flow wetland (SSFW) that discharges at a sampling point.

As further described by Tuppan, groundwater supply in the area is limited and disconnected in nature.

(i) Impact on groundwater supply (well capacity). As noted by Tuppan, landfill construction and the bulk of landfill operations use water supplied by Adair Village, not groundwater from wells. The only groundwater used from wells is for the existing office and the scale house, and the volume of groundwater consumed at these two locations will not change. The Project will thus have no impact on groundwater supply in the area (as compared to current conditions).

(ii) Impact on groundwater quality. Tuppan and CEC describe a number of features and systems that protect groundwater resources, including the groundwater divide created by Tampico Ridge, the existing combined detention and wetpond facility, the requirement to install a “state-of-the-art” landfill liner system at the Development Site, stormwater diversion facilities, and a comprehensive water-quality monitoring program. Monitoring of stormwater is required by both the site’s solid waste permit and its NPDES industrial stormwater discharge permit. The systems outlined above meet or exceed all regulatory requirements for groundwater protection, and to the extent they fail to function as designed, the monitoring programs will ensure that potential contamination is identified and mitigated before entering the off-site groundwater supply. The new landfill liner system planned for the Development Site is state of the art and will provide even more protection than the current system. Given that comprehensive mitigation and monitoring occurs on site, the potential impacts of the proposed expansion on the off-site groundwater supply will not “seriously interfere” with the use of Adjacent Properties or Nearby Properties.

Adjacent Property Owner/Resident Testimony (J. Searls, Exhibit BC7.2, p. 3):

“We have a giant farm dog, Leroy, who helps protect our chickens. The chickens and Leroy roam the grounds of our property regularly drinking water from puddles, seasonal streams and water from our well. My son and I drink from the well too.

I am concerned about the hydrological impacts related to the proposed expansion of the Coffin Butte Landfill.

[...]

An expansion of the landfill- moving closer to and upstream from my property will threaten my water resources and could contaminate our soil.”

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

“Air and water pollution threaten our local ecosystems and community health many times [...].”

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

Staff Summary: The commenter raised concerns about potential groundwater impacts from existing and proposed landfill operations near their property. They noted that two unlined landfill cells closed in the 1970s continue to produce about two million gallons of leachate annually, with unknown effects on the groundwater supplying their domestic well. While the expansion area landfill cells are proposed to be lined, the commenter emphasized that liners can eventually fail. They also expressed concern that the proposed excavation of 3.5 million cubic yards of material near their property could disrupt the groundwater system and potentially dewater their well. They stated that the proposed expansion could

seriously interfere with the use of their property if subsequent impacts affect their well. They stated that no evaluation of the excavation risk has been provided by the applicant or the County.

Adjacent Property Owner/Resident Testimony (D. Hackleman, Exhibit BC7.11, p. 5):

“Along [their private road], there are several test wells. Water samples are drawn from these wells by Republic or its representatives on a periodic bases. Reports of the water quality have not been received by me so I am uncertain of even my own water well quality.”

Adjacent Property Owner/Resident Testimony (B. Briskey, Exhibit BC7.12, p. 3):

“I used to have a small pond on my place, on the east side of the landfill. Water from the pond fed a small livestock tank downhill from the pond. A few years back the pond dried up. It turns out that even before Cell 6 was excavated and the quarry blasting began, the landfill decided to divert surface and shallow water flow off the Butte away from my property without discussing it with me. They did call me prior to that and offered to buy that portion of my land because they said that there was a chance that my field would experience "brighter areas" caused by runoff from the landfill. So my intended use of the pond for a livestock reservoir has been permanently curtailed.”

Opponent Testimony (VNEQS, Exhibit BC8.3, p. 18-21):

Staff summary: This testimony was dated June 10, 2025. The commenters argue that the applicant provided no evidence to contradict opponent concerns that proposed excavations will negatively impact the water table and could reduce or eliminate groundwater (“dewatering”) supplying unspecified domestic wells on adjacent property.

The commenters also argued that domestic wells and aquifers could be contaminated by landfill activities. The testimony included reference to, but no record of, a past incident (“the Helm well”) as evidence of past contamination of a local well.

Agency Comments, ENRAC (Exhibit BC2, p. 9):

● *Water Pollution*

○ *Arsenic, other heavy metals, and organic pollutants (especially Polyfluorinated Alkyl Substances (PFAS)) have been problematic and remain unsettled; further comprehensive groundwater and toxicological analysis should be conducted.*

● *Leachate*

○ *Leachate has further complex toxicants that may be leaking, but primarily a more clear plan of how leachate is remediated and delocalized must be considered.*

Applicant Response (Exhibit CL3, p. 3 and 7):

PFAS. [...]

In Leachate. *There is similarly no specific regulatory framework for PFAS in leachate. The Applicant’s disposal of leachate at the Corvallis and Salem wastewater treatment plants complies with all existing regulations. Leachate transport and treatment is regulated by DEQ under the Clean Water Act. Testing at the landfill indicates that the level of regulated contaminants in leachate generated by Coffin Butte Landfill are either nondetectable or well under the EPA thresholds. See BOP Ex. 27. [...]*

Miscellaneous Responses.

Landfill Tarp Issues. An aerial photo of the existing landfill dated March 26, 2025, was submitted into the record showing tears in the tarp covering certain sections of the landfill. Repairs to these tears were in process during April 2025. The attached May 9, 2025, aerial photo (Applicant's Ex. 44) show that all these areas have been repaired. Griffolyn ethylene propylene diene monomer (EPDM) tarps are placed over the 18 inches of soil cover required as part of intermediate cover. 3 The goal of these covers is to reduce water infiltration and thus reduce leachate production. It is important to note that these covers are not required by any regulatory agency as part of intermediate cover, but they are Coffin Butte Landfill practice. Wind, weather, and the natural settling of waste can result in punctures or tears to the tarps. As demonstrated by Applicant's aerial photo, the Applicant monitors and repairs the tears as promptly as possible.

Applicant Response (Exhibit E35, p. 5):

III. Response to Mr. Kleinman's Section IV (Conditions Related to Traffic, Drainage, Leachate Management) [...]

Drainage and Leachate Management. Mr. Kleiman does not explain why he believes VLI's responses to drainage and leachate management are not compliant. VLI has submitted additional evidence into the record in response to testimony at the hearing about drainage/groundwater, leachate, and proposed construction. Typically, construction activity to site a proposed use is not considered part of the impact for conditional use review.²

2 For example, OAR 340-035-0035(5)(g) exempts construction site noise from compliance with the Noise Rule.

Applicant Response (Exhibit CL4, p. 1-2):

[In reference to Exhibit E49. Memorandum RE: Groundwater Testimony]

Seismic Disturbance. *The memorandum describes the blasting that will occur and concludes that the blasting impact will be roughly equivalent to disturbance of rock using conventional earth-moving equipment and will be far below the levels that can result in building damage. The Applicant will comply with all requirements of its DOGAMI permit and will provide notice of blasting to surrounding property owners.*

Groundwater Interruption. *The memorandum analyzes whether the blasting and excavation on the new cell in the expansion area will impact wells on surrounding properties. The analysis concludes that these activities should not have any material impact on surrounding wells but proposes ongoing monitoring and mitigation if necessary.*

Arsenic in Groundwater. *The memorandum analyzes whether the leachate from the expansion will increase arsenic in groundwater above naturally occurring levels. After reviewing the groundwater data, the analysis concludes that groundwater is not being affected by a leachate release. The memorandum recommends ongoing monitoring and mitigation if necessary.*

Stormwater and Surface Water Management. *The memorandum responds to requests for more detail about surface water flow and surface water management in the current landfill and in the expansion area.*

Stormwater Runoff Flowing into Knife River Quarry. *The memorandum responds to a comment that stormwater runoff was entering the Knife River quarry. The memorandum*

Applicant Response (Exhibit E55, p. 1-5):

The following are responses to VNEQS comments received following submittal of the Conditional Use Permit (CUP) application for the Coffin Butte Landfill.

Page 17 - Response to Comments concerning the effect of Development on Dewatering

Valley Landfills, Inc (VLI) previously responded to comments concerned with the effect of the development on the water table and the potential to dewater private water supply wells south of the development. Please refer to page 2 of the June 11, 2025 Memorandum to Jeff Condit prepared by Geo-Logic Associates, Inc. and Tuppan Consultants LLC. VLI's evaluation of the impacts to local water supply wells considers the relative consistency of the groundwater flow conditions to support a conservative assumption that fractured bedrock behaves similarly to a porous media. Under this assumption, all fractures are interconnected, allowing the analytical solution to evaluate the most widespread effect of the proposed project. As stated in the referenced response, the analyses indicated that the change in water levels associated with the proposed development would be similar to changes in water levels associated with seasonal precipitation patterns. VLI will also implement a robust monitoring program and will work with the community to address project-related changes in groundwater availability should those occur. We also note that with adoption of the CUP, VLI will conduct a focused hydrogeologic investigation of the proposed development to confirm and quantify the hydrogeologic conditions in this area of the site.

VNEQS also expressed concern about the effects of the existing landfill operations on outbuilding foundations and a livestock pond northwest of the existing facility. It is unclear how dewatering would affect concrete foundations, and so without more detail regarding the foundations mentioned in the comment, no appropriate response can be developed.

Page 19 - Response to Comments concerning the adequacy of the Composite Liner System

VLI previously responded to comments concerned with the proposed composite liner system. Please refer to pages 16 and 17 of the June 11, 2025 Memorandum to Jeff Condit prepared by Geo-Logic Associates, Inc. and Tuppan Consultants LLC. As stated in that response, the composite liner system for the proposed development exceeds the current State of Oregon and federal regulatory standards for composite liner system designs for municipal solid waste landfills, and will provide superior protection against groundwater contamination when compared to the prescriptive standard composite liner system design. The designs and construction projects for all previous composite liner systems have been approved by Oregon Department of Environmental Quality (ODEQ), and there has been no evidence of a release to groundwater from portions of the Coffin Butte Landfill equipped with composite liner systems.

Pages 19 through 23 - Response to Comments concerning Groundwater Contamination

Arsenic Concerns

The occurrence of arsenic in groundwater was addressed on pages 4 through 8 of the June 11, 2025 Memorandum to Jeff Condit prepared by Geo-Logic Associates, Inc. and Tuppan Consultants LLC. As demonstrated therein, the occurrence of arsenic in wells MW-9B, MW-26, and MW-27 are attributed to natural background conditions.

PFAS Concerns

The occurrence of PFAS in leachate was addressed on pages 14 and 15 of the June 11, 2025 Memorandum to Jeff Condit prepared by Geo-Logic Associates, Inc. and Tuppan Consultants LLC. VLI notes that current federal, state, and site-specific regulations for landfill environmental monitoring do not require groundwater samples to be analyzed for PFAS. VLI notes that last year, 48.1 percent of the CBL leachate (approximately 23.14 million gallons) was transported from the CBL to the City of Corvallis wastewater treatment facility, accounting for approximately 0.0058 percent of all liquids treated at the wastewater treatment plant last year based on the City of Corvallis website. As a result, the contribution of PFAS from landfill leachate is expected to be very small.

VNEQS also expressed concern over lack of available PFAS treatment and the potential for PFAS to be discharged into the Willamette River from biosolids. VLI notes that US EPA has identified three commercially-available and widely-utilized treatment technologies that are effective at removing or reducing PFAS in water. These include: granular activated carbon filtration, reverse osmosis filtration, and ion exchange resins. (Source: FACT SHEET: Water Filters). The City of Corvallis uses carbon filtration at its Taylor Water Treatment Plant to remove organic compounds in water, including PFAS.

VLI also notes that the City of Corvallis actively monitors and treats the municipal water supply for PFAS. Importantly, the City has not detected PFAS in drinking water samples. According to the City of Corvallis 2025 Water Quality Report and the City's website, PFAS have not been detected in drinking water (emphasis added):

PFAS chemicals are so widely used, they seep into our air, soil, and our water systems. The good news is that PFAS have only been found in a few small public drinking systems in Oregon, and never in Corvallis. Though these chemicals may not originate in waterways (or in water or wastewater treatment facilities) many Oregon clean water utilities, including Corvallis, are taking action to protect public health by: Testing for PFAS in wastewater and wastewater biosolids; tracking current research on PFAS; working with policy makers to reduce PFAS in consumer products; and informing customers about the latest PFAS news. PFAS and phthalates have not been detected in Corvallis drinking water. (Source: <https://www.corvallisoregon.gov/publicworks/page/what-are-pfas-andphthalates>)

Domestic Well Contamination Concern

VLI asserts that the statement provided in the "History of Domestic Well Contamination" subsection of VNEQS' comment is inaccurate. At the time that VLI was conducting a remedial investigation for the west side of the landfill in the mid-1990s, their consultants prepared a Preliminary Assessment (EMCON, 1996) for the ODEQ. That report found that no health-based drinking water standards were exceeded in groundwater samples from monitoring wells downgradient of the Closed Landfill or in the Helms well, located southwest of Soap Creek approximately 500 feet from the landfill boundary. Prior to issuance of that report and based upon a recommendation from their consultant, VLI had installed water treatment at the Helms wellhead, in May 1994, and implemented quarterly monitoring of the domestic well to provide redundant protective measures of the drinking water supply. In addition to these measures, VLI had arranged to purchase the property from Mr. Helms as part of their policy to purchase properties near or adjacent to the landfill. Neither that purchase nor the decommissioning of the well was required by the ODEQ.

At the conclusion of the remedial investigation regulatory process that had been ongoing for the west side of the landfill, VLI submitted a Focused Remedial Investigation and Feasibility Study (Tuppan, 2003) that included recommendations to ensure the protectiveness of the remedy, including decommissioning two unused water supply wells (one of which was the Helms well and the other was an old water supply well for the landfill) and property purchases as buffer around the landfill (the Helms property).

Subsequently, the ODEQ's Staff Report (August 2004) and Record of Decision (October 2005) adopted the recommendation to decommission water wells within areas potentially downgradient of impacts since that measure removes potential exposure to contaminants in groundwater. One of the two wells included the Helms well. That well was decommissioned in September 2006. By that time, the Helms property had already been purchased by VLI.

Domestic Well Impact Concern

As stated on VLI's responses to comments concerning the impacts of blasting and the presence of arsenic at the CBL, VLI is committed to safeguarding the groundwater resources in the communities surrounding the landfill. On pages 4 and 8 of the June 11, 2025 Memorandum to Jeff Condit prepared by Geo-Logic Associates, Inc. and Tuppan Consultants LLC, VLI outlines a groundwater monitoring and response program to address changes in groundwater levels or chemistry that could affect the community.

Willamette Basin Contamination Concern

The CBL is equipped with a robust groundwater monitoring network designed to detect a release from the landfill at the edge of the waste management units, long before potential contamination would leave the landfill property and migrate into the Willamette Basin. This early detection monitoring ability provides space within the landfill property to effectively treat a release before contamination could leave the landfill property and affect the Willamette Basin. The proposed development will add to the existing groundwater monitoring network, and will increase the capability of detecting a release from the landfill.

Staff Response, Public Works (Exhibit BC1 p. 29-31):

[...]

Drainage for the landfill complex flows roughly from west to east. The E.E. Wilson Wildlife Area, a network of ponds and wetlands east of the subject property are the direct receiving waters for drainage from the landfill. The E.E. Wilson Wildlife Area functions as one of the headwaters of Bowers Slough, a tributary of the Willamette River.

The project's disturbed area footprint exceeds one acre. [...]

Construction of the proposed improvements may require permitting through regulatory agencies including, but not limited to, the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), the Oregon Department of Fish & Wildlife (ODFW), the Oregon State Historic Preservation Office (SHPO), the Oregon Department of Geology and Mineral Industries (DOGAMI), U.S. Fish & Wildlife (USFW), the U.S. Army Corps of Engineers (COE), and the National Oceanic and Atmospheric Administration-National Marine Fisheries Service (NOAA-NMFS). [...]

Final engineering design for any public infrastructure improvements will be required after Conditional Use approval. Review and approval of those calculations, drawings, right of way adjustments, and specifications will be completed prior to start of construction.

Staff Response, MFA – Engineering (Exhibit BC1, p. 10-11):

Exhibits 5, 6, 16, and 30

Exhibit Description:

Exhibit 5 is the Phase II Geotechnical Exploration Report and addendum to the South Expansion Area prepared by Wallace Group dated July 15, 2024.

Exhibit 6 contains the well logs for PW-2 and the Berklund Well.

Exhibit 16 initially included a July 3, 2024, technical memorandum regarding the “Environmental and Operational Considerations” of the landfill prepared by Tuppan Consultants LLC. This exhibit was revised and resubmitted by the Applicant on March 14, 2025, with an updated technical memorandum by Tuppan Consultants LLC dated February 25, 2025.

Exhibit 30 is the Proposed Coffin Butte Landfill Seismic Design prepared by CEC dated July 9, 2024.

Comments: A review of this group of documents was provided by Columbia West Engineering, Inc. (CWE), as a geotechnical subconsultant to MFA. CWE’s comments are summarized below, while the entire CWE letter is provided as Attachment A.

Findings: In general, the scope of the field exploration, laboratory testing program, and analysis methods are appropriate for the geologic complexity and nature of the proposed development. The geotechnical report provides a thorough discussion of regional geology, local subsurface conditions, and relevant seismically-induced geologic hazards, as required by the Oregon Structural Specialty Code.

[...] We conclude that the existing geotechnical data and analysis presented in the geotechnical report (Exhibit 5) do not indicate that there are any geotechnical or geologic constraints that would adversely impact landfill development.

We note that additional geotechnical evaluation related to design of the landfill itself will be provided before landfill construction.

Staff Response, MFA - Engineering (Exhibit BC1 p. 13):

Exhibit 17 Preliminary Drainage Report

[...]

MFA recommends the Applicant follow the Benton County Stormwater Support Documents, instead of the Corvallis Stormwater Standards, to finalize the stormwater calculations and design components for the ODEQ submittal. Based on MFA’s review of the information provided, the proposed stormwater detention facilities appear to be conservatively sized, and despite the use of a different standard, the overall design of the stormwater facilities appears adequate from a land use perspective.

Recommended Conditions for Approval

17.1 Prior to the ODEQ solid waste permitting submittal, the Applicant shall prepare the stormwater report and all related designs for the detention and conveyance features utilizing the most recent version of the Benton County Stormwater Support Documents.

Staff Response, Planning:

Staff understands that groundwater impacts have been and continue to be a controversial topic in landfill expansion applications in Benton County. This supplemental staff report includes neighbor, opponent, and ENRAC testimony above relating to water quality concerns. However, the county is limited in its ability to evaluate and regulate groundwater impacts beyond the multiple levels of state and federal regulation applicable to the proposed landfill expansion. Those regulatory agencies provide a more appropriate venue to address groundwater impacts. The applicant has provided robust, qualified expert responses to concerns raised by opponent testimony. Additionally, DOGAMI had no comments on the proposal (see Exhibit BC2). Staff therefore concurs with the applicant’s analysis and engineering comments. For purposes of county review, and in the

context of additional required regulatory frameworks, the proposal is unlikely to “seriously interfere” with adjacent uses concerning groundwater impacts.

Staff recommends **Conditions P1-5(B), P2-1(F), OP-8, OP-10, OP-11(A-G), and OP-13(A-B)** to monitor and ensure compliance with local, state, and federal water quality requirements.

Visual Impacts

Applicant Response (Exhibit BOP p. 33 – 34):

***e. Visual Impacts.** Exhibit 18 is a collection of renderings showing the view corridors west along Highway 99W and east along Coffin Butte Road as they currently exist and would appear after development of the Project and the opening of the Development Site.*

Figures 1, 2, and 3 show the northwest and southwest view from Highway 99W toward the landfill. As shown in Figure 1, the Project will retain the trees and vegetation at the southwest corner of the intersection of Coffin Butte Road and Highway 99W and will retain the buffer trees along the eastern property line. The Project will modify the topography of the area behind the trees shown in Figure 1; however, with the line of sight from this location, the visual impacts will be mostly unnoticeable (the top of Tampico Ridge is not visible).

Moving to a slightly higher elevation (north on Highway 99W) as shown in Figure 2, the top of Tampico Ridge is visible; thus, from this line of sight the Project may be visible.

Moving to a slightly higher elevation (north on Highway 99W) as shown in Figure 2, the top of Tampico Ridge is visible; thus, from this line of sight the Project may be visible.

Figure 4 shows the southwest view from the intersection of Coffin Butte and Soap Creek Road, demonstrating that the Development Site will be screened by vegetation along that corridor.

Applicant proposes installing additional screening vegetation consistent with the County’s proposed condition in the 2021 Staff Report, plus additional screening. See Ex. 2, sheet 18. While the proposed landfill improvements on the Development Site may be visible at buildout along Coffin Butte Road within the landfill area owned by VLI and traffic traveling south on Highway 99W, the improvements will not be visible from the nearby streets, other rights-of-way, and properties that are not at higher elevations.

Overall, while the expansion may be visible from some locations around the area, it will not be highly visible, and a westerly visual corridor will be retained. In the future and in compliance with closure/post-closure plans, the current landfill area will be covered and reclaimed, reducing the off-site visual impacts that exist under current conditions. The overall effect of relocating disposal operations to the Development Site will be to reduce off-site visual impacts from those caused by the current operation.

One of the Planning Commission’s reasons for denying the 2021 application was that the proposal would essentially create a new hill by filling up the gap between Tampico Ridge and Coffin Butte and therefore substantially interfere with the character of the area in a negative way. The 2024 application preserves Coffin Butte Road and the valley between Tampico Ridge and Coffin Butte. The Development Site, when completed, will change the topography on the north slope of Tampico Ridge, but will be substantially lower than the ridgeline and will be 175 feet lower in height and similar in character to the closed and to-be-closed areas north of Coffin Butte Road. See topographical cross-section attached as part of Exhibit 2, Sheets 22 and 23; Exhibit 18, Build-out of Coffin Butte Landfill, with approved expansion. As noted above, the LS zone contemplates landfill use, so some elevation changes are to be expected.

Applicant's lighting plan for the overall site will minimize additional light and glare. See Sight Lighting Summary, attached as Exhibit 19.

For these reasons, the off-site visual impacts of the Project will not "seriously interfere" with the use of Adjacent or Nearby Properties.

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. [...] I also worry that our wonderful (million dollar) views of Mt Hood, Mt Jefferson, Three - fingered Jack will be tainted by the mountain of trash. Currently, we cannot see the landfill from our home."

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 [...], lights at night,[...]. [...] 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. It is a more prominent eyesore on my drive home, [...] for the first time in my life I can actually see the landfill from my living room. The lights from the top of the landfill glare through the trees and the truck motors and beeping backup noises echo through my window early in the morning."

Adjacent Property Owner/Resident Testimony (D. Hackleman, Exhibit BC7.11, p. 4-5):

"Observations: [...]"

3. The view from the apex of the Butte is now being occluded by portions of the landfill. The ramifications are a lack of the ability to view Hwy99W at this time. The horizon view has not been occluded to date, however in the event the landfill and any structures reach a height approximately 50 feet below the location of the telecommunications systems, their presence will negatively impact the site viability for such operations.

[...]

Soap Creek valley is the secluded valley immediately West of Hwy99W and South of the Landfill area. My property is the site of an amateur radio emergency services radio relay (repeater) station for that valley as it is the ideal location for such a communications gateway."

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 15-16):

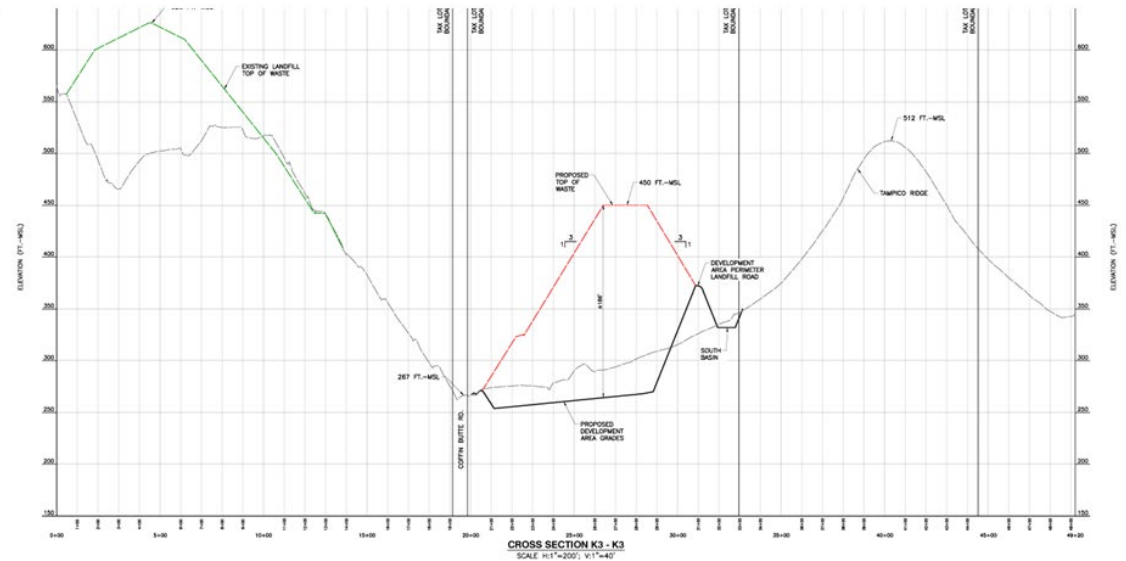
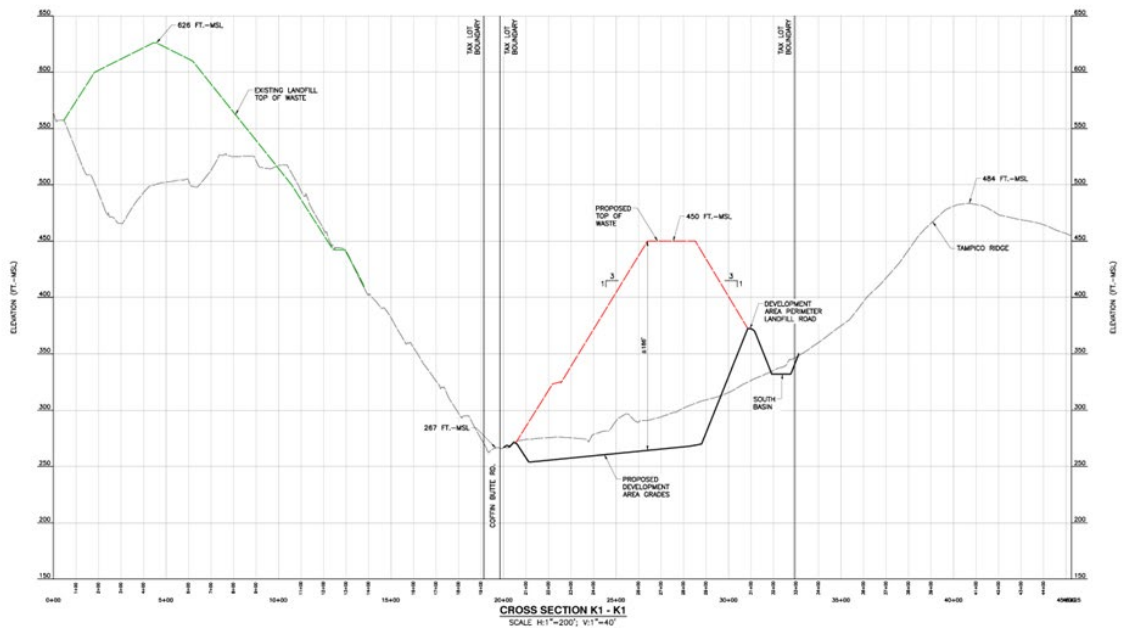
*"While perhaps not as impactful on its adjacent properties as would have been the applicant's 2021 proposal on its affected properties to the north, the new mountain of garbage will nonetheless have a dramatic visual impact on the nearby properties to the south. The applicant proposes to plant trees to screen the visual impacts. The main problem with this is that screening the landfill is already a Condition of Development for the zone (as well as a requirement of the 1967 Highway Beautification Act). But the current landfill operator has never been able to adequately screen a 500-foot tall artificial landform with "proposed trees" that might reach 15 feet in height by the time the expansion is full. There is no indication that this will change. The operator has not capped and revegetated a closed cell since the mid-1990's. Instead, it covers cells with unsightly, deteriorating tarps which can be seen for miles. This conduct too will never change. The applicant acknowledges that even if the proposed vegetative screening is installed and maintained, the new landform made of trash "may be visible." The applicant also states that expanding the landfill will "reduce * * *visual impacts * * * caused by the current operation" which, under prior Conditions of Development, are already required. What are we to make of the applicant's suggestion that it will now belatedly, voluntarily comply, after the passage of 50 years?"*

[...]”

Applicant Response (Exhibit CL3, p. 6):

The Applicant submits the attached Landfill Cross Section prepared by SCS Engineering (Applicant’s Ex. 43) to address questions from the hearing about the height of the landfill relative to Tampico Ridge. As shown in the cross sections, the maximum height of the landfill is below Tampico Ridge at all points, and therefore the expansion area at build-out will not be visible from the south side of Tampico Ridge. For clarity, topographical features are measured from mean sea level, which is well below the level of the surrounding landscape. Coffin Butte Road, for example, is at 267 feet above mean sea level. The top of the landfill at build-out is 450 feet above mean sea level, which is 183 feet above Coffin Butte Road.

Applicant Response (Exhibit E45):



*Cross Sections K1 and K2
Applicant's Exhibit E45. Cross Sections of Expansion Height*

Applicant Response (Exhibit E35, p. 4):

II. Response to Mr. Kleinman's Section III (Conditional Use Approval Standards) [...]

VLI relies on its analysis in the BOP and the staff analysis. The closed landfill cells will be reclaimed and revegetated over time. VLI has submitted additional testimony addressing the alleged "patchwork of decaying tarps" as part of its June 6, 2025, response to the hearing testimony. VLI has also submitted additional information about the height of the proposed

expansion area. It will be below the height of Tampico Ridge at all points and will not be visible from the south side of the ridge

Staff Response, Planning:

Staff concurs with the applicant's argument and evidence in relation to visual impacts on adjacent properties. Some concerns were raised regarding visibility of the expansion area from properties to the south, lack of tree screening, and tarp condition (as quoted in Opponent Testimony above). However, as shown in the submitted Landfill Cross Section, the proposed landfill expansion is below the height of the Tampico ridgeline to the south and areas to the south will be screened from the landfill by topography and mature vegetation.

Based on evidence provided, the proposed expansion will be much less visible overall than the existing landfill. While some elements of the proposed expansion may be visible from the west or east, as of the writing of this Supplemental Staff Report, staff has seen no evidence or reason to conclude that the visibility of some elements of the proposed landfill expansion from adjacent roadways will "seriously interfere" with uses on adjacent properties.

Staff recommends **Conditions OP-5 and OP-6**, limiting landfill expansion height to 450 feet above mean sea level, and footprint consistent with the applicant's proposal.

Litter

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. [...]

Following are some details of the impacts I have experienced, many of which are increasingly interfering with my intended uses and can be construed as becoming a burden for the public as well. [...] 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. [...]

Forestry:

The property was purchased with timber remaining in 1980. Harvesting was performed prior to my purchase, but probably no later than in the 1940' s. Trees spanning up to 40 — 50 years age were on the property. To improve the forest, I have planted hundreds of tree starts on the North side of the Butte. The trees on the North side now range in age up to at least 100 years and many exceed 100 feet in height. This year I am in the process of improving the forest further through the removal of invasive species and possibly some selective thinning. The trees do not seem to be affected by the proximity to the landfill, however significant quantities of plastic film -like materials have been found throughout the property. These were not present when I acquired the property in 1980 and are likely the result of a modest amount of material being lofted by wind from the landfill. As the height of the landfill operation level increases, more such material will be lofted and deposited on the North side of the hill. This type of deposit is primarily a nuisance. It does degrade the quality of the property from my perspective and for anyone that might be considering acquisition of it after me."

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."

Opponent Testimony ([J. Kleinman representing VNEQS, Exhibit BC8.2, p. 9-11]):

"The Staff Report discusses adjacent properties in the Exclusive Farm Use zoning district. Blowing waste, especially plastics, and the attraction of gulls to the landfill who then root around in and uproot newly planted crops, were found to be a significant impact in SDC. As just one example of such impact, if every speck of plastic is not assiduously removed by a hay farmer, and any amount of it is picked up by their harvesting equipment and thus mixed into the harvested hay, it will render the crop unsaleable. It also takes very little plastic to knock the farmer's equipment out of commission.²

Further, owners and residents of adjacent properties will provide evidence of the impacts they would endure under this proposal, especially as the landfill comes ever closer to them and gets much larger—and the more methane is emitted and the more leachate is generated. The impacts include truly intrusive and disruptive noise and odor impacts, and wind-blown garbage which will require constant clean up by property owners. These are impacts which neither the members of the Planning Commission nor attorneys, consultants, county staffers, or BCTT participants would abide for even a single day. When you get right down to it, this is the reality of “talking trash.””

Applicant Response (Exhibit E21. Applicant-proposed COAs, p. 6):

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

OA-13 Site Operations. [...]

(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.

Applicant Response (Exhibit CL5, p. 1-3):

Staff Summary: Applicant describes current litter control practices including:

- Two layers of temporary fencing (bull fencing, wire fencing with orange snow fencing) around the working face, and chain link fencing around the landfill site;
- Five temporary laborers who pick up litter inside and outside the landfill daily;
- Work crews to pick up litter along Highway 99 and Camp Adair Road twice per month; and
- Daily cover on the working face.
- In addition to extending these current measures to the expansion site, applicant proposes:
 - A secondary line of bull fencing;
 - Extend litter collection activities to include Tampico and Soap Creek Roads; and
 - Install Defender Fencing where appropriate to minimize off-site litter.

Staff Response, Planning:

Staff included discussion of litter impacts into the Supplemental Staff Report, as it was raised numerous times in both adjacent property testimony and character of the area testimony. Staff will also briefly discuss litter in relation to “character of the area” later in the Supplemental Staff Report. As with all discussion of impacts relating to BCC 53.215, staff and reviewers must determine if an identified impact rises to the level of a “serious interference”.

In relation to “uses on adjacent property”, staff had trouble finding a direct evidentiary line between most of the testimony about seeing trash and how that would “seriously interfere” with an adjacent use. For example, Mr. Kleinman raises a hypothetical scenario of a hay farmer dealing with plastic entering their field – but he did not then link that scenario to a specific farm. Dr. Hackleman identifies the accumulation of plastic materials over the years as a “nuisance” but doesn’t explain how this seriously interferes with his use of the property. Others see trash along roadways, or even on their property, but don’t explain the impact of this trash in relation to the use of the property.

However, Mr. Wilson (Exhibit BC7.6) provides testimony that: 1. he raises cattle as a business; 2. plastic trash flies from the landfill onto his property;¹⁸ and 3. such trash could be ingested by and kill his cattle. Mr. Wilson writes that “it is imperative that Republic Services is responsible for the care [of] the material they take into the landfill and should use methods to prevent airborne debris from leaving their site.” While not fully fleshed out in scale and evidence, this is a good example of a potential “serious interference” on an identified adjacent land use.

Staff received an applicant response to litter impacts and Mr. Wilson’s identified impact in Exhibit CL5, summarized above. Applicant describes a robust existing litter abatement program and proposes to improve that program for the landfill expansion. Staff recommends **Conditions OP-5, OP-11(A-F), and OP-15(A-I)** to address air-blown litter concerns in general, and Mr. Wilson’s concern along Tampico Road specifically.

The proposed conditions of approval reasonably limit expected occurrences of air-blown trash and address identified concerns; the proposed expansion with conditions of approval will reduce litter impacts below a level that would “seriously interfere” with adjacent land uses, and below the level of the existing landfill.

Fire Risk

Adjacent Property Owner/Resident Testimony (E. and L. Bradley, Exhibit BC7.1, p. 3):

Staff summary: The commenter cited two 2024 incidents—a July fire (of which the commenter learned via their public scanner) in the evening near the applicant’s propane storage that responders struggled to access due to locked gates, and a May equipment fire on the property reported by passersby. The resident noted frequent false alarms from the burn-off stack have strained emergency services and expressed concern about the lack of 24-hour monitoring given methane risks. Their property, which houses livestock, borders the landfill and is near the proposed expansion area.

Adjacent Property Owner/Resident Testimony (E. and L. Bradley, Exhibit BC7.1, p. 5, 10-14):

“Please see the attached [...] current photo of the forrest looking north in my property, [...] I would also like to add photos to the record of the July 24th 2024 fire next to this forrest. This demonstrates the almost need to evacuate on our part. This fire could have spread to the forrest, or to the landfill.”

¹⁸ Staff notes that links to Instagram are not submission of evidence to the record.

Figure 6. Photograph of forest buffer (E. and L. Bradley)



Figure 7. Photo of July 2024 Fire (E. and L. Bradley)



Adjacent Property Owner/Resident Testimony (P. Morrell, 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:

- Current methane emission levels are unsafe. Methane levels have been linked to [...] increased concern with landfill fires, [...]"*

Opponent Testimony (VNEQS, Exhibit BC8.3, p. 28-29):

Staff summary: The commenters argued that the existing landfill has accepted industrial waste and construction and demolition waste (from 2020 wildfires) – contrary to statements in the applicant's Exhibit E20 and APC- and this waste is more likely to spontaneously combust. The commenters also point out the combustibility of other types of waste accepted including lithium batteries and incinerator ash (like from Marion County).

Commenters drew attention to a potential issue, that the analysis in Exhibit E20 relied on a half-acre working face, which was not updated after the applicant corrected the size estimate to be one and a half to two-acres (in Exhibit CL3).

Applicant Response (Exhibit CL3, p. 6):

The Applicant submits the attached June 5, 2025, memorandum from James Walsh of SCS Engineers (Applicant's Ex. 44) responding to testimony on fire risk at Coffin Butte Landfill.

Applicant Response (Exhibit E44, p. 1-3):

Comments from Adair Rural Fire Department. Coffin Butte staff just met with Adair Fire in March 2025. The meeting went well with each party pledging to work together going forward, as well as they have in the past. In the meeting, the parties discussed a few ways both can engage and serve one another even better in the future. Meeting notes by both sides committed each party to continue the good working relationship of the past. There were no concerns expressed at that time about any possible service or support reduction from Adair Fire. Coffin Butte appreciates the past support Adair Fire has provided, and are hopeful it can continue in the future at the same level. With that said, it should be pointed out that most fires at the landfill have been handled properly and in full by landfill staff, and it is believed that will continue to be the case going forward.

FEMA Report relating to Landfill Fires. Adair Rural Fire Department reported that they have reviewed a FEMA authored report on Landfill Fires suggesting that such fires can be large, can be fueled by landfill methane emissions, and may strain local fire services. We are well familiar with the FEMA document cited. FEMA often creates large debris piles from disaster cleanups. Waste in those can be left uncovered for months. Understandably, FEMA has had issues with fires in those large uncovered debris piles. However, FEMA has no operating experience with a modern MSW landfill like Coffin Butte Landfill or its fire potential or reality. Like any modern MSW landfill, Coffin Butte Landfill covers its waste each night and never has large areas of uncovered waste exposed for months at a time. Coffin Butte has far less fire potential than that reported by FEMA. Further, FEMA is simply mis-informed about methane emissions causing or exacerbating landfill fires. Landfill fires have nothing to do with methane emissions, not at Coffin Butte, and not at any modern MSW landfill. None of the past fires at Coffin Butte were created or exacerbated by methane.

Reporting Fires at Coffin Butte Landfill. In response to community comments related to being apprised of fire events, Coffin Butte will maintain a log of fire incidents at the Landfill and a Coffin Butte representative will provide a verbal report on fire events at each Benton County

Disposal Site Advisory Committee meeting. Further, Coffin Butte will ensure it is reporting each fire event to OR DEQ.

Magnitude of Landfill Fire Risks. *One public commenter cited the SCS report as identifying 5 fires at Coffin Butte Landfill from 1999 to 2025 which they suggested was inconsistent with records from Adair Fire that report 28 calls for fire at the Landfill between 2013 and 2025. It was further stated that the SCS report identified 3 types of landfill fires that represent a material risk. There are many additional fire risks beyond those 3. The commenter concluded that the SCS report drastically under-represented the number, types, and magnitude of landfill fire risks.*

As the report makes clear, the 5 fires reported were those material and memorable to landfill staff, and representative of each of the 2 kinds of landfill fire that the landfill has experienced to date: working face fires and grass fires. It wasn't intended to identify any and all fires. Further, the landfill is confident there are only 3 types of landfill fires that could pose a material risk at Coffin Butte Landfill. Any others beyond those 3 have never occurred at the landfill, and we do not have a reasonable basis to believe there ever will be. The report fairly represents the number, types, and magnitude of landfill fire risks. Fires at the landfill have been safely and correctly managed to date, and will be so in the future, ensuring no significant impact on the community or environment.

The landfill abides by the state of the practice for landfill fire management like at any other modern MSW landfill. Many will recall the 1999 landfill fire that was significant. That was when the site was owned and operated by the prior operator, not Republic Services. The only way that could have occurred is if many acres of waste were left uncovered and exposed for weeks on end. Republic covers all waste at the confined daily working face at the end of each working day, with very few exceptions which are quickly addressed. There is no reasonable basis to believe that a fire of that size would reoccur with Republic Services.

On-Site Water Truck. *It was reported that the 4,000 gallon water truck on site is defective, does not work, and would offer no value in extinguishing landfill fire. That statement is completely false. Landfill staff report that the subject water truck has been in continuous service in past years and is fully available at all times to help extinguish fires. In fact, that truck has been employed many times over the years to help extinguish both grass fires and working face fires.*

Applicant Response (Exhibit E56, p. 1-7):

Staff Summary: This document is a detailed response specific to the concerns raised in VNEQS Exhibit BC8.3. SCS Engineering provides responses relating to:

- Definitions of "Municipal Solid Waste"
- Acceptance of hazardous waste
- Robust waste approval checks
- Waste disposal working face size
- Daily cover at close of each business day
- Plausible fire scenarios
- FEMA document on landfill fires and underground fires

Staff Response, MFA Engineering (Exhibit BC1, p.4):

Exhibit 44: Fire Risk Response

Exhibit Description: Exhibit 44 is a memorandum dated June 5, 2025, prepared by SCS Engineers responding to the public testimony and documents received related to fire risk at Coffin Butte Landfill.

Comments: MFA has reviewed the applicant's exhibit and has not identified any further technical concerns.

Findings: The applicant noted that they will be maintaining a running log of landfill fire incidents and will report each event to the ODEQ, as recommended in the planning commission hearings.

Staff Response, MFA Engineering (Exhibit BC1, p. 14):

Exhibit 20: Fire Risk Assessment of Coffin Butte Landfill

Exhibit Description: Exhibit 20 initially included the Fire Risk Assessment of Coffin Butte Landfill, Corvallis, Oregon prepared by SCS Engineers dated November 29, 2023. MFA reviewed its content for completeness in their letter dated November 27, 2024. However, on December 11, 2023, the Applicant submitted a more recent fire risk assessment dated September 24, 2024. This exhibit was later amended with an addendum memorandum prepared by SCS Engineers on January 14, 2025, addressing the completeness review comments.

Comments: MFA and our subconsultant, Dr. Tony Sperling of Landfill Fire Control Inc. (LFCI), have the following comments on this exhibit:

The Coffin Butte Landfill should continue to employ best industry practices for fire risk management, including but not limited to:

- *Temperature and landfill gas (LFG) monitoring*
 - *Routine temperature monitoring via a thermal camera to confirm that temperature in affected areas remains below 50°C (122°F), after removal of hot materials.*
 - *Monitoring carbon monoxide (CO) in addition to the primary LFGs (methane, and carbon dioxide), as CO levels are good indicators of the presence of incomplete combustion.*
- *Maintain firefighting supplies on site, such as full water trucks and soil stockpiles*
 - *Sufficient soil should be kept near the working face to fully cover the active area with a minimum thickness of one foot.*
- *Proper acceptance and disposal of battery and electronic waste*
- *Periodic maintenance of the landfill gas (LFG) management system*

LFCI agrees with the Applicant's statement that excessive extraction of LFG can lead to increased temperatures and the potential for subsurface fires. However, LFCI notes that a review of data from several major landfill fire incidents indicates that there are documented cases where subsurface fire has breached the surface. Given the associated risks of surface fires, it is strongly recommended that landfill operations prioritize the proper maintenance of LFG management systems and closely monitor for subsurface fire activity, particularly in cases of system failure or interruption.

Staff Response, Planning:

Staff included fire risk evaluation in the supplementary staff report due to neighbor and opposition testimony. Staff has reviewed opponent testimony and concerns relating to fire risk. Staff reviewed the applicant's Fire Risk Assessment Report (Exhibit E20), and applicant responses to fire risk concerns (Exhibits APC, E44, and E56). The applicant proposes a fire control plan following best practices. Applicant has responded to opponent testimony with expert testimony. Staff recommends **Conditions OP-11 (F) and OP-12(A-C)** to limit accepted waste, maintain a working fire truck on site, monitor and log, and provide records relating to fires.

Wildlife

Staff Response, Planning: Due to neighbor and opposition testimony, this supplemental staff report took a closer look at wildlife impacts as well as Benton County's Goal 5 (Natural Resources) protection program and code implementation. This Supplemental Staff Report includes a section addressing BCD Chapter 87 Fish and Wildlife Habitat and provides detailed responses to address concerns related to heron rookeries. The Applicant addressed opposition testimony relating to heron rookeries and includes expert testimony concluding that the proposal will not seriously interfere with active rookeries. Staff recommends **Conditions P2-3(A-C) and OP16(A-C)**, which require the identification and protection of active rookeries during the construction and operation of the proposed landfill expansion.

Air Quality

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

"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 [...] strange plumes of dust like material."

Adjacent Property Owner/Resident Testimony (P. Morrell, 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:

- Current methane emission levels are unsafe. Methane levels have been linked to health concerns as well as adding to exacerbating conditions for climate change, increased concern with landfill fires, among others. While Republic is "working on" the issue, they have not yet remedied the current methane emissions and Increasing the size of the landfill will only add to the problems. Additionally, emission of other landfill gases, along with dirt and particulate matter (e. g., fiberglass dust) raises other health concerns."*

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

"I am very concerned that if Republic is allowed to start a new landfill on the south side of Coffin Butte Rd, [...] This, in addition to the certainty of more noise, worse odors, and likely carcinogenic contaminants in the air. (Already, we are witnessing terrible dust clouds from some of the dumping vehicles.)"

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

"I am becoming increasingly concerned about my family's exposure to toxic gasses every time a breeze comes from SE to SW. The gas being comprised of methane, carbon dioxide, plus other aerosols including toxic PFAS (per- and polyfluoroalkyls) was just last year measured by the EPA to exceed the maximum allowable emission level by 219 times. I have not seen any evidence that the ongoing problems in the existing methane collection system have been corrected since the last EPA visits, just continued gas emissions indications from satellite images and my own nose."

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

"I'm also concerned about the blasting that would take place since we already experience[...] odor and emanating from the landfill and all of the traffic."

Agency Comments, ENRAC (Exhibit BC2, p. 9):

“● **Air Pollution**

○ Volatile organic compounds and odor contaminants still cause unknown issues; air quality permitting has not been consistent and CBL is currently on a DEQ Title V expired permit.

● **Methane Emissions**

○ Methane emissions have resulted in several EPA inspection infractions. Ongoing state and legislative efforts towards monitoring and an EPA subpoena recommend denial of the CUP to allow full analysis of what is happening with methane emissions.

Applicant Response (Exhibit CL3, p. 2-3):

PFAS.

In Landfill Gas. There is limited data evidence indicating that PFAS is present in landfill gas, but there is no finalized EPA-approved method for sampling or quantifying gasphase PFAS from landfill gas or combustion emissions. The draft EPA Other Test Method 45 (OTM-45) is a step forward in characterizing semi-volatile PFAS from stationary sources, but is still in a developmental phase and has limited adoption (EPA, 2021).

There are currently no published PFAS emission factors for landfills or flare systems. This makes it difficult to estimate emissions or compare control technologies. The Interstate Technology and Regulatory Council (ITRC) guidance acknowledges the lack of quantitative data for air emissions from waste sources (ITRC, 2023).

Collectively, the available literature and recent field data confirm substantial uncertainty in characterizing airborne PFAS risk from landfill gas. These gaps include incomplete data on emissions, inconsistent regulatory approaches, and a lack of inhalation-based health benchmarks. The Applicant’s CUP should be evaluated based on current and available data with recognition that this body of research on PFAS in landfill gas is limited, and currently there is no scientific consensus that PFAS, to the extent it has been identified in landfill gas, is causing health risks to communities with landfills. The Applicant will abide by all laws and regulations that may arise related to airborne PFAS.

Applicant Response (Exhibit CL3, p. 3-6):

Methane/Landfill Gas. Methane. Methane, in particular, and landfill gas, in general, is not considered a significant source of on- or off-site health risk. Coffin Butte Landfill (and other Oregon landfills) are classified as lower priority Group 3 facilities under DEQ’s Clean Air Oregon program. See March 9, 2019, DEQ Memorandum entitled “Cleaner Air Oregon Prioritizations Results,” attached as Applicant’s Ex. 37. As noted in the

Memorandum:

The Cleaner Air Oregon program and rules add public health-based protection from emissions of toxic air contaminants to the state’s existing air permitting regulatory framework. The goal of the Cleaner Air Oregon program is to evaluate potential health risks to people near commercial and industrial facilities that emit regulated toxic air contaminants, communicate those results to affected communities, and reduce those risks to below health-based standards.

In comparison, Hollingsworth & Vose Fiber Company in Corvallis is a Group 1 facility, and TDY Industries (Wah Chang Corporation) in Albany is in Group 2. The priority groupings govern when a facility will be called in for a Cleaner Air Oregon risk assessment.

With regard to emissions from Coffin Butte Landfill in particular, the Applicant submits the following two documents into the record: Employee Exposure Report of Findings, dated February 2025, prepared by GuziWest Inspection & Consulting (“Guzi”) (Applicant’s Ex. 38)¹ and the Environmental Methane Compliance Report of Findings, dated January 2025, also prepared by Guzi (Applicant’s Ex. 39).

1 This report has been redacted to remove personal employee information and work product.

The Employee Exposure Report was prepared as a result of two OR-OSHA citations that have been referenced in the public testimony.² After an extensive analysis, Guzi concluded that that CBL employees are not being exposed above short-term/excursion limits nor 8-hour time-weighted average limits for asbestos, respirable crystalline silica, respirable dust, total inhalable dust, diesel particulate (elemental carbon), and the 11 metals under OSHA’s METALSSG-2 sampling group. The engineering controls and personal protective equipment currently utilized in relation to these respiratory hazards appear to be adequate to protect employees from the airborne concentrations they might be exposed to on any given day.

2 As noted in the report, these citations have been resolved.

The Guzi Report further concluded that the landfill gas monitoring performed identified short-term carbon monoxide exposure exceedances specific to a CBL work vehicle, and methane exposure exceedances during well-shortening activities, as well as during the heavy equipment operator’s normal work shift. The remaining gases monitored, including carbon dioxide, hydrogen sulfide, and oxygen, remained below all regulatory thresholds, and/or stayed within acceptable ranges. Implementation of additional engineering controls and work practices subsequently reduced and/or eliminated methane and carbon monoxide exceedances.

The Environmental Methane Compliance Report was commissioned to study off-site impacts of landfill gas on the surrounding community. After an extensive analysis, Guzi concludes:

In the evaluation of landfill gases and potential impacts to the community surrounding the CBL facility, Guzi-West first assessed the potential exposure pathways landfill gases could follow. No measurable methane concentrations have been identified migrating in the subsurface since at least 2006 in the closest and most likely areas where landfill gases would be expected to migrate. Therefore, we conclude it is very unlikely subsurface migration of landfill gases is occurring and potentially impacting the surrounding community. A methane concentration of 100,000 ppm or greater was identified at the facility and is well above the lower explosive limit for methane (50,000 ppm), however re-monitoring of the same location following implementation of corrective actions resulted in a concentration of 27 ppm. These measurements were taken during instantaneous monitoring which, while useful for identifying precise locations of methane release, is not representative of the broader system, a metric that integrated monitoring captures more accurately. Further, methane and carbon dioxide can cause potential hazards within confined spaces (either due to the creation of an oxygen deficient atmosphere, and/or in the case of methane, due to the creation of an explosive risk); that said, neither gas is expected to pose asphyxiation or explosive concerns in ambient air to the community surrounding CBL. This opinion is largely based upon the results of the integrated monitoring conducted at the subject facility, which began to be required under OAR 340-239 at the start of the third quarter of 2022. The highest average methane emission for any single CBL grid was 217.64 ppm measured during the second quarter of 2023; this is 4.5 times below the OR-OSHA PEL for methane (1,000 ppm), 22 times below the IDLH for methane (5,000 ppm), and 229 times below the lower explosive limit for methane (50,000 ppm). This risk is further reduced in ambient air the farther one travels away from the landfill. In

conclusion, it does not appear methane or carbon dioxide are likely to be present at concentrations that pose any immediate health concerns to the surrounding community.

As the Applicant notes in the burden of proof, landfill gas is regulated by DEQ and EPA and is out of the scope of the County's jurisdiction under the CUP process. But given the number of persons who expressed concerns about this during public testimony, the Applicant includes this information in support of its opinion that methane/landfill gas emissions do not pose an off-site health risk to the surrounding properties or community.

Applicant Response (Exhibit E35, p. 4):

II. Response to Mr. Kleinman's Section III (Conditional Use Approval Standards) [...]

Methane. Methane emissions are regulated by the EPA. VLI is fully cooperating with the EPA's Section 114 Information Request.

Staff Response, MFA – Engineering (Exhibit BC1, p. 4):

Exhibit 41: Environmental Methane Compliance Report of Findings

Exhibit Description: Exhibit 41 contains a report prepared by Guzi-West Inspection and Consulting, LLC dated January 2025, summarizing their review of the facility's management and permitting compliance of landfill gas and methane.

Comments: MFA has reviewed the Applicant's exhibit and has not identified any technical concerns.

Staff Response, Planning: This supplemental staff report includes testimony from neighbors, opponents, and ENRAC relating to air quality. Please also see Exhibits BC8.4 and E37 which include Beyond Toxics testimony and applicant's responses to that testimony. Staff understands opponent concerns about landfill gas emissions. However, staff concurs with the applicant that County land use review is not the appropriate forum to evaluate and control air quality in relation to concerns such as methane concentrations or public health risk. The landfill must comply with DEQ air quality regulations, which directly address these concerns. DEQ reviews air quality complaints and can require enforcement action in cases of violations. Staff also notes recent legislation (2025 SB 726 directing changes to ORS 468A with an operative date of January 1, 2027) that requires additional rulemaking and air quality monitoring specific to municipal solid waste landfills in Benton County. Staff recommends **Conditions OP-8 and OP-10**, requiring maintenance of required local, state, and federal permits, as well as compliance with state and federal regulations relating to methane, PFAS, and air quality.

"Character of the area"

Interpretation:

Applicant Response, the "area" (Exhibit BOP p. 22-25):

The Benton County Code also does not define the term "area" for CUP purposes. During BCTT, Staff Reported that the County has considered the following factors in determining the extent and character of the "area":

- a. The particular attributes of the geographic setting (including existing operations in the vicinity).*
- b. Whether there is a distinct change in the area's physical characteristics beyond a certain point.*
- c. The features or elements give the area its character, i.e., homogenous or heterogeneous characteristics and the degree of similarity.*

d. The likely extent of the effects of the proposed land use. This may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa).

Based upon the prior application and discussion, Applicant has identified five potential off-site impacts of the landfill: Noise, odor, water/groundwater, traffic, and visual impacts. Each of these off-site impacts has a differential effect on the surrounding area based upon proximity. As discussed in more detail below, the potential impact of odor extends farther from the landfill than the other potential impacts and thus has been used to identify the area of analysis under this criterion (the “Analysis Area”).

In order to establish the Analysis Area for purposes of BCC 53.215(1), VLI compiled all the odor complaints from June 2021 to August 2024 for which it had an address or location, plotted those locations on a map, and then drew a box around them. See Figure 2, below.

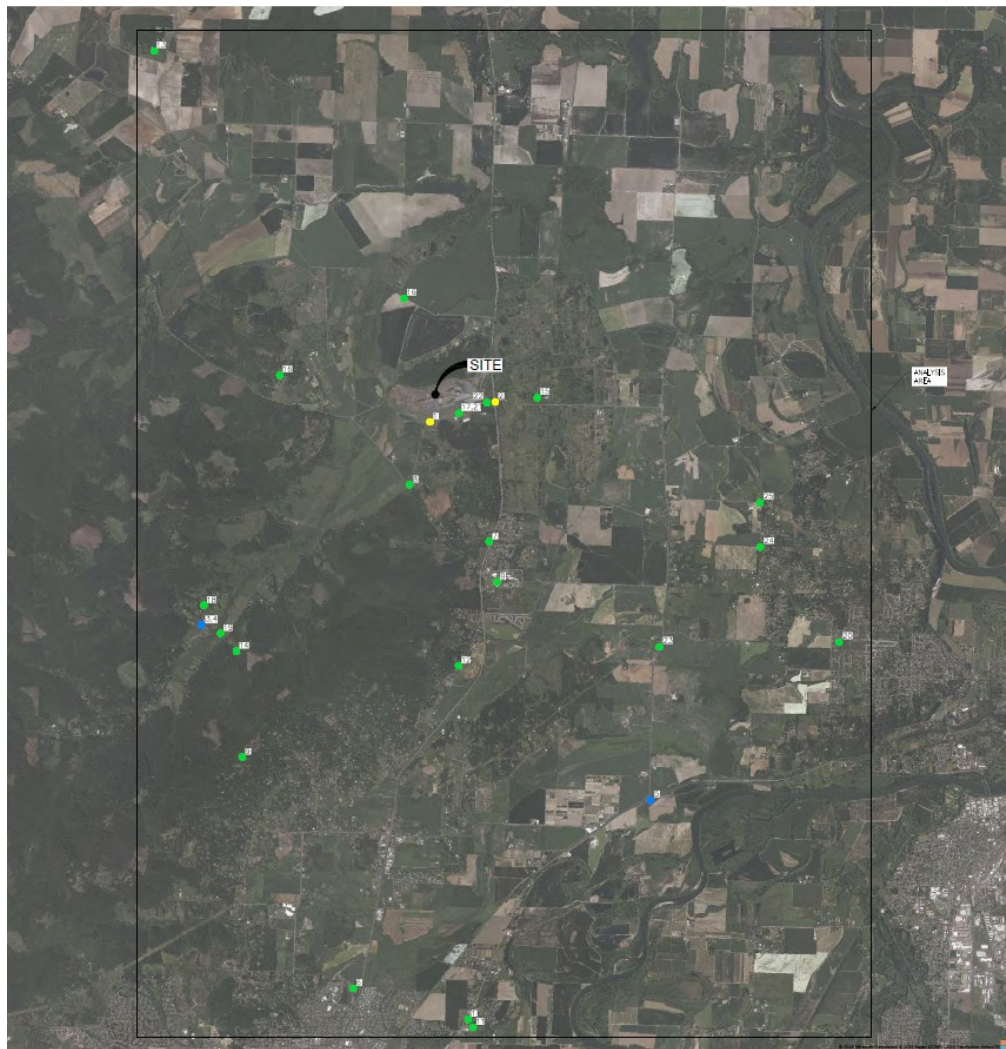


Figure 2 (The Analysis Area showing locations of odor complaints). (Full-size version and odor complaint list attached as Exhibit 9.)

VLI sometimes receives odor complaints that do not identify an address or location and notes that it did not consider these unlocated complaints to establish the Analysis Area. For these purposes, Applicant has also assumed that all the complaints were caused by odor from Coffin Butte Landfill without confirming the actual source of the odor. Although these odor

complaints are therefore overinclusive in terms of establishing the outer limits of the potential odor impact and not required by the text of the criterion, for the purposes of the application VLI will consider this area for determining the outer limits of odor impact. Further, because odor is the impact with the farthest reach, the outer limits of odor impact provide an over-inclusive analysis area for the assessment of all other off-site impacts.

The land within the Analysis Area is not a distinct geographic setting, does not have unified physical characteristics, and is heterogenous and not homogenous. In this sense, it reflects a much larger "area" than would be determined using the other characteristics considered by the County in past applications, but Applicant is considering this "area" to demonstrate compliance with the criteria beyond what is arguably required under the code.

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 16-17):

Staff summary: "The "area" in question covers considerably more territory than "adjacent properties." "

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 17):

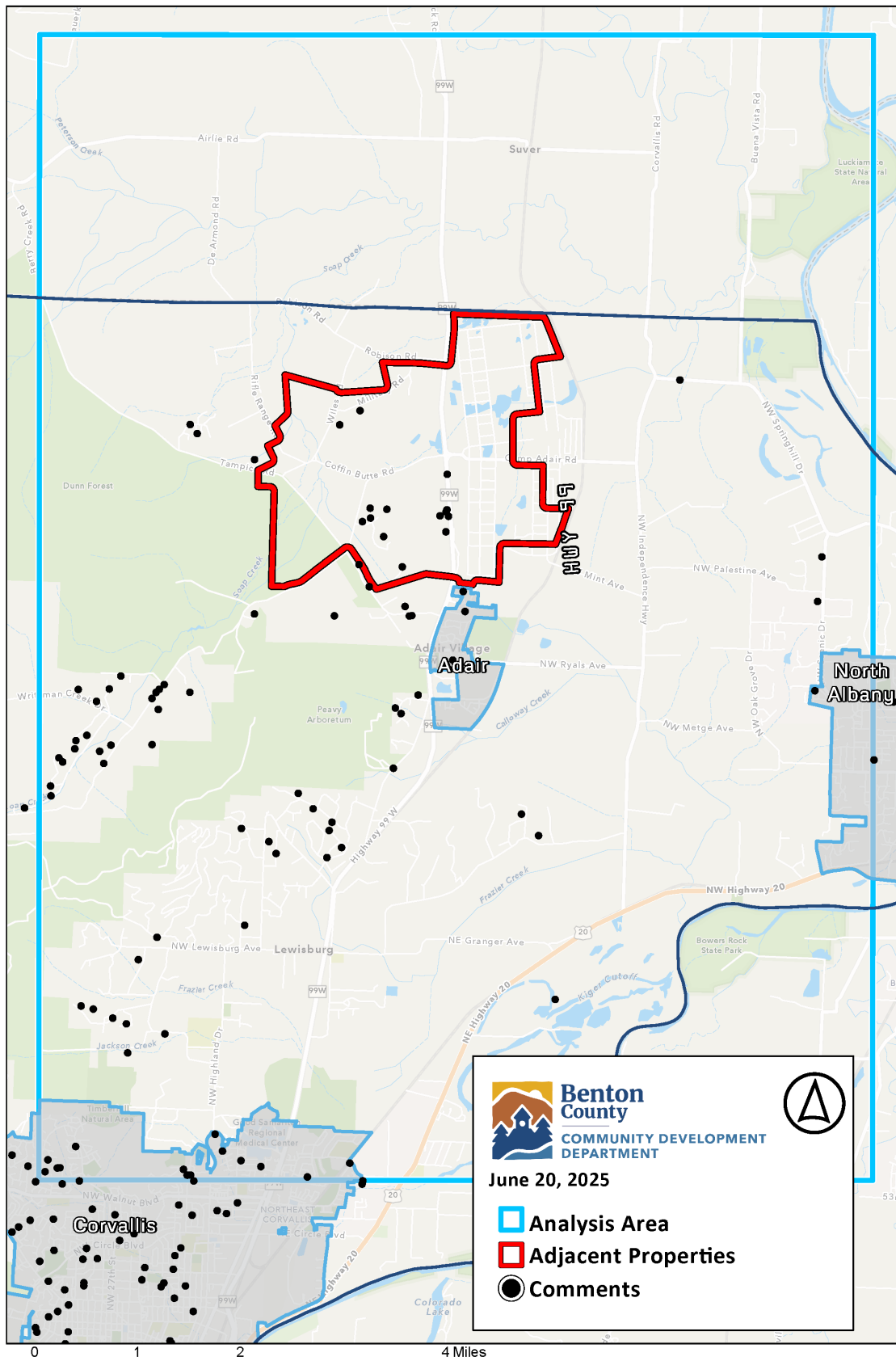
"Valley Neighbors propose that you rely upon the actual testimony placed in the record to determine the boundaries of the relevant "area" under the Development Code."

Staff Response, Planning: Staff agrees with the applicant that, in the context of this application, the "area" in this criterion can be defined by the extent of the effects of the existing landfill use (the "base case") as well as the effects of the proposed landfill expansion.

Staff concurs with opponent testimony that the character of the area covers considerably more territory than adjacent properties. If opponent testimony is suggesting that the boundary of the "character of the area" analysis should include addresses of all testifiers submitted into the record (which would include addresses in California, for example), staff does not find that reasonable or consistent with past experience or County practice.

Staff concurs with the applicant's proposed analysis area which, at approximately 90 square miles, is much larger than a typical "character of the area" analysis in conditional use review. Staff finds this large area inclusive and sufficient for evaluating compliance with this standard.

Figure 8. Map of Testimony within Analysis Area (Exhibit BC3)



County of Benton, Oregon State Parks, State of Oregon GEO, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USFWS, County of Benton, Oregon State Parks, State of Oregon GEO, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA, USFWS

Applicant Response, “the character of the area” (Exhibit BOP p. 25-27):

As noted, the Analysis Area does not have a uniform character; it consists of almost 90 square miles and includes farm and forest lands, rural residential lands, the City of Adair Village, and small portions of Corvallis and North Albany.

The portion of the Analysis Area in the vicinity of the landfill is defined by two prominent topographic features: Coffin Butte and Tampico Ridge. These two topographic features are primarily surrounded and intersected by the roadways of Highway 99W on the east boundary, Robison Road to the north, Wiles and Tampico roads to the west, and Coffin Butte Road between the features. The interior flanks of Coffin Butte and Tampico Ridge are defined by Coffin Butte Landfill, while outer flanks are established with buffer areas and scattered rural residences, along with small-scale farming and forest operations. The higher elevations within the Analysis Area are well treed, while many of the lower/flatter elevations have been cleared. See Figure 3.



Figure 3 (Character, uses, and topography of the Analysis Area). (Full-size version attached as Exhibit 10.)

The portion of the Analysis Area beyond the immediate vicinity includes the City of Adair Village to the southeast. Adair Village is a small city in Benton County, with a population of approximately 1,005. To the east is the E.E. Wilson Wildlife Area, which is a 1,788-acre preserve that provides hunting, fishing, hiking, wildlife viewing, shooting, and archery amenities; and to the west/southwest is Soap Creek Valley, which contains a number of rural residences.

The portion of the Analysis Area even farther afield includes larger-scale farm and forest operations, including the Starker Forest to the west, which is used for logging operations and recreation opportunities.

Current conditions in the Analysis Area include impacts from the current landfill operations, commercial farm and forest uses, urban development, and a major transportation corridor (Highway 99W).

Applicant Response (Exhibit BOP p. 36 – 37):

[...] the character of the Analysis Area is heterogenous, but in the immediate vicinity of the landfill, it consists primarily of higher-intensity resource land that provides farm, forest, resource extraction, landfill operations, and open spaces surrounded by scattered rural residences and small-scale farm and forest operations. The Analysis Area is currently impacted by occasional odors, sounds, noises, and trips from the existing landfill operation and surrounding resource-extraction uses.

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 4):

Staff summary: It is not just the southward movement of Republic's operation that will cause the increased, adverse impacts in question. Rather, that movement will serve to sustain a dump operation which would otherwise be greatly constrained in scope. Thus, this proposal cannot be characterized as one for a preexisting use, inherently accepted as part of the character of the area. The character of the area entails a large operating landfill north of Coffin Butte Road that is close to shutting down. Its past role in establishing the character of the area cannot be "grandfathered" into the present time, much less the future. To the extent that you may be advised to the contrary, we strongly (but respectfully) disagree. The application must be treated as one for a brand new landfill, because that is precisely what it is.

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 15):

Staff summary: In spite of alternative characterizations offered by the applicant, the character of the area surrounding the proposed fill site is pastoral and considerably more quiet and free of industrial noises and landfill debris and odors than it would be if this application were approved.

Applicant Response (Exhibit E35, p. 1):

Staff summary: Mr. Kleinman argues that this CUP for expansion of the landfill should be treated as an application for a new landfill. That is not a plausible interpretation. The proposed expansion is on land specifically designated for landfill use, for which zoning was adopted with the intention of providing for future expansion of the landfill. A landfill has been operating in this area for 70 years, and the expansion area will be part of the landfill operation that includes areas north of Coffin Butte Road.

Staff Response, Planning: Staff does not agree with opponent testimony that the existing landfill should not be considered in a review of the character of the area. All existing development and uses, including the existing landfill, define the character of the area. Staff agrees with BCTT findings referenced by the applicant regarding past interpretation of the factors considered in determining the character of the area.

BCTT Formal
Workgroup
Polling

LLU F-9b



Unanimous

"[...] Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered these factors in determining the character of the area and its extent include:

- The particular attributes of the geographic setting (including existing operations in the vicinity.)*
- Is there a distinct change in the area's physical characteristics beyond a certain point (such as a change from flat land to hills or from one river basin across a ridgeline into another)?*
- What features or elements give the area its character? Is it a homogenous or heterogeneous character (is there a high degree of similarity, or is it mixed)?*
- How far are the effects of the proposed land use likely to extend? This may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa). [...]"*

The character of the area, when considered as a whole, is heterogeneous (there are a mix of characteristics throughout). Nevertheless, common attributes of the geographic setting include – as the applicant noted in their response – areas with:

- Rural development - Including rural residential land, the Coffin Butte Quarry and the Coffin Butte Landfill
- Resource Land – Including land zoned and used for farm and forest
- Urban development – Including Adair Village and portions of Corvallis and North Albany
- Varying topography and natural habitats – Features or elements include Coffin Butte, Tampico Ridge, the E.E. Wilson Wildlife Area, and open spaces. In the southwest and central parts of the area (on the edge of which the Coffin Butte Landfill is located), the terrain includes a concentration of steeper slopes and higher altitudes compared to the remaining area.
- "[O]ccasional odors, sounds, noises, and trips from the existing landfill operation and surrounding resource-extraction uses". As part of the review immediately below this, staff evaluates the applicant's narrative and evidence regarding the current extent of those conditions.

These characteristics make up what staff consider to be the character of the area. Staff notes that most of the opposition testimony relating to character of the area identifies characteristics of the existing landfill. Staff evaluates whether the proposed landfill expansion will change the character of the area enough to "seriously interfere" with it. Due to the existing landfill, this is a relatively high bar.

Application: Relationship between the character of the area and potential impacts

Noise

Applicant Response (Exhibit BOP p.37):

***a. Noise.** The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site noise impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any noise impacts on the Analysis Area beyond those properties will only be more attenuated and will not "seriously interfere" with the character of the Analysis Area.*

Staff Response, Planning:

The County received approximately 160 comments relating to noise concerns as of June 10, 2025. Due to the presence of existing landfill operations in the immediate vicinity of the proposal, staff notes that noise from landfill operations is an existing element of the character of the area. Therefore, the question becomes whether the change in noise proposed through this application will “seriously interfere” with the character of the area. As noted in the applicant’s noise study, noise impacts from the proposed expansion are limited to adjacent properties and do not extend to a larger area. Essentially, noise produced in one area of the landfill zone will decrease, and noise produced in another area of the landfill zone will increase. The overall character of the area will experience a slight reduction in noise near the current active cell and a slight increase in noise adjacent to the proposed expansion cell.

Staff concurs with the applicant’s reasoning that if the proposed change in noise does not seriously interfere with the closest noise-sensitive uses, it will not seriously interfere with the character of the area. As discussed under adjacent land uses, applicant’s revised noise management proposal and recommended **Conditions OP-2(A-B) and OP-5** reduce expected noise volumes sufficiently to not “seriously interfere” with adjacent uses. Therefore, staff also concludes that noise produced by the proposed expansion can be conditioned to not “seriously interfere” with the character of the area.

Odor

Applicant Response (Exhibit BOP p.37):

***b. Odor.** The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site odor impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any odor impacts on the Analysis Area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.*

Staff Response, Planning: The County received approximately 140 comments relating to odor concerns as of June 10, 2025. Odor commentary in opposition primarily focuses on ongoing odor impacts from the existing landfill. The applicant’s updated odor study and expected impacts from the expansion are more thoroughly reviewed under adjacent property impacts. In summary, odor impacts from the proposed expansion are not expected to negatively impact existing conditions or “seriously interfere” with the character of the area. Expected odor production is modeled to decline from existing conditions.

The applicant’s evidence submitted to support staff’s conclusion that the landfill expansion will not seriously interfere with uses on adjacent properties or with the character of the area with regard to odor impacts is based on applicant’s submitted odor studies’ assumption that annual waste acceptance will be 930,373 tons or less from 2023 to 2052. Accordingly, a condition of approval is authorized by BCC 53.220 and is appropriate to ensure that the applicant’s studies’ assumed amount of waste acceptance is not exceeded on an annual basis.

Recommended **Conditions OP-5, OP-7(A-D), and OP-11(A-F)** limit landfill height, require daily odor monitoring and resolution, third party review and recording of odor monitoring, limit trash intake to assumptions the applicant used in their supplemental odor study, limit working face area, and require daily cover of areas not actively receiving waste.

Traffic

Applicant Response (Exhibit BOP p.37):

***c. Traffic.** The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the*

projected off-site traffic impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any traffic impacts on the Analysis Area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.

Staff Response, Planning: The County received approximately 60 comments relating to traffic concerns as of June 10, 2025. Staff concurs with the applicant’s reasoning. The applicant’s traffic analysis (Exhibit E15. *Traffic Report*) has been evaluated by county engineering and a 3rd party contract engineer. Discussion of traffic relating to adjacent properties contains additional applicant and opponent testimony, and staff responses. Traffic impacts are expected to be minimal and can be conditioned to not “seriously interfere” with the character of the area. Staff recommends **Conditions OP-6, and P2-1(A-N)** requiring consistency with the proposed application and public works and roadway construction requirements.

Water Quality

Applicant Response (Exhibit BOP p.37):

d. Water—Well Capacity and/or Groundwater Impacts. *The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site water impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any water impacts on the Analysis area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.*

Staff Response, Planning: The County received 390 comments relating to water quality concerns (including leachate, leaks in liners, groundwater contamination, and arsenic) as of June 10, 2025. As discussed under the staff response to water quality impacts on adjacent properties, concerns relating to regulation of landfill water quality impacts are generally beyond the county’s ability to evaluate or regulate but are directly within the regulatory authority of several state and federal agencies. For the county’s review purposes, the proposal is not expected to “seriously interfere” with the character of the area in relation to water quality impacts.

Staff recommends **Conditions P1-5(B), P2-1(F), OP-8, OP-10, OP-11(A-G), and OP-13(A-B)** to monitor and ensure compliance with local, state, and federal water quality requirements.

Visual Impacts

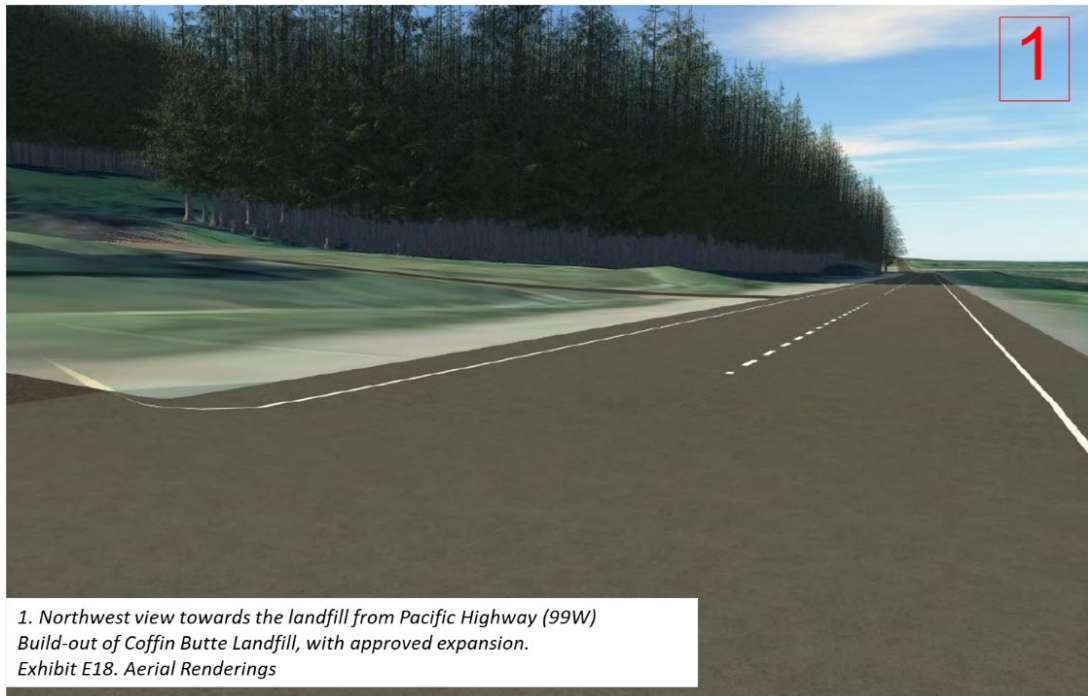
Applicant Response (Exhibit BOP p. 37):

e. Visual Impacts. *The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site visual impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any visual impacts on the area beyond those properties will only be less noticeable and will not “seriously interfere” with the character of the Analysis Area.*

Applicant Response (Exhibit E18 p. 4-8):



*Artist renderings of Coffin Butte Landfill (with Proposed Expansion)
Exhibit E18. Aerial Renderings*



*1. Northwest view towards the landfill from Pacific Highway (99W)
Build-out of Coffin Butte Landfill, with approved expansion.
Exhibit E18. Aerial Renderings*



2

2. Southwest view toward the landfill from Pacific Highway (99W)
Build-out of Coffin Butte Landfill, with approved expansion.
Exhibit E18. Aerial Renderings



3

3. Southwest view towards the landfill from Pacific Highway (99W)
Build-out of Coffin Butte Landfill, with approved expansion.
Exhibit E18. Aerial Renderings

4



4. Southwest view towards the landfill from Coffin Butte Rd
Build-out of Coffin Butte Landfill, with approved expansion.
Exhibit E18. Aerial Renderings

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 17-18):

“The applicant first proposes to strip the 59-acre parcel of all its vegetation and topsoil, then dig a 155-foot hole in the side of the geographic feature that is the ridge, fill the hole (below the water table) with garbage, and then pile more garbage atop what previously were the natural contours of the hillside. It is possible that preparing the site to accept trash will actually have more of a visual impact than filling it with trash will (the applicant has not provided Benton County with a timeline for site preparation), so it is appropriate to consider the visual impacts of site preparation in addition to the impacts of the operating fill as well as its impacts after final closure.

The area south of Coffin Butte Road currently lacks the view of the giant trash pile the applicant proposes to erect. Even if the height of that pile is lower than would have been the height of the one proposed for the area north of Coffin Butte Road in 2021, its visual impacts will nonetheless seriously interfere with the character of the newly affected area. Under your code, this impact cannot be glossed over.”

Staff Response, Planning: The County received approximately 20 comments relating to visual impacts as of June 10, 2025. Staff review and discussion of visual impacts is provided in more detail in the adjacent properties discussion earlier. The proposed expansion area – at full build-out and with their proposed screening or maintenance of existing plantings– may be visible from Coffin Butte Rd, Hwy 99W, and properties “at a higher elevation”.

Many opposition comments were submitted to the County relating to the presence of an unattractive landfill on this site. The standard calls for an evaluation of whether the proposal will “seriously interfere” with the character of the area. There has been an active landfill between significant topographical features along Coffin Butte Road for decades; it is highly visible from nearby roadways. For this application, staff must evaluate the impact of the expansion on the character of the area, not the impact of the existing landfill.

Staff is receptive to the idea that visual impact can be as or more relevant to the character of the area than to adjacent properties. However, the applicant’s proposal is not consistent with Mr. Kleinman’s description. The proposed expansion will indeed consist primarily of a large pile of trash. However, the proposal is for an operation that maintains lower elevation than the existing landfill, and at a lower elevation than the surrounding

Tampico ridgeline. Moving the active face to the expansion area, as proposed, results in less visibility to the surrounding area than the existing landfill.

While the proposal includes additional development within the landfill zone that will also be visible, major surrounding topographical features will remain and the general views into the landfill area may include slightly less landfill activity than exist today; therefore, staff concurs with the applicant that this change will not “seriously interfere” with the character of the area.

Staff recommends **Condition OP-5**, limiting height of the landfill to the Applicant’s proposed height (450 feet above mean sea level), which will maintain the top of the landfill below the Tampico crests, which are approximately 515-590 feet above sea level.

Litter

The County received approximately 20 opposition comments relating to litter as of June 10, 2025. Litter is addressed in greater detail in relation to impacts on adjacent properties. Recommended **Conditions OP-5, OP-11(A-F), and OP-15(A-I)** will limit landfill height and activities on site, improve trash retention on site, and improve cleanup for the surrounding community. The proposed expansion is also lower and more sheltered by both topography and forested areas than the existing landfill. The proposed expansion, with recommended conditions of approval, is expected to reduce the amount of litter impacting the community. Therefore, the proposal will not “seriously interfere” with the character of the area in relation to litter.

Wildlife

The County received approximately 80 opposition comments related to wildlife as of June 10, 2025. Comments and concerns relating to heron rookeries and regulated wildlife impacts are addressed in discussion under Chapter 87 in this staff report. Staff recommends **Conditions P2-3(A-C) and OP16(A-C)**, which require the identification and protection of active rookeries during the construction and operation of the proposed landfill expansion.

Air Quality

The County received approximately 610 opposition comments related to air quality (including dust and methane) as of June 10, 2025. Air quality concerns are described in detail in the Air Quality impacts section relating to impacts on adjacent properties. In the context of “character of the area”, air quality concerns are presented primarily related to the existing landfill. However, in the technical review of the proposal, staff did not see evidence that the area's air quality would worsen due to the expansion.

As noted in relation to adjacent properties, staff understands the testimony and concern about landfill gas emissions. However, staff concurs with the applicant that County land use review is not the appropriate forum to evaluate and control air quality in relation to issues such as methane concentrations or public health risk. The landfill must comply with DEQ air quality regulations, which directly address these concerns. DEQ reviews air quality complaints and can require enforcement action in cases of violations.

Staff recommends **Conditions OP-8 and OP-10**, requiring maintenance of required local, state, and federal permits, as well as compliance with state and federal regulations relating to methane, PFAS, and air quality.

“Purpose of the zone”

Finally, the criterion requires that the landfill expansion not seriously interfere with the **Zone's purpose**. As the development area is within the LS and FC zones, the responses regarding each zone’s purpose are detailed below.

CHAPTER 60 – FOREST CONSERVATION (FC)

PURPOSE

60.005 Forest Conservation Zone.

- (1) The Forest Conservation Zone shall conserve forest lands, promote the management and growing of trees, support the harvesting of trees and primary processing of wood products, and protect the air, water, and wildlife resources in the zone. Resources important to Benton County and protected by this chapter include watersheds, wildlife and fisheries habitat, maintenance of clean air and water, support activities related to forest management, opportunities for outdoor recreational activities, and grazing land for livestock. Except for activities permitted or allowed as a conditional use, non-forest uses shall be prohibited in order to minimize conflicts with forest uses, reduce the potential for wildfire, and protect this area as the primary timber producing area of the County.*
- (2) The provisions of this chapter are not intended to regulate activities governed by the Forest Practices Act and Rules.*
- (3) The provisions of this chapter are based on the mandatory standards related to land use activities on forest land specified under Oregon state statutes, and Goal 4 of the Oregon Land Use Planning Program and the implementation requirements adopted by the Land Conservation and Development Commission pursuant to Chapter 660, Division 6 of the Oregon Administrative Rules.*

FINDINGS:

Applicant Response (Exhibit BOP p. 38):

The purpose of the FC zone is to conserve forest lands, promote forestry and timber uses, and protect natural resources. The specific provisions of the FC zone recognize that landfill uses are consistent with these purposes and expressly permit a landfill use as a conditional use. BCC 60.205(11).

No solid-waste disposal is proposed for the FC-zoned land. Instead, the proposed improvements on the FC-zoned land include an 1,800-square-foot employee building, parking, access road modifications, and the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance area. All uses proposed as part of the Project (i.e., disposal site for solid waste approved by the County Commissioners and DEQ, together with equipment, facilities, or buildings necessary for its operation) are permitted in the FC zone, so long as Applicant demonstrates compliance with all applicable CUP approval criteria. The elements of the Project that are proposed on the FC-zoned land are associated with the existing, approved Coffin Butte Landfill. These uses are explicitly allowed and therefore consistent with the stated purpose of the zone, and CUP review will minimize conflicts with forest uses, reduce the potential for wildfire, and protect this area as the primary timber-producing area of the County. Thus, the elements of the Project that are proposed on the FC-zoned land will not "seriously interfere" with the purpose of the FC zone. (BOP p. 38)

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 20-21):

"[...] the LS classification was created so that landfills would not be located in FC zones. Hence, the proposed siting on FC parcels of accessory uses which would be part of the landfill operation would subvert the intent of the county's zoning scheme. Note also that landfill "buffers" are not a by-right use in the FC zone, and are not allowed at all in the RR zoning district.

The only parcel in the applicant's ownership that is currently permitted for landfill "buffer" is the 59-acre parcel that the applicant proposes to put a new landfill on. This is the buffer between existing landfill operations, which are slated to continue for the next 12 years, and the RR-10 and FC parcels with residences on them to the east, west, and south. A landfill cannot "buffer" itself. The 59-acre parcel was zoned LS in 1983 to provide visual/noise/odor screening from adjacent parcels, and that is its current function. Without rezoning existing rural residential parcels to LS, or obtaining Conditional Use Permits on FC parcels for landfill "buffering," this use is not compatible with surrounding existing uses."

Applicant Response (Exhibit E35, p. 5):

II. Response to Mr. Kleinman's Section III (Conditional Use Approval Standards)

[...]

Mr. Kleinman's argument that the purpose of the FC zone prohibits landfill use on FC-zoned lands ignores two express provisions in Chapter 60. Section 60.005 (Purpose of the Zone) describes forest-related uses and then goes on to say:

Except for activities permitted or allowed as a conditional use, non-forest uses shall be prohibited in order to minimize conflicts with forest uses, reduce potential for wildfire, and protect this area as the primary timber producing area of the County.

BCC 60.215(11) expressly allows as a conditional use in the FC Zone:

Disposal site for solid waste approved by the Benton County Board of Commissioners and the Oregon Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.

Mr. Kleinman's argument is directly contrary to the express language of the Code.

Staff Response, Planning:

Staff generally concurs with the applicant's response. The proposed development within the FC zone is specifically identified as a conditional use in the FC zone. The standards contained within the Forest Conservation zone directly implement the purpose of the FC zone by evaluating and limiting impact on forest uses, addressing fire risk, and regulating site development to limit impacts on forest resources. Staff evaluates the application's consistency with FC Zone requirements under Chapter 60 findings below.

The FC zone conditional use criterion BCC 60.220(1)(c) requires consistency with BCC 53.215. As discussed above, the proposal can meet BCC 53.215 requirements with proposed conditions of approval. As discussed under Chapter 60 findings below, the proposal can meet FC zone standards with recommended conditions of approval. Therefore, with recommended **Conditions P1-3, P2-4, and OP-10**, the application will not "seriously interfere" with the purpose of the FC zone.

CHAPTER 77 – LANDFILL SITE (LS)

77.005 Purpose.

The Landfill Site Zone shall establish a specific landfill area in Benton County.

FINDINGS:

Applicant Response (Exhibit BOP p. 38):

As established in Section III.C.6 above, the purpose of the LS zone is to host a landfill. Allowing for landfill expansion in the Landfill Site Zone will fulfill rather than "seriously interfere" with the stated purpose of the zone.

Staff Response, Planning: Staff concurs with the applicant's response. Landfill expansion onto land in the Landfill Site Zone is consistent with the purpose of the LS Zone and would not seriously interfere with that purpose.

53.215 (1) Conclusion:

As detailed in staff comments above, planning staff evaluated whether the proposal would “seriously interfere” with “adjacent property”, the “character of the area”, and the “purpose of the zone”.

- **Adjacent Property:** Staff finds that the proposal can be conditioned to not “seriously interfere” with adjacent uses when evaluating noise, odor, traffic, water quality, visual impacts, litter, fire risk, wildlife, and air quality. Staff recommends **Conditions P1-4, P1-5(B), P2-1(F), OP-1(A-F), OP-2(A-B), OP-3, OP-4(A-C), OP-5, OP-6, OP-7(A-D), OP-8, OP-10, OP-11 (A-G), OP-12(A-C), OP-13(A-B), OP-15(A-I), and OP-16(A-C)** to limit and mitigate potential impacts that could “seriously interfere” with uses on adjacent properties.
- **Character of the Area:** Staff finds the proposal can be conditioned to not “seriously interfere” with the character of the area. Staff recommends **Conditions P1-4, P1-5(B), P2-1(F), OP-1(A-F), OP-2(A-B), OP-3, OP-4(A-C), OP-5, OP-6, OP-7(A-D), OP-8, OP-10, OP-11 (A-G), OP-12(A-C), OP-13(A-B), OP-15(A-I), and OP-16(A-C)** to limit and mitigate potential for “serious interference” to the character of the area.
- **Purpose of the Zone:** Staff finds the proposal can be conditioned to not “seriously interfere” with the purpose of the Landfill Site Zone or the Forest Conservation Zone. Staff recommends **Conditions P1-3, P2-4, and OP-10** to ensure consistency with the purpose of the FC Zone.

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



“[...] Staff has stated that in past CUP applications the Planning Official, Planning Commission or Board has considered a “burden” on public infrastructure and service is likely “undue” if it overloads the system or causes significant degradation in terms of quality, effectiveness or timeliness of infrastructure or service. Lesser burdens may also be “undue” if the effect jeopardizes people’s health, safety, or welfare. Burdens that the County has typically not considered “undue” include those that can be mitigated through planned improvements, that are incremental service additions[footnote] consistent with that generated by other uses in the area or that fall below an established threshold (such as road classification standards). For planned improvements to be relied upon in determining that a burden is not undue, the implementation of those improvements must be certain, such as through a condition of approval specifying the improvement and the timeline for implementation.”

FINDINGS:

Applicant Response (Exhibit BOP p. 39):

Coffin Butte Landfill serves the public. The development is proposed so that the landfill can continue to accommodate public needs for an additional six years beyond the life of the current approved landfill. As noted above, when the Development Site is opened, the working face will move from north of Coffin Butte Road to the Development Site. As detailed in the traffic report (Ex. 15), trip growth (transportation impacts) will grow with overall population, but not because of the relocation of the working face to the Development Site. As noted in Exhibit 15, trips generated to and from the working face will remain substantially the same and well within the capacity of the existing road system. Because the 2024 CUP application

does not include closure of Coffin Butte Road, none of the surrounding road systems will be impacted, and the new turn lanes and bike paths will improve safety and access along Coffin Butte Road. The Project does not necessitate any additional water or sewer services, so will not affect public water or sewer service. The property is served by the Adair Fire District and the Benton County Sheriff's Department. The Fire District expressed concern about the impact of closure of Coffin Butte Road on emergency ingress and egress during prior 2021 application; the 2024 CUP application does not change that access. Applicant's Fire Risk Assessment Report, attached as Exhibit 20, details how Applicant's fire mitigation plan prevents or addresses fires, and concludes that operations at Coffin Butte Landfill do not present a significant fire risk. There is no evidence or history that suggests that the landfill creates significant law enforcement issues. The proposed development is not projected to increase impacts to these providers.

For the above-noted reasons, the proposed expansion does impose an undue burden on any public facilities or services.

Staff Response, Public Works (Exhibit BC1 p. 29-31):

[...]

Construction of the proposed improvements may require permitting through regulatory agencies including, but not limited to, the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), the Oregon Department of Fish & Wildlife (ODFW), the Oregon State Historic Preservation Office (SHPO), the Oregon Department of Geology and Mineral Industries (DOGAMI), U.S. Fish & Wildlife (USFW), the U.S. Army Corps of Engineers (COE), and the National Oceanic and Atmospheric Administration-National Marine Fisheries Service (NOAA-NMFS).

Benton County staff have cooperated with Kellar Engineering in this review process, and we concur with their findings and conditions regarding the Traffic Impact Analysis.

Final engineering design for any public infrastructure improvements will be required after Conditional Use approval. Review and approval of those calculations, drawings, right of way adjustments, and specifications will be completed prior to start of construction. [...]

Traffic

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 21-22):

"Returning to the Conditional Use criteria of BCC 53.215, subsection (2) [...]

The applicant's TIA seems to have withstood staff and consultant scrutiny thus far. However, it is not clear that the TIA and its reviewers understood that the Knife River quarry operation on land leased from Republic had ceased. Republic has now prepared that portion of its property for landfill use, and commenced to fill it. That use will have traffic impacts which are substantially different from and more intense than those generated by Knife River. The defects in the applicant's TIA are separately addressed in a submittal from Mark Yeager."

Agency Comments, ENRAC (Exhibit BC2, p. 10):

"• Regional Impacts and Coordination

- o Impacts to road wear and increased traffic, need for increased consolidation of waste and to minimize the use of trucks requires infrastructure investment."*

Agency Comments, ODOT Region 2 (Exhibit BC2, p. 66):

"I reviewed the submitted TIA and Response to Comments for the Coffin Butte Landfill Expansion development in Benton County and have no comments. It is our understanding that no direct access to a state highway has been proposed. Under such circumstance, this analysis has been required under the authority of the County and ODOT is serving as an additional reviewer."

Applicant Response (Exhibit CL3, p. 6):

The Applicant submits the attached May 23, 2025, memorandum from Transight Consulting (Applicant's Ex. 40), addressing testimony in opposition regarding traffic. Transight explains how the new traffic pattern will not impede traffic flow on Coffin Butte Road and that Coffin Butte Road and connecting roads are more than adequate to address the traffic from the current landfill and the expansion.

Applicant Response (Exhibit E35, p. 5):

III. Response to Mr. Kleinman's Section IV (Conditions Related to Traffic, Drainage, Leachate Management)

[...] VLI's traffic consultant has responded to testimony at the hearing regarding transportation in a report dated May 23, 2025, and included in its June 6 response to testimony at the hearing. The proposed improvements to Coffin Butte Road are more than sufficient to address the changes in truck and traffic patterns and will not impede through traffic on Coffin Butte Road.

Applicant Response (Exhibit E54, p. 1-6):

Staff summary: The applicant responds to opponent testimony from VNEQS in their June 10, 2025, letter (Exhibit BC8.3) on adverse traffic impacts. In response to VNEQS's assertion that the applicant failed to consider traffic increases resulting from the potential removal of the tonnage cap under the proposed CUP, the applicant stated that the traffic analysis incorporated a 50% increase in trips based on projected population growth and current operating conditions. This approach, they argue, provides a conservative estimate that adequately accounts for potential impacts, even if the tonnage cap were lifted.

In response to VNEQS's assertion that the traffic analysis failed to account for the landfill's expansion into the former quarry site ("Cell 6") and the site preparation required for the proposed expansion area, the applicant explained that a separate analysis for Cell 6 was unnecessary because the lateral shift in operations would not increase trips beyond existing conditions. Additionally, they noted that the traffic study incorporated recent activity related to the preparation of Cell 6, which they contend reflects a traffic level comparable to what would be expected for preparing the proposed expansion area.

In regard to the VNEQS argument that site preparation for the proposed expansion will require around 270,000 one-way trips across Coffin Butte Road (which would not have been an element of Cell 6 preparation), the applicant acknowledges that the method of hauling has not yet been determined but will be within a Benton County-approved traffic-control plan. VNEQS also asserted that daily cross-Coffin Butte Road traffic would impede public and emergency service use of the road. To this, the applicant responded that the project maintains existing scale access to prevent traffic backups, includes road upgrades and a new turn lane to meet county standards, and ensures unimpeded public and emergency access along Coffin Butte Road.

Staff Response, Kellar Engineering (Exhibit BC1 p. 27):

1. Kellar Engineering (KE) has reviewed the submitted Coffin Butte Landfill Expansion Traffic Impact Analysis (TIA) dated February 26, 2024 and the formal response to public comments memorandum dated May 23, 2025 by Transight Consulting, LLC.

2. KE has also reviewed the letter provided by Mark Yeager dated April 21, 2025 pertaining to his review of the TIA. The referenced letter cited deficiencies within the TIA and recommended denial of the proposed application. KE concurs that there are some areas where the TIA could provide more site specific analysis; however, it would not likely result in traffic volume increases that would be enough to change the projected intersection LOS operations in the TIA to be at a poor LOS. KE recommends that Transight Consulting, LLC provide a formal written response to this letter.

3. Below are two comments related to the TIA in opposition letters. KE's responses are below in [underlined text].

- The applicant's TIA seems to have withstood staff and consultant scrutiny thus far. However, it is not clear that the TIA and its reviewers understood that the Knife River quarry operation on land leased from Republic had ceased. Republic has now prepared that portion of its property for landfill use, and commenced to fill it. That use will have traffic impacts which are substantially different from and more intense than those generated by Knife River.

KE recommends that Transight Consulting, LLC provide a formal written comment response to address the above comment.

- Applicant proposing to route so much landfill traffic on that road that even the Applicant's own traffic consultant acknowledges that functionality will be degraded.

Per the May 23, 2025 Memorandum by Transight Consulting, LLC, the projected volume on Coffin Butte Road will be below the typical rural collector volume threshold. Please refer to Transight Consulting's response to Comment 4 in the Memorandum.

Staff Response, Planning: Staff notes that Applicant Exhibit 54 was submitted June 23rd, after Kellar Engineering comments on June 18th. Exhibit 54 provides the formal written responses requested by the Kellar Engineering comments. Applicant has provided qualified expert responses to the detailed issues raised by VQNES. Staff concurs with engineering and transportation comments, as well as the applicant's conclusion. Transportation impacts from the proposed landfill expansion are minimal and are not expected to cause an "undue burden". Staff recommends **Conditions OP-6, and P2-1(A-N)** requiring consistency with the proposed application and public works and roadway construction requirements.

requiring compliance with proposed operations.

Leachate

Opponent Testimony (VNEQS, Exhibit BC8.3, p. 24):

"Currently, Corvallis Public Works treats approximately half of leachate generated. With the quarry expansion and this proposed new south landfill, leachate generated is expected to double current amounts. Already there is more leachate treated in Corvallis than the facility can accommodate [...]"

Applicant Response (Exhibit CL3, p.3):

PFAS. [...]

In Leachate. [...]

As the Applicant testified at the hearing, the Applicant's current disposal permit at the Corvallis wastewater treatment plant expires at the end of 2025. The leachate generated from the current landfill that was going to the Corvallis wastewater treatment plant, and some or all of the leachate from the expansion, will go to outlets other than the Corvallis plant. The Applicant is looking for disposal alternatives regardless of approval of the expansion. Similarly, the Applicant will have to comply with any subsequently adopted regulation of PFAS in leachate regardless of the approval of the expansion.

Staff Response, MFA Engineering (Exhibit BC1, p.15):

Exhibit 27: Leachate Management Summary

[...]

MFA acknowledges that the detailed calculations regarding leachate quantities and collection system components will be developed and submitted to the ODEQ during the solid waste permitting process and recommends County to be copied with the ODEQ submittal, as noted in the prior section of this letter under Exhibit 2.

MFA noted that Coffin Butte Landfill has an agreement with the Corvallis wastewater treatment plant (CWWTP) to dispose of its leachate at their plant. The landfill currently disposes of 50% of their leachate at CWWTP. The permit for this operation expires December 31, 2025. The remaining 50% of the leachate is currently disposed of at the Salem wastewater treatment plant (SWWTP). Coffin Butte Landfill's discharge agreement with SWWTP expires December 31, 2027.

Staff Response, Planning: Staff understands concerns raised in opposition to the proposed expansion regarding leachate and groundwater quality. All parties agree that past practices relating to leachate, under different management, were inconsistent with current best practices. However, technical review of the proposal indicates empirical consistency with current best practices for leachate management, and the proposal addresses concerns with expert testimony. In addition, DEQ is the regulatory agency that addresses, through review and enforcement, public health concerns relating to groundwater and leachate. Furthermore, Staff received no agency comments regarding water quality or leachate in response to the proposed expansion (see Exhibit BC2).

Fire Risk

Opponent Testimony (VNEQS, Exhibit BC8.3, p. 30-31):

Staff Summary: VNEQS assert that the proposed expansion would create steep slopes of methane-producing waste and increase the landfill surface area, which would be an undue burden due to the increased risk to firefighter safety.

Agency Response, Adair Rural Fire District (Exhibit BC2, p. 32-34):

Staff Summary: On April 21, 2025, Fire Chief Aaron C. Harris of the Adair Rural Fire Protection District submitted testimony recommending denial of land use application LU-24-027, citing concerns related to the proposed landfill expansion. Chief Harris outlined four primary issues: potential reductions in property tax revenue due to decreased property values near the landfill; increased traffic and associated emergency response demands; elevated fire risk tied to methane emissions, including findings from a current EPA investigation; and long-term challenges to sustaining a volunteer-based fire department.

Applicant Response (Exhibit CL3, p. 6):

The Applicant submits the attached June 5, 2025, memorandum from James Walsh of SCS Engineers (Applicant's Ex. 42) responding to testimony on fire risk at Coffin Butte Landfill.

Applicant Response (Exhibit E44, p. 1-2):

1. Adair Fire Department

[...]

Coffin Butte staff just met with Adair Fire in March 2025. The meeting went well with each party pledging to work together going forward, as well as they have in the past. In the meeting, the parties discussed a few ways both can engage and serve one another even better in the future. Meeting notes by both sides committed each party to continue the good working

relationship of the past. There were no concerns expressed at that time about any possible service or support reduction from Adair Fire. Coffin Butte appreciates the past support Adair Fire has provided, and are hopeful it can continue in the future at the same level. With that said, it should be pointed out that most fires at the landfill have been handled properly and in full by landfill staff, and it is believed that will continue to be the case going forward.

2. FEMA Report [...]

We are well familiar with the FEMA document cited. FEMA often creates large debris piles from disaster cleanups. Waste in those can be left uncovered for months. Understandably, FEMA has had issues with fires in those large uncovered debris piles. However, FEMA has no operating experience with a modern MSW landfill like Coffin Butte Landfill or its fire potential or reality. Like any modern MSW landfill, Coffin Butte Landfill covers its waste each night and never has large areas of uncovered waste exposed for months at a time. Coffin Butte has far less fire potential than that reported by FEMA. Further, FEMA is simply mis-informed about methane emissions causing or exacerbating landfill fires. Landfill fires have nothing to do with methane emissions, not at Coffin Butte, and not at any modern MSW landfill. None of the past fires at Coffin Butte were created or exacerbated by methane.

Applicant Response (Exhibit E56, p. 1-7):

Staff Summary: This document is a detailed response specific to the concerns raised in VNEQS Exhibit BC8.3. SCS Engineering provides responses relating to:

- Definitions of “Municipal Solid Waste”
- Acceptance of hazardous waste
- Robust waste approval checks
- Waste disposal working face size
- Daily cover at close of each business day
- Plausible fire scenarios
- FEMA document on landfill fires and underground fires

Staff Response, MFA Engineering (Exhibit BC1, p. 4):

Exhibit 44: Fire Risk Response

Exhibit Description: Exhibit 44 is a memorandum dated June 5, 2025, prepared by SCS Engineers responding to the public testimony and documents received related to fire risk at Coffin Butte Landfill.

Comments: MFA has reviewed the applicant's exhibit and has not identified any further technical concerns.

Findings: The applicant noted that they will be maintaining a running log of landfill fire incidents and will report each event to the ODEQ, as recommended in the planning commission hearings.

Staff Response, Dr. Tony Sperling of LFCI and MFA - Engineering (Exhibit BC1 p. 14):

MFA and our subconsultant, Dr. Tony Sperling of Landfill Fire Control Inc. (LFCI), have the following comments on this exhibit:

The Coffin Butte Landfill should continue to employ best industry practices for fire risk management, including but not limited to:

- *Temperature and landfill gas (LFG) monitoring*
 - *-Routine temperature monitoring via a thermal camera to confirm that temperature in affected areas remain below 50°C (122°F), after removal of hot materials.*
 - *-Monitoring carbon monoxide (CO) in addition to the primary LFGs (methane, and carbon dioxide), as CO levels are good indicators of the presence of incomplete combustion.*
- *Maintain firefighting supplies on site, such as full water trucks and soil stockpiles*
 - *Sufficient soil should be kept near the working face to fully cover the active area with a minimum thickness of one foot.*
- *Proper acceptance and disposal of battery and electronic waste*
- *Periodic maintenance of the landfill gas (LFG) management system*

LFCI agrees with the Applicant's statement that excessive extraction of LFG can lead to increased temperatures and the potential for subsurface fires. However, LFCI notes that a review of data from several major landfill fire incidents indicates that there are documented cases where subsurface fire has breached the surface. Given the associated risks of surface fires, it is strongly recommended that landfill operations prioritize the proper maintenance of LFG management systems and closely monitor for subsurface fire activity, particularly in cases of system failure or interruption.

Staff Response, Planning:

Staff has reviewed opposition testimony in relation to this standard, as well as applicant responses. Staff notes there is considerable overlap between concerns related to fire risk on adjacent property uses, and on public services. Please also see discussion of fire risk on adjacent properties.

Staff notes that Adair Rural Fire District (ARFD) is a public service agency and its Chief, Harris, submitted comments that are addressed below:

- **Property tax impacts:** Land identified as adjacent to (or nearby) the landfill expansion area is already adjacent to or nearby the existing landfill. Staff notes the proposed expansion will be less visible than the existing landfill due to topography and a conditioned limit on height. It is not clear why this proposal would create a greater impact on property values than the existing landfill.
- **Increase in truck trips:** Applicant has provided expert analysis and evaluation of expected traffic volumes in relation to roadway capacity and safety. Staff recommends **Condition OP-6** to ensure traffic impacts remain consistent with TIS assumptions related to the proposed expansion.
- **Fire risk:** Chief Harris asked if staff had evaluated fire safety south of Coffin Butte Road. Staff engineers evaluated the fire plan and it is consistent with best practices. Please see fire risk discussion under adjacent property impacts. Staff recommends **Conditions OP-11 (F) and OP-12(A-C)** to limit accepted waste, maintain a working fire truck on site, monitor and log, and provide records relating to fires;. Staff is open to inclusion of additional conditions of approval related to fire risk and the proposed fire plan or site plan from ARFD.
- **Volunteer fire fighters:** Chief Harris notes volunteer fire fighters have been dropping in number from over 20 to the current 12. However, that testimony does not take the position that 12 volunteers is an insufficient number for fire fighting purposes or explain the significance of the drop in volunteers. The connection between the landfill expansion proposal and the number of volunteer fire fighters is not clear from the testimony.

Staff has conducted an independent review of engineering evidence submitted. Staff concurs with applicant expert testimony and engineering review findings.

Staff recommends **Conditions OP-6, OP-11(F), and OP-12(A-C)** to limit potential impacts on public facilities and services to those proposed and evaluated.

(3) *The proposed use complies with any additional criteria which may be required for the specific use by this code.*

Staff Response, Planning: The Staff Report includes review and response to all other relevant criteria for this conditional use review.

53.220 Conditions of Approval. The County may impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code. On-site and off-site conditions may be imposed. An applicant may be required to post a bond or other guarantee pursuant to BCC 99.905 to 99.925 to ensure compliance with a condition of approval. Conditions may address, but are not limited to:

- (1) Size and location of site.*
- (2) Road capacities in the area.*
- (3) Number and location of road access points.*
- (4) Location and amount of off-street parking.*
- (5) Internal traffic circulation.*
- (6) Fencing, screening and landscape separations.*
- (7) Height and square footage of a building. A limit on height is unnecessary.*
- (8) Signs.*
- (9) Exterior lighting.*
- (10) Noise, vibration, air pollution, and other environmental influences.*
- (11) Water supply and sewage disposal.*
- (12) Law enforcement and fire protection.*

FINDINGS:



"[...] Conditions of approval must relate to approval criteria. To be approved, an applicant must demonstrate compliance with all discretionary approval criteria. Conditions of approval cannot substitute for compliance with applicable criteria but may be imposed to ensure the criteria are met. The county may find compliance with approval criteria by establishing that compliance is feasible, subject to compliance with a specific condition(s) of approval. A preponderance of the evidence must support a finding that the condition is "likely and reasonably certain" to result in compliance. [...]"

"[...] Generally, the new proposal must be evaluated on its own merits relative to the approval criteria. However, the current non-compliance of an existing land use condition could provide information that the Planning Commission considers in developing a condition on a new application. If an application is made to expand an existing land use that is currently out of compliance with a condition of approval of a previous decision, and that noncompliance is causing issues for surrounding land uses, noncompliance of the original land use decision is not in itself grounds to deny the new application. However, the decision-maker could potentially look at the fact of existing noncompliance in evaluating whether that noncompliance is causing the existing land use to "seriously interfere" with uses on surrounding properties. That fact can then be used as evidence in evaluating whether the proposed land use complies with the review criteria because the same land use in a similar location was seriously interfering with surrounding uses even though it was subject to conditions of approval. If the language in a condition of a past decision was unclear or insufficient to ensure compliance with an approval criterion, in evaluating a new application the decision maker could craft and impose a condition on a new decision that more clearly describes the measures necessary to ensure compliance. Past conditions superseded by subsequent decisions or changes in the law could not form a basis for such analysis."

Applicant Response (Exhibit BOP p. 40 – 41):

Applicant understands that this section of the Code allows for the imposition of conditions of approval to address compliance with the applicable criteria, if warranted. This Code section does not add any additional substantive review criteria for approval.

Applicant expects the County to impose conditions of approval. Applicant has prepared draft conditions of approval for the County's consideration. See Draft Conditions, attached as Exhibit 21. The draft conditions of approval are based upon the evidence and recommendations contained in Applicant's exhibits and the analysis in this burden of proof, as well as the County's relevant recommended conditions in 2021.

One condition that was at issue in the 2021 application and was an area of disagreement during BCTT is a limitation on the hours of operation. Applicant requests a condition that would allow it to continue the current hours of operation. Prior to opening, Applicant currently must begin internal operations to prepare for opening. The landfill opens to commercial hauling traffic at 5 a.m. and opens to the general public at 8:00 a.m., except on Sundays, when it opens at 12:00 p.m. The site closes to both commercial and public traffic at 5:00 p.m. all days, with internal operations continuing thereafter to properly close the landfill for the day. The landfill has been observing these hours since 2002. This is in accordance with PC-02-07 2002, in which the County imposed the following condition regarding hours of operation:

"The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sunday, with 24-hour access for commercial customers."

The question during BCTT was whether Applicant was violating this section by having staff on site before 8:00 a.m. and after 5:00 p.m. Applicant had always interpreted "landfill operation hours" to mean hours that it is open to the public. Applicant noted that since the condition

allows 24-hour access for commercial customers⁴⁶, the County must have contemplated that at least some staff would be on site outside the hours that it was open to the public.

46 Historically, the site did operate 24 hours a day for commercial customers. At its own discretion, Applicant limited hours in the early 2000s to 5:00 a.m. to 5:00 p.m. for commercial customers.

From an off-site impact standpoint, having staff on site to prepare for opening and closing of the landfill has no impact on the Adjacent or Nearby Properties or the Analysis Area. In contrast, limiting the hours of operation would concentrate landfill traffic into the peak hours, resulting in increased congestion and the potential for more user conflicts. See Ex. 15, pages 22-23.

For these reasons, Applicant respectfully requests that any condition of approval relating to hours of operation permit Applicant to continue its long-standing practice. Exhibit 21 contains a draft condition of approval (OA-1) addressing hours of operation. The impacts to Adjacent or Nearby Properties or to the Analysis Area will not increase as compared to the existing operation, and it will avoid the unintended consequences of limiting those hours.

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 5):

“Unfortunately, the applicant’s existing operation has a solid track record of noncompliance with conditions, and the county has a solid track record of failing to enforce conditions.”

Applicant Response (Exhibit E35, p. 1-2):

I. Response to Mr. Kleinman’s Sections I and II (Introduction and General Comments)

[...]

B. Conditions of Approval. VLI respectfully disagrees with the representation that it has a track record of noncompliance with conditions of approval or that Benton County (the “County”) will not enforce conditions. The decisional record from 1973 through 1990 is not complete and is prior to Republic’s ownership, so VLI also has limited records from this period. In the proposed conditions of approval, there are conditions that must be completed to the County’s satisfaction during development before VLI can move onto the next phase. There are also operating conditions that continue to apply to the landfill after operations begin, such as maintenance of the vegetative screen and odor and noise monitoring and mitigation. If VLI fails to comply with these conditions, the County can bring an enforcement action against VLI up to and including revocation of the CUP. The proposed conditions are consistent with the County’s modern practice and provide plenty of teeth to ensure that VLI will continue to comply with any conditions of approval imposed by the County.

Staff Response, Planning: Staff concurs with BCTT guidance; proposed conditions of approval are provided in Section VII of this supplemental staff report, with additional discussion and guidance relating to imposition of conditions.

53.230 Period of Validity. Unless otherwise specified at the time of approval, a conditional use permit for a single-family dwelling shall be valid for ten (10) years from the date of decision and other conditional use permits shall be valid for a period of two (2) years from the date of decision.

FINDINGS:

Should this application be approved, the permit will be valid for a period of two years from the date of decision.

CHAPTER 60 - FOREST CONSERVATION (FC)

APPLICATION OF THE ZONE

60.020 Application. The Forest Conservation Zone is applied to areas designated Forestry on the adopted Comprehensive Plan Map in compliance with Statewide Planning Goal 4 and OAR 660. This zone consists of areas containing forest soils which are not otherwise subject to an exception of the statewide planning goals. The Forest Conservation Zone is also applied to other lands necessary to preserve and maintain forest uses consistent with existing and future needs for forest management. Forest land capability is indicated by the nature and type of soil, slope, size and location of the property, the suitability of the terrain, and other similar factors. The Forest Conservation Zone is also applied to intervening lands which are suitable for forest management related uses or needed to protect forest land.

60.050 Notice of Pending Action. Notice of all land use applications for new permanent dwellings and land divisions in the Forest Conservation Zone shall be mailed to the Department of Land Conservation and Development and the Department of Forestry at their Salem office at least 10 days prior to the date of decision or permit issuance. The information shall contain the information set forth in BCC 51.615.

FINDINGS: As noted by the applicant (Exhibit BOP p. 53) proposed development within the FC zone includes: “an 1,800-square-foot employee building and parking, access road modifications, the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance [building] to support the landfill.” Staff reviews proposed development within the FC zone below.

CONDITIONAL USES

60.215 Conditional Uses Subject to Review by the Planning Commission.

[...]

(11) Disposal site for solid waste approved by the Benton County Board of Commissioners and the Oregon Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.

FINDINGS:

Applicant Response (Exhibit BOP p. 52):

Whether serving the existing or proposed disposal site, the proposed Project elements on the FC-zoned land fall into the category of equipment, facilities, or buildings necessary for the landfill operation. Coffin Butte Landfill has been approved by the County Commissioners and is operating under DEQ Permit #306 (Exs. 23-25). For the above-noted reasons, a CUP can be approved by the Planning Commission for the FC-zoned portions of the property.

Staff Response, Planning: Proposed development is identified as a conditional use within the FC zone. Staff reviews the proposal against FC zone conditional use criteria below.

60.220 Conditional Use Criteria.

(1) A use allowed under BCC 60.205 or 60.215 may be approved only upon findings that the use:

(a) Will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

FINDINGS:

Applicant Response (Exhibit BOP p. 53):

Applicant notes that this section by its terms only applies to the development on the FC-zoned property. As noted above, however, the existing farm and forest uses on the Adjacent Properties and in the area have developed over the years while operating adjacent to Coffin Butte Landfill and its subsidiary operations. Based upon the above findings, the relocation of the working face south of Coffin Butte Road will not materially affect or increase negative impacts on surrounding properties, whether in farm or forest or residential use. Most of the FC-zoned property that is part of the Project is currently being used for equipment, facilities, or buildings accessory to the landfill use; they are simply being relocated to accommodate the new working face.

The new or relocated elements that are proposed on the FC-zoned lands are an 1,800-square-foot employee building and parking, access road modifications, the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance area to support the landfill. These elements will slightly reduce the amount of land that is available for farm and forest uses; however, except as noted below the farm use on Tax Lot 1200, the area of these improvements is not actively engaged in commercial farm or forest activities within the meaning of BCC 51.020(15) and (24)(a) and is currently used for landfill operations or other non-forest or non-agricultural use. The majority of the surrounding properties are owned by Applicant and are engaged in commercial farming operations and/or open space/buffer uses.⁴⁷ For reasons stated previously, the proposal will not substantially impact public roads that serve the area or substantially interfere with uses on Adjacent and Nearby Properties. Furthermore, the primary access to the site will continue to be from Coffin Butte Road. Other than slightly reducing the amount of land that can be used for farming or forest practices, the proposal will not impact farming or forestry activities in the area; thus, it will not force a change or increase the cost of these activities. The proposal therefore conforms to this approval criterion.

47 Applicant notes that use of forest land for buffer areas or visual separation of conflicting uses is a "forest use" within the meaning of BCC 51.020 (24) (b).

Applicant Response (Exhibit CL2, p. 2 and Exhibit E2, Sheet 6):

Staff summary: In the April 22, 2025 Staff Report, Staff identified discrepancies in the applicant's materials regarding a proposed shop/maintenance building on Tax Lot 1200. On May 29, 2025 the applicant clarified that the proposed includes a proposed maintenance building and septic tank.

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p. 23-24):

"This is essentially the language of ORS 215.296(1), which sets out the "significant impacts" test and was interpreted by the Oregon Supreme Court in SDC. Again, the Supreme Court interpreted "significant" in this context as follows:

*Because the term "significant" is undefined, and of common usage, it is permissible to consult dictionary definitions. The most pertinent definition of "significant" in Webster's Third New International Dictionary (2002), 2116, appears to be "3 a : **having or likely to have influence or effect : deserving to be considered[.]**" Because ORS 215.296(1) is framed in the negative (the applicant must demonstrate that the proposed use "will not" force a significant change, etc.), it seems appropriate to consider related antonyms such as the term **"insignificant," which Webster's defines in relevant part as "e : of little size or importance[.]"** Id. at 1169.*

(Emphasis added.) This provides the definition and interpretation which are binding upon the county here. [Staff's responses to the above standards and criterion] fails to take into account the movement of the applicant's operation toward the south, and the farm impacts which will occur there. In fairness, staff did not have "contradictory information" at the time the Staff Report was prepared. However, farmers will submit contradictory evidence into this record. That evidence is also likely to be highly relevant to your consideration under the general Conditional Use criteria of BCC 53.215. As we have discussed, this would be a new landfill. While it will be closer to some farms than is the fill north of Coffin Butte Road, the Commission must also take into account impacts on other affected farms in light of the fact that the existing northerly site will shrink and then close, which would otherwise eliminate its impacts but for the opening of this new, proposed fill.

Applicant Response (Exhibit E35, p. 5-6):

Staff correctly concluded that VLI has demonstrated compliance with these criteria. If the application is approved, the working face of landfill will move from the north side of Coffin Butte Road to the expansion area, but the overall off-site impacts will not be materially different. As noted in VLI's BOP, farm and forest uses have thrived on adjacent properties, including the farm uses on VLI's properties directly adjacent to the landfill.

Applicant Response (Exhibit CL5, p. 3-4):

Some testimony expressed concern that the leachate ponds, which are proposed for relocation from the LS zone to the FC Zone, could leak leachate into the groundwater and "force a significant change or significantly increase the cost of accepted farm and forest practices on agriculture or forest lands.

The liner system for the new leachate storage ponds will be similar if not identical to the liner system that is being used in the current leachate storage ponds. This will include a leachate detection layer that is below the primary liner system. This liner system is regulated by the ODEQ and the leachate detection system is required to be monitored semi-annually. Based on our required monitoring of the existing leachate storage ponds, we do not have records of a leak detected during the time the existing ponds have been in operation. And, as explained in submissions from Geo-Logic Associates, Inc. and Tuppan Consultants LLC, there has been no evidence of a release to groundwater from portions of the Coffin Butte Landfill equipped with composite liner systems. Applicant would be glad to provide the results of the semi-annual monitoring to the County as a condition of approval.

Staff Response, Planning: Staff concurs with the applicant that farm and forest uses have operated on and adjacent to an active landfill use on this site for decades. Staff concurs with Mr. Kleinman that the language of the FC zone reflects 215.296(1), because FC is a resource zone. Staff notes that development within the FC zone should be reviewed against FC zone standards. Staff is not aware of opposition testimony that has clearly defined concerns specifically relating FC-zone development with expected farm impacts. However, proposed leachate ponds are within the FC zone and subject to this test, and leachate has been a major topic of concern. The applicant has responded to leachate concerns raised in testimony in multiple exhibits (e.g., Exhibits CL2, APC, E49, and E55), has responded specifically to leachate ponds in the FC Zone as quoted from Exhibit CL5 above, and is proposing best management practices for leachate storage on site.

Applicant has provided sufficient expert testimony and evidence to respond to raised concerns and show that proposed development within the FC zone will not force a significant change in, or significantly increase the cost

of, accepted farm and forest practices. Staff recommends **Condition OP-10** relating to compliance with state and federal regulations.

(b) Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

FINDINGS:

Applicant Response (Exhibit BOP p. 54):

The elements that are proposed on the FC-zoned lands include an 1,800-square-foot employee building and parking, access road modifications, the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance area to support the landfill. Furthermore, the roadway system will not be significantly altered by the design (a left-turn lane and bike lanes will be added, as well as stormwater management facilities).

The Fire Risk Assessment Report, attached as Exhibit 20, details the lack of fire risks and describes Applicant's Fire Mitigation Plan and protocols for the entire landfill operation. The conclusion of the report is that "operations at Coffin Butte Landfill do not present a significant fire risk."

For the above-noted reasons, the proposed improvements on the FC-zoned land will not significantly increase fire hazard or suppression costs or significantly increase risks to fire-suppression personnel.

Applicant Response (Exhibit CL2, p. 2 and Exhibit E2, Sheet 6):

Staff summary: In the April 22, 2025 Staff Report, staff noted that the proposed shop structure was not shown on the applicant's submitted plan set, and therefore this standard was not met. On May 29, 2025, the applicant clarified that the proposal includes a proposed 10,000-square-foot maintenance building and a 400-gallon septic tank (see Figure 2. Development Area Map).

Staff Response, Dr. Tony Sperling of LFCI and MFA - Engineering (Exhibit BC1 p. 14):

MFA and our subconsultant, Dr. Tony Sperling of Landfill Fire Control Inc. (LFCI), have the following comments on this exhibit:

The Coffin Butte Landfill should continue to employ best industry practices for fire risk management, including but not limited to:

- *Temperature and landfill gas (LFG) monitoring*
 - *Routine temperature monitoring via a thermal camera to confirm that temperature in affected areas remain below 50°C (122°F), after removal of hot materials.*
 - *Monitoring carbon monoxide (CO) in addition to the primary LFGs (methane, and carbon dioxide), as CO levels are good indicators of the presence of incomplete combustion.*
- *Maintain firefighting supplies on site, such as full water trucks and soil stockpiles*
 - *Sufficient soil should be kept near the working face to fully cover the active area with a minimum thickness of one foot.*
- *Proper acceptance and disposal of battery and electronic waste*
- *Periodic maintenance of the landfill gas (LFG) management system*

LFCI agrees with the Applicant's statement that excessive extraction of LFG can lead to increased temperatures and the potential for subsurface fires. However, LFCI notes that a review of data from several major landfill fire incidents indicates that there are documented cases where subsurface fire has breached the surface. Given the associated risks of surface fires, it is strongly recommended that landfill operations prioritize the proper

maintenance of LFG management systems and closely monitor for subsurface fire activity, particularly in cases of system failure or interruption.

Staff Response, Planning: Staff concurs with the applicant's findings and conclusion, as supported by 3rd party engineering review findings above. Staff did not see fire risk concerns raised with the development proposed within the FC zone (i.e., leachate ponds, employee building, shop/maintenance area, driveways, etc.). FC zone siting requirements are discussed below; staff recommends **Condition P2-4**, ensuring consistency with FC zone fire break standards.

(c) Complies with criteria set forth in BCC 53.215 and 53.220.

Applicant Response (Exhibit BOP p. 54):

A comprehensive review of the referenced sections was included above. The above-noted findings are incorporated herein.

FINDINGS: This standard refers to conditional use and conditions of approval criteria referenced in BCC Chapter 53. These criteria were addressed earlier in the Staff Report under Chapter 53. Staff determined that the application can comply with BCC 53.215 with recommended conditions of approval. Therefore, this criterion can also be met with the proposed conditions of approval.

60.220 (1) Conclusion:

Staff finds that the limited development within the FC zone can be conditioned to meet FC zone requirements.

*(2) As a condition of approval of a conditional use permit, the owner shall sign the following 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 land owners to conduct forest operations consistent with the Forest Practices Act and Rules, and that recognizes the hazards associated with the area:
[...]*

FINDINGS: This standard requires that final approval of this conditional use application must include a COA requiring the above statement from the applicant. The applicant acknowledged this requirement in their BOP and included this as a proposed preliminary COA, PA-3, (Exhibit E21). Staff recommends **Condition P1-3** to meet this requirement.

CREATION OF NEW PARCELS OR LOTS; PROPERTY LINE ADJUSTMENTS, BCC 60.305 through 330

The standards within these sub-sections of BCC Chapter 60 apply to the creation of new lots or proposed parcels. This application does not propose any such activity. Therefore, **these standards do not apply.**

SITING STANDARDS

60.405 Siting Standards and Requirements. All new structures allowed in the Forest Conservation Zone shall be sited in compliance with BCC Chapter 99 and the following standards designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks, and to conserve values found on forest lands:

(1) The owner of any new structure shall maintain a primary and secondary fuel-free fire-break surrounding the structure on land that is owned or controlled by the owner, in accordance with the provisions in

"Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.

FINDINGS:

Applicant Response (Exhibit BOP p. 56):

The only proposed new structures are the employee building on Tax Lot 1101 and the proposed shop on Tax Lot 1200. Applicant owns the property upon which these structures are proposed, along with all surrounding properties. Applicant proposes structures that conform to the provisions of this section. See Ex. 2, sheets 5, 11, and 12. The final design of the shop building has not been determined, but it can be sited in the designated area in compliance with the requirements of this section. See Ex. 2, sheet 5.

Applicant Response (Exhibit CL2, p. 2 and Exhibit E2, Sheet 6):

Staff summary: In the April 22, 2025 Staff Report, staff noted that the proposed shop structure was not shown on the applicant's submitted plan set, and therefore this standard was not met. On May 29, 2025, the applicant clarified that the proposal includes a proposed 10,000-square-foot maintenance building and a 400-gallon septic tank (see Figure 2. Development Area Map).

Staff Response, Planning: Staff concurs with the applicant that the proposed structures shown in Exhibit E2, Sheets 5 and 6 provide the opportunity for a feasible firebreak and staff recommends **Condition P2-4 requiring** the applicant to maintain a primary and secondary fuel-free fire-break surrounding the structure on land that is owned or controlled by the owner, in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.

(2) Non-residential structures shall be located at least 20 feet from a parcel or lot line, except no setback is required for a structure of 120 square feet or less. A required side or rear setback for a non-residential structure may be reduced to 3 feet if the structure:

- (a) Is detached from other buildings by 5 feet or more;*
- (b) Does not exceed a height of 20 feet; and*
- (c) Does not exceed an area of 500 square feet.*

FINDINGS:

Applicant Response (Exhibit BOP p. 56):

As detailed on the site plan, the new employee building and shop proposed to be located at least 20 feet from all property lines, which conforms to the provisions of this section. See Ex. 2, sheets 5 and 6.

Applicant Response (Exhibit CL2, p. 2 and Exhibit E2, Sheet 6):

Staff summary: In the April 22, 2025 Staff Report, staff noted that the proposed shop structure was not shown on the applicant's submitted plan set, and therefore this standard was not met. On May 29, 2025, the applicant clarified that the proposal includes a proposed 10,000-square-foot maintenance building and a 400-gallon septic tank (see Figure 2. Development Area Map).

Staff Response, Planning: Staff confirms the proposed employee building and maintenance building are shown over 20 feet away from all property lines on Exhibit E2, Sheets 5 and 6.

(3) A structure which is not a water dependent use shall be placed at least 50 feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least 25 feet from the ordinary high water line.

FINDINGS:

Applicant Response (Exhibit BOP p. 57):

The structures are not water-dependent and there is not a river or major stream in the vicinity of the proposed buildings; the buildings therefore conform to this standard.

Staff Response, Planning: Staff concurs with the applicant; no water-dependent use is proposed, nor do river or stream water features exist within the proposed development area. Therefore, this standard does not apply.

(4) All new development approved by Benton County shall have a site specific development plan addressing emergency water supplies for fire protection which is approved by the local fire protection agency. The plan shall address:

- (a) Emergency access to the local water supply in the event of a wildfire or other fire-related emergency;*
- (b) Provision of an all-weather road or driveway to within 10 feet of the edge of identified water supplies which contain 4,000 gallons or more and exist within 100 feet of the driveway or road at a reasonable grade (e.g. 12% or less); and*
- (c) Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign.*

FINDINGS:

Applicant Response (Exhibit BOP p. 57):

Coffin Butte Landfill is currently served by the Adair Fire Protection District and therefore has access to water in emergency circumstances. In addition, as noted in the Fire Risk Assessment Report (Ex. 20), the landfill has a site-specific fire mitigation plan. As noted in the report, Applicant maintains a 4,000-gallon water truck with spray bar and hose attachment on site that is used routinely in dry weather for dust control and can be used as an emergency water supply for firefighting. Applicant is in compliance with this requirement.

Staff Response, Dr. Tony Sperling of LFCI and MFA - Engineering (Exhibit BC1 p. 14):

MFA and our subconsultant, Dr. Tony Sperling of Landfill Fire Control Inc. (LFCI), have the following comments on this exhibit:

The Coffin Butte Landfill should continue to employ best industry practices for fire risk management, including but not limited to:

- Temperature and landfill gas (LFG) monitoring
 - Routine temperature monitoring via a thermal camera to confirm that temperature in affected areas remain below 50°C (122°F), after removal of hot materials.
 - Monitoring carbon monoxide (CO) in addition to the primary LFGs (methane, and carbon dioxide), as CO levels are good indicators of the presence of incomplete combustion.
- Maintain firefighting supplies on site, such as full water trucks and soil stockpiles

- *Sufficient soil should be kept near the working face to fully cover the active area with a minimum thickness of one foot.*
- *Proper acceptance and disposal of battery and electronic waste*
- *Periodic maintenance of the landfill gas (LFG) management system*

LFCI agrees with the Applicant's statement that excessive extraction of LFG can lead to increased temperatures and the potential for subsurface fires. However, LFCI notes that a review of data from several major landfill fire incidents indicates that there are documented cases where subsurface fire has breached the surface. Given the associated risks of surface fires, it is strongly recommended that landfill operations prioritize the proper maintenance of LFG management systems and closely monitor for subsurface fire activity, particularly in cases of system failure or interruption.

Staff Response, Planning: Staff concurs with the applicant's findings and evidence provided in the applicant's Fire Risk Assessment Report (Exhibit E20). This standard is met.

(5) All buildings shall have roofs constructed of materials defined under the Uniform Building Code as either Class A or Class B (such as but not limited to composite mineral shingles or sheets, exposed concrete slab, ferrous or copper sheets, slate shingles, clay tiles or cement tiles).

FINDINGS:

The applicant has not included detailed plans for the proposed employee building nor the proposed maintenance building. Following a conditional use approval, the applicant would be required to receive approved building permits prior to their construction. At that time, Benton County Building Division reviews the submitted plans to ensure compliance with BCC Chapter 11. *Benton County Building Code.*

The applicant has stated that they will finalize the building plans and ensure that the roof design conforms to these requirements. Staff considers this feasible; this standard can be met.

(6) All new structures shall be sited on the lot or parcel so that:

- (a) They have the least impact on forest operations and accepted farming practices on nearby or adjoining lands;*

FINDINGS:

Applicant Response (Exhibit BOP p. 57 – 58):

While the employee building and the shop/maintenance area are the only new structures, the proposal also includes access roads, a scale, and leachate ponds to which this section may apply. The new employee building is located near the existing office building and surrounded by the disposal site and/or buffer lands. The proposed location will not impact farming or forest activities on any nearby or adjoining lands. The employee building is designed to add supporting facilities for the current employees, so will not materially increase traffic or parking on the site. The leachate ponds and shop/maintenance area are proposed to be located in an area of Tax Lot 1200 that is currently farmed under lease; however, the property also contains a gas to- energy plant and the properties to the west and north are zoned LS, to the east is Highway 99W, and to the south is additional land that is owned by Applicant and maintained as open space. As noted above, the lessee leases other farmland from VLI west of Soap Creek Road, so the loss of some of the lands on Tax Lot 1200 for farming could have some impact on the lessee's farming operations on those lands in terms of economies of scale. That impact is mitigated by the fact that the other leased properties are located over three quarters of a mile away. Also, the lease specifically provides for termination if VLI needs any of the lands for

landfill operations. See Ex. 31. Finally, the improvements are located on the western side of the farmed portion of Tax Lot 1200, leaving approximately 40 percent of the farmed portion of the property available for farming. The leachate ponds and the shop/maintenance area on the subject property will not significantly impact farming or forest operations on any nearby or adjoining lands.

Overall, the proposed design will not significantly impact forest operations and accepted farming practices on nearby or adjoining lands and will be sited to have the least impact. The proposal complies with this criterion.

Staff Response, Planning:

The applicant identified two “structures” proposed within the FC zone. Staff determined that “structure” is not defined within the BCC. Benton County has commonly determined “structure” to mean “building”, and staff concurs with continuing that approach for review of the proposal.

The proposed employee building is on Tax Lot 1101. As described by the applicant, the existing uses on adjacent lots (not including other Tax Lots in the Development Area) include:

- Tax Lot 1104 (FC zone) has existing landfill areas or accessory uses, as well as vacant or residential and farm or forest uses
- Tax Lot 1105 (EFU zone) is leased to Agri-industries for farm and forest uses

As shown on Exhibit E2, Sheet 6, the proposed employee building and associated parking are proposed adjacent to the west of the existing building on the lot, in a somewhat central location on the lot. The location is farther away from forested lands to the east, and closer to farmed lands to the west. However, Tax Lot 1101 is not large, and staff concurs with the applicant that the location of the employee building efficiently located on the lot and not likely to impact nearby farm or forest uses.

Figure 9. 2023 Aerial Imagery of Tax Lot 1101

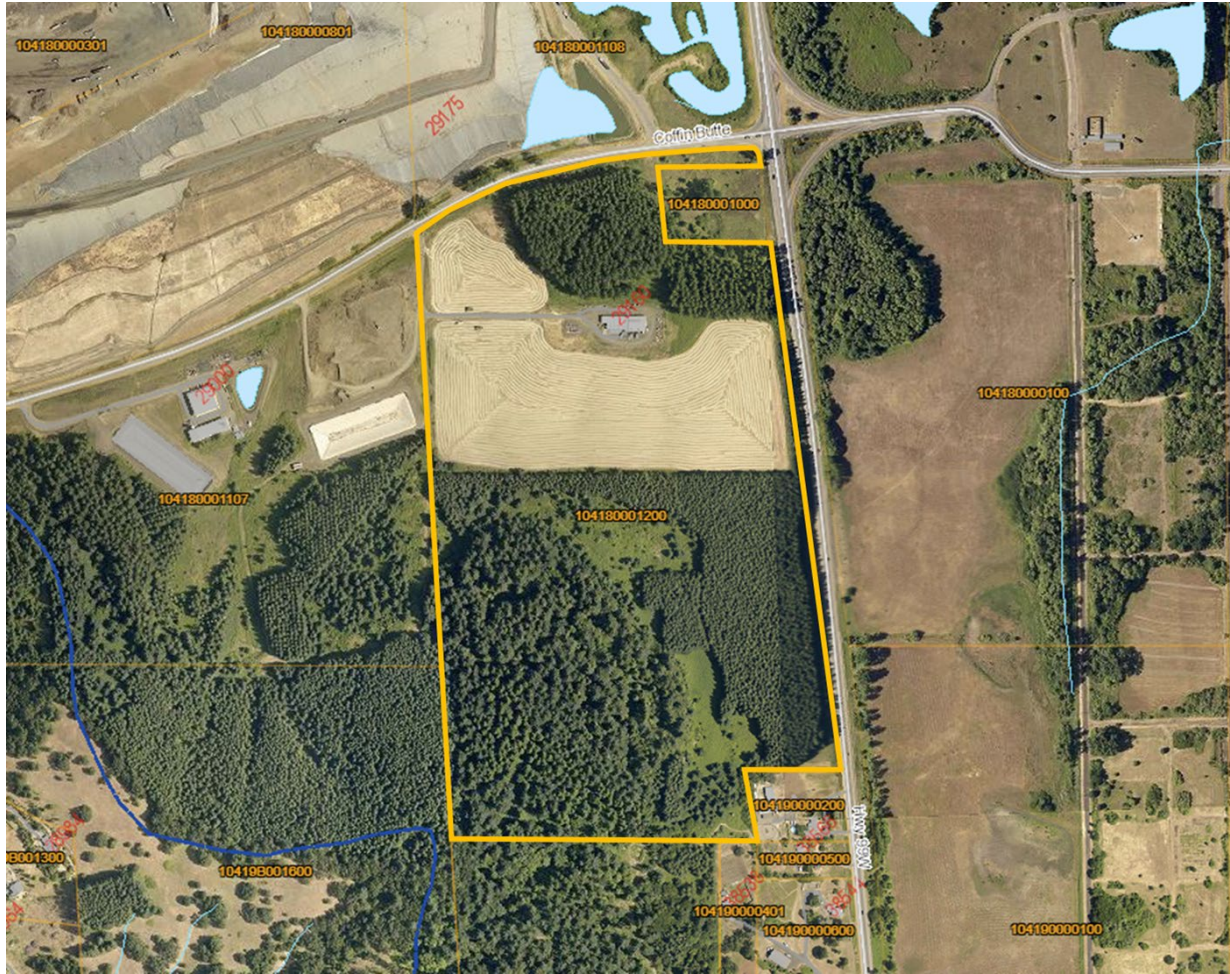


The proposed maintenance building is located on Tax Lot 1200. As described by the applicant and residents or owners of the property, the existing uses on adjacent lots (not including other Tax Lots in the Development Area) include:

- Tax Lot 1000 (FC zone) has existing landfill areas and accessory uses
- Tax Lot 100 (OS zone) is part of the E. E. Wilson Wildlife Area, open to the public year-round for birding, hiking, limited hunting, and fishing, and managed for wildlife habitat
- Tax Lot 200 (RR zone) is described by the applicant as vacant or residential. Testimony from the owner/resident (Exhibit BC7.1) includes discussion of their use of their Rural Residential zoned property that includes a dwelling, a barn, and hobby livestock. Staff notes that this is not considered an “accepted farm use” as this only applies to resource zone (EFU and FC).
- Tax Lot 500 (RR zone) is vacant or residential
- Tax lot 401 (RR zone) is vacant or residential. Testimony from the owner/resident (Exhibit BC7.2) includes discussion of their use of the Rural Residential zoned property that includes a dwelling and farming of perennial and annual crops Staff notes that this is not considered an “accepted farm use” as this only applies to resource zone (EFU and FC).
- Tax Lot 402 (RR zone) is vacant or residential
- Tax Lot 600 (RR zone) is vacant or residential

Therefore, Tax Lot 1200 does not directly border any EFU or FC lots not owned by the applicant. The closest EFU or FC lot not owned by the applicant is Tax Lot 1103, approximately 2,000 feet west of the proposed maintenance building, across the proposed landfill expansion cell. Therefore, staff concurs with the applicant that the location of the maintenance building is efficiently located on the lot and not likely to impact nearby farm or forest uses.

Figure 10. 2023 Aerial Imagery of Tax Lot 1200



(b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

FINDINGS:

Applicant Response (Exhibit BOP p. 58):

As noted above, the new structures are clustered on the western boundary of Tax Lot 1200, minimizing the loss of farmed property to the degree practicable. The lease provides for termination by VLI upon 30 days' notice if VLI determines that it needs the property for use or development of the landfill. The lease further provides, however, that the tenant is not required to surrender the property until the harvesting of any crops planted before the date of the notice of termination. This mitigates the impact of the termination on the farming operation.

Staff Response, Planning:

The proposed employee building is on Tax Lot 1101. As described by the applicant, there are no forest operations or farm activities on the lot nor adjacent applicant-owned properties.

The proposed maintenance building is on Tax Lot 1200. As described by the applicant, 20 acres in the center of the lot are leased by Agri-Industries, Inc. for farming grass and row crops (Exhibit BOP p. 8-11). In their response above (Exhibit BOP p. 57 – 58), the applicant stated that approximately eight acres will remain available for farming on Tax Lot 1200 and that the impact would be mitigated by the fact that Agri-Industries, Inc. leases other

properties over three quarters of a mile away. Due to the relatively small footprint of the proposed 10,000 square-foot maintenance building and its siting near the west property line of Tax Lot 1200, staff find that it would play an insignificant role in this impact to these farming practices. As described by the applicant, there are no other forest operations or farm activities on the applicant-owned lots adjacent to Tax Lot 1200.

(c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and

FINDINGS:

Applicant Response (Exhibit BOP p. 58- 59):

These provisions generally require that the Project be sited to minimize the impacts on forest lands. The relocated leachate ponds have been sized to accommodate the needs of the site and are not oversized. Furthermore, rather than utilizing the majority of the flatter land, these have been designed into the existing slope, which will lessen the amount of grading needed and lessen the amount of currently farmed land that will be impacted. Regarding the employee building, this is proposed to be as small as needed and clustered near the existing office and nearest to the existing road and access drive, so that additional driveways and parking areas are not needed. Lastly, the access-road modifications are not located in any area where farm or forest operations are occurring.

Overall, the building, access drives, and leachate pond locations have been designed and proposed to sizes and in locations that will minimize their impacts on farm and forest operation on the subject property in conformance with these approval criteria.

Staff Response, Planning: Staff concurs with the applicant. As shown on Exhibit E2, Sheet 5 proposed locations of access roads, service corridors, and the employee building structure provide for efficient use of land with very little impact on forested areas. As shown in Exhibit E2, Sheet 6 proposed leachate ponds, the scale house, and the maintenance building provide for efficient land use and staff finds no reason to doubt the applicant's argument that the development is appropriately sized.

(d) The risks associated with wildfire are minimized.

FINDINGS:

Applicant Response (Exhibit BOP p. 59):

The elements that are proposed on the FC-zoned lands are an 1,800-square-foot employee building and parking, access road modifications, the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance area to support the landfill. Although this criterion applies only to land in the FC zone, Applicant conducted a fire risk assessment for the entire landfill operation, attached as Exhibit 20. After assessing Applicant's Fire Mitigation Plan and the types of fires that could occur, the report concludes that "operations at the Coffin Butte Landfill do not present a significant fire risk." The Project is in conformance with this approval criterion.

Staff Response, Planning: The applicant provided a fire risk assessment (Exhibit E20); this was reviewed by 3rd party fire experts (Exhibit BC1). Both confirmed that the proposed Fire Mitigation Plan is sufficient to minimize fire risk for the proposed development. This criterion is met.

(7) To satisfy the criteria in BCC 60.405(6), the Planning Official may require that new structures be sited close to existing roads, clustered near existing structures, and sited on that portion of the parcel least suited for growing trees.

FINDINGS:

Applicant Response (Exhibit BOP p. 59):

As documented on the site plan, the new employee building is proposed in close proximity to the current Coffin Butte Road and office building. Furthermore, it is served by the existing drive. As proposed, the application conforms to this criterion.

Staff Response, Planning: As discussed above, Staff finds that the proposed employee building structure is separated from forested areas and included in a robust fire mitigation plan for the site. Furthermore, staff finds that the siting of the proposed maintenance building is sufficient to meet the criteria of BCC 60.405(6).

CHAPTER 77 - LANDFILL SITE (LS)

BCC 77.010 Application. The Landfill Site Zone recognizes the existing site in the Coffin Butte area, and allows for its continued use pursuant to Oregon Department of Environmental Quality (DEQ) permits, Benton County Code Chapter 23, and an approved Site Development Plan.

BCC 77.105 Permitted Uses. The following uses are allowed in the Landfill Site Zone:

(1) Municipal solid waste disposal, in accordance with a Solid Waste Disposal Franchise and an approved Site Development Plan.

[...]

(5) Structures normally associated with the operation of a landfill.

(6) Operation of equipment in conjunction with landfill operations.

(7) Installation and operation of monitoring devices as required by DEQ such as leachate sample equipment, leachate treatment facilities, and vector control systems.

(8) Landfill gas monitoring and recovery systems.

FINDINGS: Chapter 77 applies to development in the LS zone and the permitted uses are limited to landfill operations and uses accessory to a landfill, so long as approved uses comply with the requirements of DEQ permits, the BCC Chapter 23 (Solid Waste Management), and an approved site development plan. The applicant stated in the BOP (Exhibit BOP p.43) that the current development in the zone operates under Oregon DEQ permit #306 and, upon approval, they will seek to modify this permit to include the development area.

This chapter is applicable to the application.

BCC 77.305 Conditional Uses Approved by the Planning Commission. Any proposal to expand the area approved for a landfill within the Landfill Site Zone is allowed by conditional use permit approved by the Planning Commission. The Benton County Environmental Health Division and the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. The Oregon Department of Environmental Quality shall be given an opportunity to review and comment on any proposal which may affect this site.

FINDINGS: Any proposed expansion to the landfill in the LS zone – such as this application – may be approved as a conditional use by the Planning Commission. In addition to the general review standards and criteria for conditional use applications set forth in BCC Chapter 53, this standard requires that the Benton County

Environmental Health Division and the Solid Waste Advisory Committee (SWAC) provide recommendations and the Oregon DEQ are given opportunity to provide comment.

Conditional use standards

Staff reviewed the standards and criteria of BCC Chapter 53 above in that section of the supplemental, updated Staff Report. Staff found that conditional use standards can be met with conditions; therefore, staff recommends approval with conditions of the proposed landfill expansion.

Benton County Environmental Health Division recommendations

BCC 77.305 is a procedural requirement that was adopted in 1990. It does not contain substantive criteria for reviewing the Site Development Plan Map and narrative.

At the time BCC 77.305 was adopted, administration of solid waste programs was housed in the Environmental Health Division of the Benton County Health Department.

Sometime in 2020 or 2021, Benton County transferred its solid waste program to its Community Development Department. Environmental Health no longer has any involvement in the solid waste programs, review of land use applications involving the landfill, or administration of the landfill or collection franchise agreements. Because those responsibilities have been moved to the Community Development Department, Environmental Health cannot provide a recommendation to the Planning Official.

ENRAC (en lieu of SWAC) recommendations

This standard requires the county SWAC provide recommendations to the Planning Official and Planning Commission regarding the application narrative and site plan. As detailed in the I. Findings of Fact section and the Agency Comments section of this Staff Report, the Benton County Board of Commissioners delegated this duty to the county Environmental and Natural Resource Advisory Committee (ENRAC) through Order #D2024-048 in July of 2024.

April 16, 2025, ENRAC Chair Jason Schindler submitted a letter (Exhibit BC2, p. 9-31) in which the Chair states that the committee recommended that the Planning Commission deny LU-24-027. Furthermore, the letter included a list of the major topics that informed the ENRAC recommendation. These topics broadly included air pollution, methane emissions, water pollution, leachate, impact to local residents and community, economics, and regional impacts and coordination. Citing that the existing landfill already has an overestimated lifespan, the committee urged that end-of-life planning and closure strategies be addressed before any expansion is approved.

Finally, the Chair refers to an attached report, which includes supplemental documentation and statements or comments from individual members.

The ENRAC recommendation for denial did not include hypothetical (COAs) should the Benton County Planning Commission ultimately recommend approval¹⁹.

¹⁹ In the attached notes ("ENRAC Deliberations for CUP Expansion Application"), individual committee members used a work sheet to note their thoughts on potential conditions of approval (COAs). However, as stated at the beginning of the document regarding these notes, "No effort was made to aggregate language or find consensus per topic."

ODEQ comments

The County provided notice of this application to ODEQ on March 20, 2025 (Exhibit BC4). The County did not receive a response from ODEQ.

77.310 Conditional Use Review.

[...]

- (1) *The applicant for a conditional use permit shall provide a narrative which describes:*
 - (a) *Adjacent land use and impacts upon adjacent uses;*

FINDINGS:

Applicant Response (Exhibit BOP p. 45):

A comprehensive review of lands that are Adjacent or Nearby to the LS-zoned properties and impacts thereupon was included above. The findings from the above-noted sections are incorporated herein.

Staff Response, Planning: The applicant provided narrative findings addressing adjacent land uses; Staff responds to the applicant's submission on adjacent land uses in this Staff Report under Chapter 53 and Chapter 60.

- (b) *Future use of site as reclaimed, and impacts of that reclamation on adjacent uses;*

FINDINGS:

Applicant Response (Exhibit BOP p. 45):

The post-closure future use of the LS-zoned development area will be consistent with the rest of Coffin Butte Landfill. As documented in Exhibit 22 (Reclamation Plan), page 5:

The final closed surface of the completed landfill will appear to be a sloped grassy savanna that blends with, and appears to be part of, the adjacent butte. Planned land use for the property will be open space grassland. Any development over filled areas of the CBLF should not include permanent enclosed structures where differential settlement and/or methane gas may cause risk.

Like the rest of Coffin Butte Landfill, the future (post-closure) use of the Development Site is not anticipated to have any impacts on Adjacent or Nearby uses.

Staff Response, Planning: The applicant's Reclamation Plan is provided as Exhibit E22; in the absence of contradictory testimony relating to impacts on adjacent uses from the reclamation plan, staff concurs with the applicant's conclusion that the proposed reclamation will not impact adjacent uses.

- (c) *Provisions for screening of the site from public roads and adjacent property;*

FINDINGS:

Applicant Response (Exhibit BOP p. 45 – 46):

This section does not require screening or provide a specific standard for screening. This section requires only that an applicant describe "provisions for screening the site from public roads and adjacent properties." Applicant owns and manages the majority of the surrounding properties, and the eastern portion of Tax Lot 1200 is and will continue to be well treed and

will provide a substantial buffer from the planned improvements. Furthermore, the 83.7-acre parcel south of the landfill development area is maintained as an open-space area, along with areas to the north and west. The areas owned by Applicant that are maintained as open spaces and/or engaged in commercial farming operations will continue to provide sufficient buffers from public roads and the majority of the Adjacent Properties. The closest Adjacent Property to screen is Tax Lot 1103 at 38691 Soap Creek Road. This nearby residence is and will continue to be buffered from the disposal site development area by a sloped and treed grade. Additionally, Applicant is proposing installation of additional screening consistent with the County's proposed condition in 2021. See Ex. 2, sheet 18. Overall, the planned improvements will be screened by the existing grades and vegetation existing and to be installed on the property and surrounding area.

Staff Response, Planning: Staff concurs with the applicant that this section requires the applicant to describe provisions for screening, which the BOP provides. This standard is met.

(d) Egress and ingress; and

FINDINGS:

Applicant Response (Exhibit BOP p. 46):

The proposal modifies the access points on the south side of Coffin Butte Road; it closes the access point to the existing leachate pond and relocates the access point to the gas-to-energy plant, making it the main access point to the southern area. The new access design will be served by an improved Coffin Butte Road, which includes a new left-turn lane and bike lanes. The existing and new access points, along with the overall functionality of the proposed access design, has been studied by the traffic engineer. As detailed in Exhibit 15, the access design and proposed configuration are safe and efficient and can accommodate the proposed development.

Staff Response, Planning: Transportation comments by County and Contract engineers are provided in Exhibit BC1. Staff concurs with the applicant and engineering responses; the proposed egress and ingress are feasible as proposed.

(e) Other information as required by the Planning Official.

FINDINGS:

Applicant Response (Exhibit BOP p. 46):

To date, the Planning Official has not requested any additional information.

Staff Response, Planning: Staff has conducted a careful review of submitted materials and provided multiple rounds of completeness and evidentiary feedback resulting in numerous additional materials submissions by the applicant from July of 2024 through June of 2025, as shown by the record.

- (2) A site plan map shall accompany a conditional use permit application. The map shall contain at least a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.*
- (3) A conditional use permit application shall contain a reclamation plan describing present efforts and future reclamation plans related to the site.*

- (4) *The following environmental and operational considerations shall be reviewed prior to changes in the documents referenced above:*
- (a) *Geology;*
 - (b) *Groundwater and surface water;*
 - (c) *Soil depth and classification, and erosion control factors;*
 - (d) *Slope; and*
 - (e) *Cover material availability, transportation, and use.*

FINDINGS: BCC 77.310(2) and (3) have been provided as Exhibits E2 and E3. BCC 77.310(4) only applies to changes to a site plan map and reclamation plan; the proposal provides a new site plan and reclamation plan and therefore BCC 77.310(4) does not apply.

CHAPTER 87 – GOAL 5 RESOURCES

SENSITIVE FISH AND WILDLIFE HABITAT OVERLAY (/FW)

87.200 - Purpose. The Sensitive Fish and Wildlife Habitat Overlay Zone shall protect sensitive habitats not protected by other programs such as the Willamette River Greenway Program, the Oregon Forest Practices Act or the "Cooperative Agreement between the Board of Forestry and the Fish and Wildlife Commission." The zone shall protect areas that have been identified by Oregon Department of Fish and Wildlife or Oregon Department of Forestry as containing a significant nesting, or roosting site or watering habitat for species that are classified as threatened or endangered and areas designated as sensitive bird nesting, roosting, or watering sites. Habitat protection shall be achieved through the use of site specific management plans that ensure that proposed uses and activities will not destroy or result in the abandonment of these areas.

[Ord. 91-0080; Ord. 93-0098]

87.210 - Application.

- (1) The Sensitive Fish and Wildlife Habitat Overlay Zone shall be applied to all Northern Bald Eagle nests and roosts, Spotted Owl nests, Osprey nests, Great Blue Heron rookeries, and Band-tailed Pigeon mineral springs.*
- (2) Unless alternatively identified by using cultural boundaries, waterways, topography, or through a site specific evaluation of significant habitat components, an established Sensitive Fish and Wildlife Habitat Overlay Zone shall include the area:*
 - (a) Within 600 feet of a Great Blue Heron rookery or Band-tailed Pigeon mineral spring.*
 - (b) Within ¼ mile of a Northern Bald Eagle nest or roosting site, Spotted Owl nest, or Osprey nest; or The County shall initiate a review of the application of this zone at the request of the property owner or ODFW if a significant change in habitat has occurred.*

87.220 - Development Permit Review Required.

Within the Sensitive Fish and Wildlife Habitat Overlay Zone, the removal of trees, except for public safety or erosion control, or any development activity which requires a permit shall be subject to the review procedure and evaluation criteria set forth in BCC 87.230. The provisions of this chapter do not apply to land use actions that are under the jurisdiction of the Oregon Forest Practices Act.

FINDINGS:

Applicant Response (Exhibit BOP, p. 60 and 79):

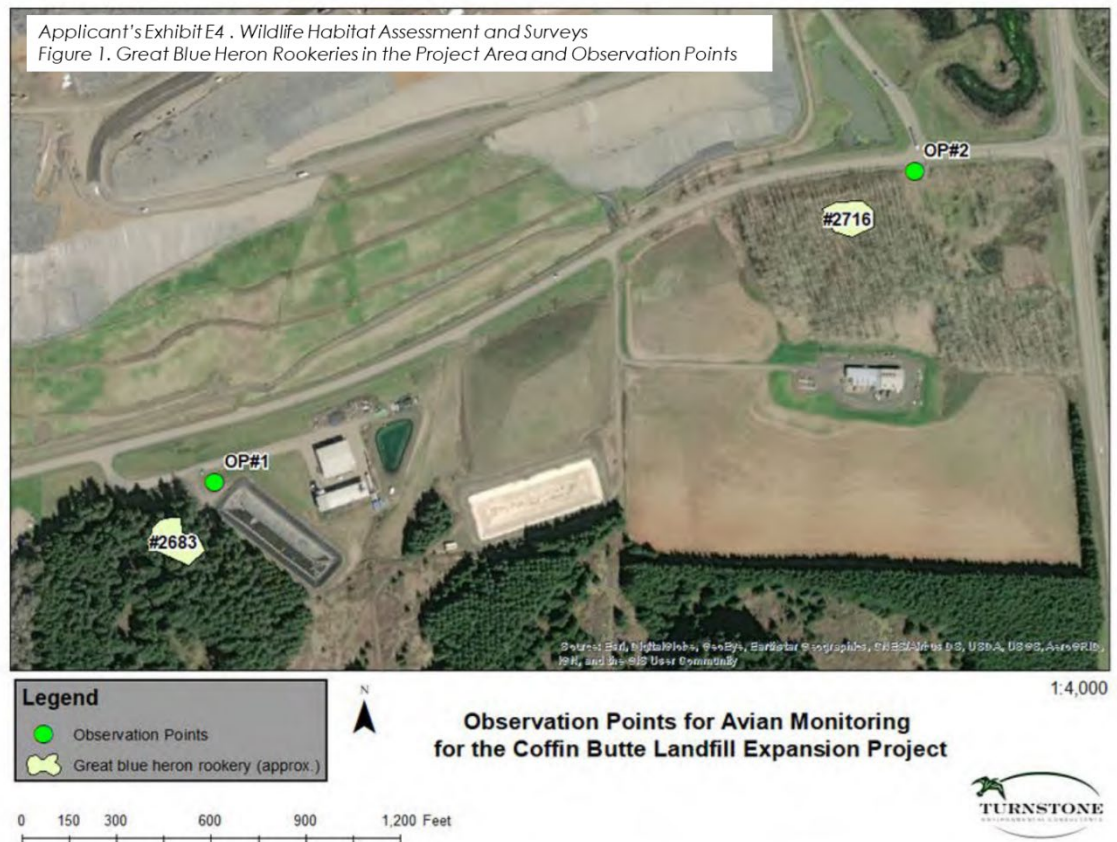
The subject property is not located in the labeled Sensitive Fish and Wildlife Habitat Overlay on the Benton County Zoning Map. This section does not apply to the Project.

A. Wildlife Habitat. As noted above, the subject property is not within an environmental overlay zone as a designated Goal 5 resource and so is not subject to regulation by the County

Applicant Response (Exhibit E4, p. 6-7):

Great Blue Heron Rookery Monitoring

Turnstone biologists are monitoring two great blue heron rookeries located within the Coffin Butte Landfill Expansion Project Area (Figure 1). In 2022 and 2023, Turnstone biologists conducted six reproductive productivity surveys each year for nesting great blue herons in the two known rookery locations. In 2024, at the time this report was finalized (July 12, 2024), Turnstone biologists have completed five out of six planned reproductive surveys. The survey forms for all years of monitoring are in Appendix C.



Applicant Response (Exhibit E4, p. 94):

Conclusion

Western Rookery (#2683)

During consecutive three years of protocol surveys (2022-2024), Turnstone biologists observed no active nesting by great blue herons within the western rookery (#2683). Three bird species were recorded visiting the stick nests during that time, including the common raven (*Corvus corax*), red-tailed hawk (*Buteo jamaicensis*), and bald eagle. A pair of red-tailed hawks were present during each survey, acting defensively, and are likely nesting in the in an abandoned

stick nest the rookery in 2023. The western rookery is likely abandoned by great blue herons; therefore, the western rookery (#2683) is an abandoned Great Blue Heron Resource Site.

Eastern Rookery (#2716)

During Year 1 (2022) surveys, Turnstone biologists observed active nesting by great blue herons within the eastern rookery (#2716) during the first three survey periods; however, in early June the colony had failed, and juvenile bald eagles were observed visiting the majority of the nests. A red-tailed hawk pair was observed nesting in an abandoned stick nest in the rookery in Year 2 (2023). No great blue herons were observed in the eastern rookery (#2716) during any of the six 2023 reproductive productivity surveys; therefore, the rookery is considered inactive for 2023.

As with the western rookery, the eastern rookery is likely also abandoned by great blue herons. The eastern rookery (#2716) is considered inactive for 2024. Turnstone recommends continuing surveys in 2025 to determine if the eastern rookery is inactive for a third consecutive year, which would deem this Great Blue Heron Resource Site officially abandoned.

Adjacent Property Owner/Resident Testimony (D. and N. Johnson, Exhibit BC7.13, p. 2):

"The project location hosts a great-blue heron rookery which the Oregon Department of Forestry documented in a Notification of Operations (NOAP) under NOAP ID: 2019- 551- 05885. Great-blue herons are colonial nesters, and as many as 20 heron nests have been observed in the rookery. [...] Heron rookeries are also protected under the Benton County Development Code as a " Goal 5" resource. According to 87. 210 (Sensitive fish and Wildlife Habitat Overlay) a 600-foot area around the great-blue heron rookery must be protected and a site -specific management plan is needed to ensure that "proposed uses and activities will not destroy or result in the abandonment of these areas. [Ord 91- 0080, Ord 93- 0098]"

Agency Comments, ODFW (Exhibit BC2, p. 5-8):

On April 11, 2025, Joe Stack, Regional Habitat Biologist for the Oregon Department of Fish and Wildlife (ODFW), submitted comments regarding the proposed expansion of the landfill. He identified two documented Great Blue Heron rookeries on the subject property—one on tax lot 1107 (western rookery) and one on tax lot 1200 (eastern rookery)—as sensitive habitats subject to protection under Benton County Code (BCC 87 - Goal 5 Resources) and ODFW's Fish and Wildlife Habitat Mitigation Policy (OAR 635-415). "While these particular rookeries may not be currently mapped by the County, they have been identified by both the department and ODF. Therefore, the department believes they should be afforded the same protections and BCC 87 should be considered."

Following review of the applicant's Wildlife Habitat Assessment (Exhibit E4), Stack submitted revised comments on April 18, 2025. He noted that the eastern rookery exhibited nesting activity in 2022 and, under the Forest Practices Act, remains classified as active. Stack advised that additional survey efforts may be necessary to confirm the current status of the rookery.

Staff Response, Planning:

Staff finds that the **text** of BCC Sections 87.200 and 210, which has been acknowledged as complying with Statewide Planning Goal 5, states that heron rookeries identified by ODF or ODFW as having a significant nesting or roosting site are protected by the Sensitive Fish and Wildlife Habitat Overlay.

"The zone shall protect areas that have been identified by Oregon Department of Fish and Wildlife or Oregon Department of Forestry as containing a significant nesting, or roosting site or watering habitat for species that are classified as threatened or endangered and areas designated as sensitive bird nesting,

roosting, or watering sites. [...] (1) The Sensitive Fish and Wildlife Habitat Overlay Zone shall be applied to all Northern Bald Eagle nests and roosts, Spotted Owl nests, Osprey nests, Great Blue Heron rookeries, and Band-tailed Pigeon mineral springs."

In response to the proposal, ODFW provided a letter to this effect (Exhibit BC2). Therefore, Staff evaluates compliance with relevant provisions of BCC Sections 87.220 through 230 below.

87.230 - Review Procedure and Evaluation Criteria.

- (1) The County shall notify Oregon Department of Forestry (ODF) and Oregon Department of Fish and Wildlife (ODFW) of any permit proposal or tree removal within the Sensitive Fish and Wildlife Habitat Overlay Zone within 7 days of the permit request. ODF and ODFW shall review the request and submit a determination of impact report to the County within 14 days of the date of notification. The report shall include conclusions regarding the consequences of allowing the proposed use to occur. If ODF and ODFW provide a finding of no impact, or if no response is received by the end of the 14-day comment period, the provisions of this section do not apply.*
- (2) Submittal of a report concluding that a significant impact may occur from the proposed use shall be supported by findings that either: (a) The proposed use would be located within 600 feet of Northern Bald Eagle nest or roosting site, Spotted Owl nest, or Osprey nest or within 300 feet of a Great Blue Heron rookery or a Band-tailed Pigeon mineral spring; or (b) Due to unique site conditions such as topography, a proposed use located outside the area established in BCC 87.210(2) but within the overlay zone will impact the habitat. ODFW shall provide the basis for such a finding in its determination of impact report.*
- (3) A site specific habitat management plan shall be submitted to the County by ODF or ODFW within 14 days of the determination of impact report. The plan shall consider nesting trees, critical nesting periods, roosting sites, buffer areas, and any other relevant factors and shall also identify measures that would specifically limit the proposed use in a manner consistent with BCC 87.200. ODF and ODFW shall consult with the permit applicant, site landowners, and other persons and agencies in developing the management plan.*
- (4) If a determination of impact is made, the County shall review the applicant's development plan, the habitat management plan, and other relevant information. The County shall impose conditions on the proposed use in order to ensure that it will not destroy the sensitive habitat or result in abandonment of the area. The County shall deny the application if such impacts of the proposed use can not be mitigated and that the development may lead to destruction or abandonment of the sensitive habitat.*

FINDINGS:

Applicant Response (Exhibit E4, p. 11-12):

[...]

Mitigation and Protection Strategy for Great Blue Heron

As of the date of this final report, biologists have not observed any great blue heron nesting activity in the western rookery (#2683), which would be removed by the Landfill Expansion Project. If it is determined that there might be nesting activity during the final sixth survey of 2024, then mitigation measures would be implemented with the guidance of the state biologists with ODFW and ODF for compliance with state laws governing protections of resource sites.

If herons are found to be using the eastern rookery (#2716) during the final survey of 2024, then a Protection Strategy would be implemented during the Landfill Expansion Project activities, using a two-tiered approach with protection within the rookery itself (resource site) and within a buffer zone. This strategy provides effective protection within the rookery while allowing compatible activities at greater distances.

The relatively flat forested structure of the eastern rookery (#2716), existing tall hardwood trees in the contiguous forest extending away from Coffin Butte Road, and high human activity surrounding the rookery affect the shape of the buffer zones. The strategy for protecting the eastern rookery (#2716) includes providing protections within the resource site and a buffer zone extending 300 feet, measured from the perimeter of the rookery (Figure 2).

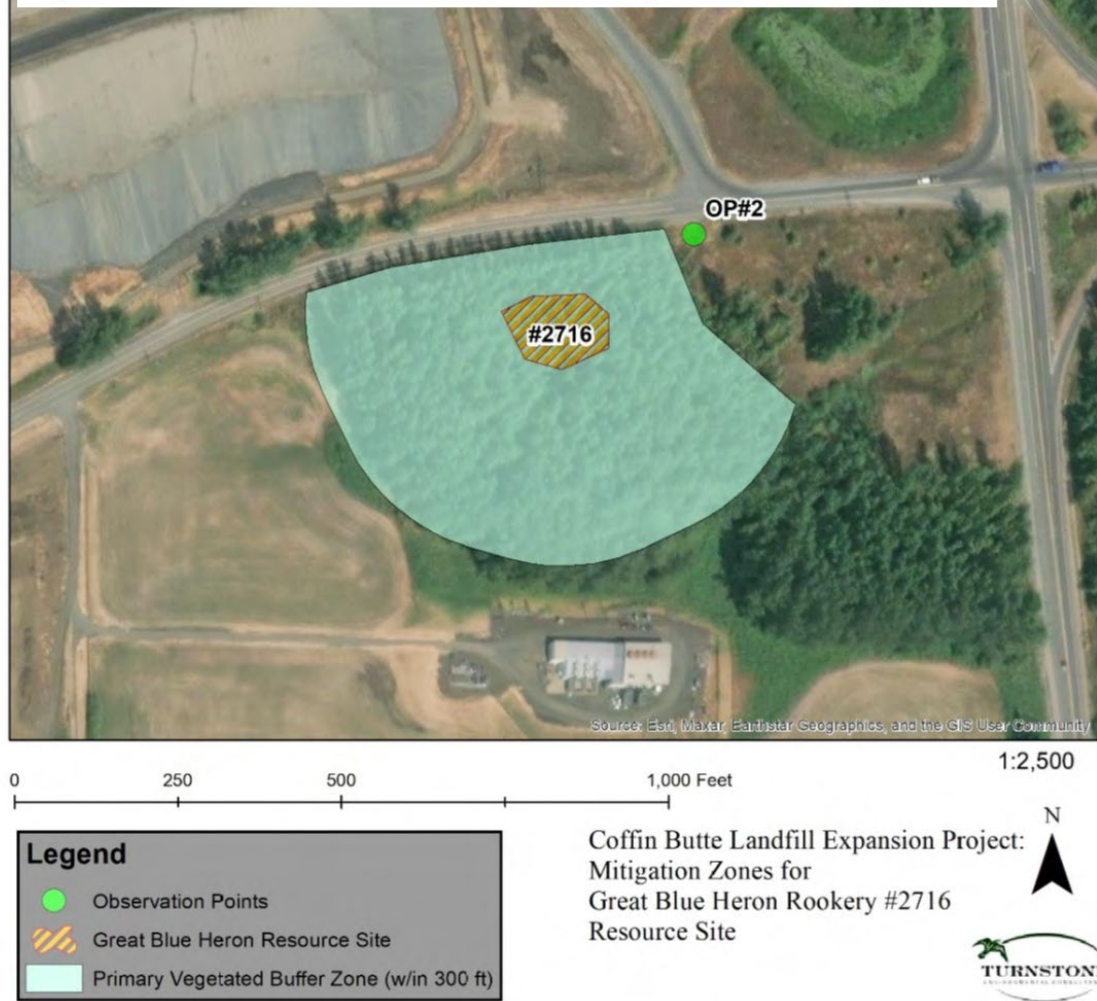
Great Blue Heron Rookery (within resource site)

The extent of the great blue heron rookery resource site was mapped on the ground to include active nest trees. Within the resource site, the land managers would retain all trees. There would be no habitat modification, such as overstory tree removal, vegetation clearing, construction of new roads, trails, buildings. Only actions allowed within the resource site would be deemed necessary by ODFW and the State Forester for improving the nesting habitat.

Vegetated Buffer Zone (within 300-ft buffer)

The Vegetated Buffer Zone would occur within the contiguous hardwood forest area which includes key components, perching and fledging trees, and replacement trees. No habitat modification, such as timber cutting, vegetation clearing, and development of new roads, trails, or buildings would occur within this zone.

Applicant's Exhibit E4. Wildlife Habitat Assessment and Surveys
Figure 2. Great Blue Heron Protection Zone Surrounding the Eastern Rookery #2716



Due to the proximity of a high-use road, the great blue herons using the eastern rookery are likely habituated to the traffic noise; therefore, vehicular use of Coffin Butte Road within 300 feet of the rookery would be allowed during the great blue heron nesting period (February 15th to July 31st). The highest priority for protections within the Primary Vegetated Buffer Zone is the forest cover located between the resource site and Coffin Butte Road which acts as a visual screen. Forest management activities would only occur within the Primary Vegetated Buffer Zone with the approval of ODFW and the State Forester and for the enhancement of great blue heron nesting habitat. These enhancements may include tree topping to reduce windthrow potential and would only occur outside of the great blue heron nesting period (February 15th to July 31st).

Agency Comments, ODFW (Exhibit BC2, p. 5-8):

Staff Summary: Benton County provided notice to ODFW on March 20, 2025; the notice stated that comments must be received by April 11, 2025.

Joe Stark, ODFW Regional Habitat Biologist, submitted an April 11, 2025 letter, followed by an April 18, 2025 email. The April 11 letter determines that a significant impact could occur from human disturbance,

and provided regulatory standards for a site specific management plan:

“Great Blue Heron rookeries are nesting colonies of herons that can consist of a small number of nests up to multiple hundreds of nests. They are susceptible to human disturbance and if a rookery is abandoned it can negatively impact multiple pair of herons. Rookeries provide habitat for a number of critical life history behaviors including courtship displays, pair bonding, breeding, nesting, feeding, and fledgling. Rookeries are most always located near important foraging habitat and suitable places to nest can be limited. [...]

The mitigation goal for Habitat Category 2, if impacts are unavoidable, is no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality (OAR 635-415-0025(2)(a)). If either rookery is determined to be active, we recommend the applicant coordinate with the department to determine an appropriate mitigation plan. Additionally, the department recommends working with the Oregon Department of Forestry to ensure compliance with the Forest Practices Act.

Per OAR 629-665- 0120(1)(a), an active rookery is one that has been used by one or more pairs of Great Blue Herons in the past three years. The department recommends using this as a guide to determine whether these rookeries are active or if they have been abandoned. For active sites, the department recommends that a buffer of 300 feet around the primary nest zone be provided which will serve to maintain alternate nest trees, allow for growth of the colony, protect against windthrow, and prevent harassment.

To further limit disturbance, it is recommended that during the critical nesting period from February 15 through July 31, major construction within a quarter mile of the rookery does not take place. Future management of this site could be improved by monitoring active rookeries throughout the nesting season to determine site-specific nesting chronology, nest productivity, the degree of habituation to disturbance, and nearby foraging habitat.”

Following review of the applicant’s Wildlife Habitat Assessment (Exhibit E4), Mr. Stack submitted revised comments on April 18, 2025. He noted that the eastern rookery exhibited nesting activity in 2022 and, under the Forest Practices Act, remains classified as active. While he acknowledged the applicant’s proposed protection measures as appropriate, Mr. Stack advised that additional survey efforts may be needed to confirm the inactive status of the eastern rookery. He further recommended coordination with the Oregon Department of Forestry to ensure compliance with relevant habitat protection standards.

Adjacent Property Owner/Resident Testimony (J. Geier, Ph.D., Exhibit BC7.3, p. 125):

“Persistence and reproductive success of Great Blue Heron rookeries depend on multiple factors. From personal communication with wildlife biologist and noted heron expert Ann Eissinger, key factors include: [...] Buffers around nesting trees to protect from disturbance by human activity including pedestrian access, equipment noise and bright lights. While some heron rookeries may tolerate some degree of disturbance by acclimation to regular human activity nearby, increases in the level of disturbance, the proximity, or types of disturbance could lead to colony abandonment. [...]

Site -specific conditions and impacts:

Observations of this particular nesting site by skilled local observers, over the past two decades, indicate that herons nesting here utilize foraging areas both to the east (prairie restorations and wetlands on E. E. Wilson Wildlife Area) and west (pastures in the Soap Creek Valley), as well as fields to the north near Wiles Rd. and Robison Rd. Thus there are multiple nearby foraging areas, all of which may be necessary for reproductive success of this rookery. [...]

Heavy equipment operating on this rising mountain of garbage will, within just a few years (based on the disposal rates implied by Applicant' s projected capacity of just 12 years) be operating at tree-top level or

higher, relative to the adjacent rookeries. This will be a new type and new direction of disturbance, different from what has not existed for these rookeries in the past.”

Applicant Response (Exhibit CL3, p. 6):

The following is quoted from a June 16, 2025 Memorandum which summarized the contents of additional materials submitted by the applicant on June 6, 2025.

The Applicant submits the attached June 2, 2025, memorandum from Turnstone Environmental Consultants (Applicant’s Ex. 43) addressing testimony during the hearing. Turnstone confirmed testimony that there is a new Great Blue Heron rookery forming east of 99W across and that the Landfill will have to comply with the Forest Practices Act with regard to the expansion. Turnstone otherwise reiterates its prior opinion that the expansion will not seriously interfere with wildlife in the area.

Applicant Response (Exhibit E43, p. 1-2):

The following is quoted from a June 2, 2025 memorandum. Turnstone Environmental Consultants refers to their previous report, applicant’s Exhibit E4 (Wildlife Habitat Assessment Final Report dated July 12, 2024 and Addendum dated August 6, 2024).

This memorandum is to address various Planning Commissioner questions and public comment raised in response to the evidence submitted by Applicant related to wildlife.[...]

Concerns Regarding Great Blue Herons and Bald Eagles

- *Turnstone biologists observed the aftermath of the nest failure event with four juvenile bald eagles visiting each Great Blue Heron nest in the eastern rookery and cannot determine the cause of the nest failure, which would be speculation.*

- *Eagles and herons co-exist in areas next to open water, such as in the Columbia River Gorge, where there is a known eagle nest occurring within 200 yards of an active Great Blue Heron rookery.*

- *Two adult eagles and typically one or two young will occupy a nest; whereas, the landfill can attract a high density of eagles. While Bald Eagles and Great Blue Herons can nest in close proximity, the high density of eagles and large flocks of other predatory birds, may pose a different threat to the rookery. It may be possible that a large congregation of Bald Eagles could ascend on a Great Blue Heron rookery and cause a collapse.*

- *The new location of the eastern Great Blue Heron nest site is farther away from the Coffin Butte Landfill. The Applicant will manage the expansion, if approved, in accordance with the Oregon Forest Practices Act (FPA) and all other applicable regulations.*

The FPA requires landowners to avoid disturbance within 300 feet of an active nest or rookery during the nesting season from February 15 to July 31. Forest operations are restricted within 0.25 miles of active nest trees during the critical nesting period. The new nesting site is greater than 0.25 mile from the proposed tree removal areas.

- *Turnstone’s opinion remains that the expansion is not posing a serious interference to wildlife in the area.*

Applicant Response (Exhibit E54, p. 1-3):

Staff summary: The applicant responds to opponent testimony from VNEQS in their June 10, 2025 letter (Exhibit BC8.3) on adverse wildlife impact. In response to VNEQS's claim that disturbances from the proposed expansion could lead to the collapse or permanent abandonment of the Great Blue Heron colony, the applicant contends that the birds using the existing, protected east rookery in the development area are likely accustomed to nearby infrastructure, including a gas management facility and Highway 99W. They also note that the proposed facilities would be buffered by approximately 300 feet of forest, and suggest the colony may benefit from relocating to the part of the protected area east of Highway 99W.

In response to VNEQS concerns for Great Blue Heron, bald eagles, and red-tailed hawks exposure to the avian flu and harmful garbage, the applicant asserts that the expansion would not significantly increase exposure because the number of active cells will not increase and the amount of incoming infected bird carcasses is not likely to increase due to expansion.

In response to VNEQS concerns for the destruction of deer, elk, bobcat, cougar, racoon, and striped skunk habitat, the applicant states that the FC-zone is non-essential habitat situated between landfill operations and a highway. Meanwhile, the E.E. Wilson Wildlife Area is nearby to the east of HWY 99-W is classified as Impacted Habitat ("higher functions" and "greater value") by ODFW.

Staff Response, Planning:

The County provided notice to ODFW regarding the landfill expansion proposal on March 20, 2025. This notice stated that comments from ODFW were due no later than April 11, 2025.

In a letter dated April 11, 2025, Joe Stack of ODFW responded to the notice provided by the County and confirmed that the two heron rookeries are identified on ODFW and ODF maps and therefore are subject to the County Sensitive Fish and Wildlife Overlay. Mr. Stack determined that (a) the landfill could have a significant impact on the heron rookeries, and (b) described the regulatory standards of preparation of a mitigation plan. Upon learning that the applicant had prepared a mitigation plan, Mr. Stack provided a positive review of the plan and recommended monitoring of the eastern rookery to confirm that it had been abandoned. Thus, Staff concludes that the applicant, in coordination with ODFW, has met the substantive requirements of BCC Section 87.230.

Staff recommends **Conditions P2-3(A-C) and OP16(A-C)**, which require the identification and protection of active rookeries during the construction and operation of the proposed landfill expansion.

CHAPTER 99 - GENERAL DEVELOPMENT STANDARDS

SENSITIVE LAND

99.105 Description of Sensitive Land.

Certain land characteristics may render a site "sensitive" to development. Sensitive land includes, but is not limited to:

- (1) Land having geologic hazard potential or identified by the Oregon Department of Geology and Mineral Industries in Geologic Hazards of Eastern Benton County or Preliminary Earthquake Hazard and Risk Assessment and Water-Induced Landslide Hazard in Benton County, Oregon, hereby incorporated by reference.*

- (2) Land containing soils subject to high erosion hazard when disturbed, or lands containing soils subject to high shrink-swell potential as identified by the USDA Soil Conservation Service in the Soil Survey of Benton County Area, Oregon, or the Soil Survey of Alsea Area, Oregon, hereby incorporated by reference, or by a successor document produced by the USDA Soil Conservation Service or a successor agency.

FINDINGS:

Applicant Response (Exhibit BOP p. 61):

There appear to be sensitive lands located in areas of the development site.

Staff Response, Planning: The subject property contains sensitive land; geotechnical review of the proposal was provided by the applicant and reviewed by 3rd party engineers.

99.110 Consideration.

An applicant for a land division or building permit shall consider the geology, topography, soils, vegetation and hydrology of the land when designing a parcel or lot, or siting improvements. The Planning Official or Building Official may impose conditions or modifications necessary to mitigate potential hazards or otherwise provide for compliance with adopted Comprehensive Plan policies, and may require an erosion and sediment control permit. The Planning Official or Building Official shall consider the recommendation of the County Engineer, municipal officials within urban growth boundaries, and other technical sources in the determination of sensitive land conditions and mitigating measures.

99.115 Mitigating Sensitive Land Conditions.

The following guidelines shall be considered in the establishment of conditions and mitigating measures:

- (1) Roads should be located in upland areas on benches, ridge tops and gentle slopes as opposed to steep hillsides and narrow canyon bottoms.*
- (2) Native vegetation removal or soil disturbance should be minimized on moderate and steep slopes and hillsides. If possible, avoid such activities during winter months.*
- (3) Surface water runoff should be minimized or provide appropriate means for handling surface water runoff.*
- (4) Techniques should be utilized that minimize erosion, such as protective groundcover.*
- (5) Engineering assessment of hazard potential should be required for land development.*
- (6) Geotechnical investigations should be required for roads and foundations in slide-prone areas.*

FINDINGS:

Applicant Response (Exhibit BOP p. 62):

The Application does not include any land divisions but does include structures that will require building permits. As noted previously in this Burden of Proof, Applicant has submitted significant geotechnical, groundwater, and drainage analyses that demonstrate that the Project may be safely sited as designed on the development. See Exs. 5, 16, and 17. Applicant expects to be required to obtain an erosion control permit at the time of any ground disturbance to construct site improvements.

Staff Response, CWE and MFA - Engineering (Exhibit BC1 p. 10-11):

A review of [Exhibits E5, E6, E16, and E30] was provided by Columbia West Engineering, Inc. (CWE), as a geotechnical subconsultant to MFA. [...]

Our sole comment requiring potential further analysis or clarification from Wallace Group concerns the slope stability analysis along Section B-B'. While the analyses generally address the more critical portions (i.e., larger

cuts) of the cross-section, the north end of Section B-B' may require explicit consideration due to the proximity of the cut slope crest to the public right-of-way. Aerial imagery indicates utilities at the surface in this area are approximately 25 feet south of the roadway edge, and it is unclear whether additional buried utilities are present. While we expect the slope to be stable under static conditions, the potential for slope movement under pseudo-static loading may impact the right-of-way. We recommend an explicit analysis of the subject slope, including the computation of factors of safety and, if necessary, the estimation of earthquake-induced horizontal deformation. We also completed a review of the discussion of future geotechnical evaluations outlined in the "Geotechnical Issues and Seismic Stability" section of Exhibit 16. We conclude that the existing geotechnical data and analysis presented in the geotechnical report (Exhibit 5) do not indicate that there are any geotechnical or geologic constraints that would adversely impact landfill development. We note that additional geotechnical evaluation related to design of the landfill itself will be provided before landfill construction.

Staff Response, Planning: Oregon Department of Geology and Mineral Industrial (DOGAMI) had no comments on the application (see Exhibit BC2. Compiled Agency Comments). Staff concurs with applicant findings in Exhibits E5, E6, E16, and E30, and supporting findings by 3rd party engineering review in Exhibit BC1. Staff recommends **Condition P2-1(E)** requiring additional geotechnical analysis relating to right-of-way and utility development in the north end of Section B-B'.

99.225 Development Activities in Wetlands.

(1) If the subject property is situated wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory on file in the office of the Benton County Community Development Department, and if a permit from the Department of State Lands has not been issued for the proposed activity, the Planning Official shall provide notice to the Division of State Lands, the applicant, and the owner of record within five days of receipt of the following types of applications:

- (a) Subdivisions, planned unit developments.*
- (b) Building permits for new structures.*
- (c) Conditional use permits and variances that involve physical alterations to the land or construction of new structures.*
- (d) Other development permits and approvals that allow physical alteration of the land, including development in the floodplain.*

FINDINGS:

Applicant Response (Exhibit BOP p. 63):

The subject property contains wetlands; therefore, Applicant understands that notice may be sent to DSL. Applicant will conduct a wetlands delineation, and if a wetland is impacted, it will be mitigated through coordination with DSL. There is a mitigation wetland located on site that was protected by covenants in 2017 as result of a prior fill/removal permit approved by DSL, which required mitigation. The proposed expansion does not impact this mitigation wetland. The draft conditions of approval require Applicant to complete a wetland delineation in compliance with DSL requirements. See Ex. 21.

Opponent Testimony (J. Kleinman representing VNEQS, Exhibit BC8.2, p.25):

"DSL's failure to respond is not the fault of the applicant or staff. Nonetheless, receipt of a response should be required before this application can be approved. Then, if there is somehow an otherwise approvable application, it may (or may not) be possible to craft appropriate conditions based upon DSL's comments."

Applicant Response (Exhibit E35, p. 6):

V. Response to Mr. Kleinman's Section VI (Development Activities in Wetlands)

Nothing in BCC 99.225 requires an applicant to obtain wetland permits prior to approval of a land use application or require an agency response before approval. None of the wetlands identified on site are a designated Goal 5 wetland under the County Comprehensive Plan or land use regulations, and so the County does not have any independent regulatory authority over any of the wetlands on site. The Draft Conditions of Approval (PA-1) require VLI to obtain an approved wetlands delineation and any necessary removal/fill permits prior to any ground disturbing activities, as required by state and federal law.

Staff Response, Planning: On-site are a Freshwater Emergent Wetland, a Freshwater Pond, and Freshwater Forested/Shrub Wetland. Benton County notified DSL of the complete application on March 20, 2025, following the 58-day extension requested by the applicant (Exhibit BC4). The County did not receive a response from DSL.

Staff recommends **Condition P1-1**, requiring the applicant to prepare and obtain approval from DSL of a wetland delineation prior to site ground-disturbance activities.

PARCEL AND LOT DESIGN

The standards in BCC 99.305 through 315 apply to applications proposing the creation of new lots or parcels or lot adjustments. This application proposes no new parcels or lots. Therefore, the **standards in this section do not apply.**

FRONTAGE

99.405 General Rule of Frontage.

- (1) *Every new dwelling and new structure designed for commercial, industrial or public occupancy which is not part of an existing use on a parcel or lot shall be sited on a parcel or lot which has a minimum of 25 feet of frontage along an improved public road.*

FINDINGS:

Applicant Response (Exhibit BOP p. 64):

The only new structures is the employee building which will be located on property with frontage on Coffin Butte and Soap Creek roads. There will be over 25 feet of frontage on both roads. The proposal therefore complies with this standard.

Applicant Response (Exhibit CL p. 2):

There was some question in the BOP as to the location and nature of the proposed shop/maintenance area. The shop/maintenance area will include an enclosed structure and will be located on Tax Lot 1200 and not on Tax Lot 1101. See Ex. 2, Sheet 5. The revised BOP has been amended to remove the inconsistent references, and Section V has been amended to address this use more fully.

Applicant Response to BCC 60.405(1) (Exhibit BOP p. 56):

The only proposed new structures are the employee building on Tax Lot 1101 and the proposed shop on Tax Lot 1200. Applicant owns the property upon which these structures are proposed, along with all surrounding properties. Applicant proposes structures that conform to the provisions of this section. See Ex. 2, sheets 5, 11, and 12. The final design of the shop building

has not been determined, but it can be sited in the designated area in compliance with the requirements of this section. See Ex. 2, sheet 5.

Staff Response, Planning: As shown on the Development Plan cited in the Applicant Responses above (Exhibit E2 Sheet 5), the proposed employee building is located on Tax Lot 1101, which has over 25 feet of frontage on both Coffin Butte and Soap Creek roads. The proposed shop/maintenance area is located on Tax Lot 1200, which has over 25 feet of frontage on Coffin Butte. This standard is met.

ROADS AND DRIVEWAYS

99.510 Road Approach Permits.

- (1) If a new road approach is proposed, the applicant shall obtain a road approach permit prior to construction of the road approach. If the proposed road approach would connect to a State highway, the permit shall be obtained from the State Highway Division. If the proposed road approach would connect to any other public road, the permit shall be acquired from Benton County. A road approach permit is not required for the construction of an approach connecting with a private road or street.*
- (2) A new road approach shall be constructed in accordance with the specifications prescribed by the County Engineer or the State Highway Division. The specifications shall be related to the use of the driveway, the nature of the adjoining public road, and the characteristics of drainage structure at the selected location.*
- (3) An occupancy permit or final inspection approval required in accordance with the State Building Code shall not be issued for any structure on a parcel or lot with a road approach which was installed in violation of permit requirements, specifications or conditions.*

99.515 Road Design and Construction Standards.

- (1) Schematic layout of proposed public and private roads or streets shall adhere to the following general guidelines:*
 - (a) Streets should be aligned to join with planned collector and arterial streets and/or existing streets.*
 - (b) Streets should be designed to respect topography and meet all applicable engineering standards.*
 - (c) Intersections shall be approximate or actual right angles.*
- (d) Surface drainage shall be toward the intersecting street or through a drainage easement on abutting parcels or lots.*
- (e) Cul-de-sacs shall end with a minimum turning radius of 45 feet; however, for cul-de-sacs less than 200 feet in length within areas zoned for single-family residential use, an alternative design ("T", "Y", or other) or location may be approved by the County Engineer.*
- (f) Cul-de-sacs in excess of 900 feet in length within commercial or industrial areas or which serve more than 20 residential parcels or lots shall provide a secondary means of access for emergency use (fire lane).*
- (g) Dead-end streets shall be designed to connect with future streets on adjacent property. A temporary turn-around may be required.*
- (h) The County may reserve a 1-foot-wide strip of public road right-of-way adjoining private land for the purpose of controlling access.*
- (i) Development containing more than 20 parcels or lots shall contain multiple points of access into the development.*
- (j) Geometric design will follow AASHTO: A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS & STREETS, 1984 ED., standards, except when the County Engineer finds terrain or other conditions making it impossible or unfeasible to do so.*

FINDINGS:

Applicant Response (Exhibit BOP p. 65):

The proposal will modify the access point on the south side of Coffin Butte Road, removing the access point serving the existing leachate ponds and relocating the access point serving the power facility (to serve the southern development area). Applicant will obtain all permits needed for these modifications prior to initiating the use.

Applicant Response (Exhibit BOP p. 66 – 67):

The proposal includes improvements to Coffin Butte Road. As documented on the site plans, the design includes adding bike lanes and a left-turn lane, and related storm-drainage improvements. The proposed improvements conform to County standards and the provisions of this section. No dead-end streets or cul-de-sacs are proposed. The proposed improvements conform to the standards of this section. See Ex. 2, sheets 5, 7, 8, and 24.

Agency Comments, ODOT Region 2 (Exhibit BC2, p. 66):

"I reviewed the submitted TIA and Response to Comments for the Coffin Butte Landfill Expansion development in Benton County and have no comments. It is our understanding that no direct access to a state highway has been proposed. Under such circumstance, this analysis has been required under the authority of the County and ODOT is serving as an additional reviewer."

Staff Response, Public Works (Exhibit BC1 p. 29-31):

[...]

The easterly boundaries of the complex border the Hwy 99W right of way which separates the landfill complex from the OS Zoned properties. Hwy 99W falls under the jurisdiction of the Oregon Department of Transportation (ODOT).

The proposed expansion directly affects two roads in the County system: Coffin Butte Road and Soap Creek Road. Coffin Butte and Soap Creek Roads carry the functional classification of major collector as defined by the current Benton County Transportation System Plan (TSP). Neither of these roads meet current standards for a major collector.

[...]

Benton County staff have cooperated with Kellar Engineering in this review process, and we concur with their findings and conditions regarding the Traffic Impact Analysis.

Final engineering design for any public infrastructure improvements will be required after Conditional Use approval. Review and approval of those calculations, drawings, right of way adjustments, and specifications will be completed prior to start of construction.

[...]

Staff Response, CWE and MFA - Engineering (Exhibit BC1 p. 10-11):

A review of [Exhibits E5, E6, E16, and E30] was provided by Columbia West Engineering, Inc. (CWE), as a geotechnical subconsultant to MFA. [...]

Our sole comment requiring potential further analysis or clarification from Wallace Group concerns the slope stability analysis along Section B-B'. While the analyses generally address the more critical portions (i.e., larger cuts) of the cross-section, the north end of Section B-B' may require explicit consideration due to the proximity of the cut slope crest to the public right-of-way. Aerial imagery indicates utilities at the surface in this area are approximately 25 feet south of the roadway edge, and it is unclear whether additional buried utilities are present. While we expect the slope to be stable under static conditions, the potential for slope movement under pseudo-static loading may impact the right-of-way. We recommend an explicit analysis of the subject slope, including the computation of factors of safety and, if necessary, the estimation of earthquake-induced horizontal deformation.

We also completed a review of the discussion of future geotechnical evaluations outlined in the “Geotechnical Issues and Seismic Stability” section of Exhibit 16. We conclude that the existing geotechnical data and analysis presented in the geotechnical report (Exhibit 5) do not indicate that there are any geotechnical or geologic constraints that would adversely impact landfill development. We note that additional geotechnical evaluation related to design of the landfill itself will be provided before landfill construction.

Staff Response, Planning: Staff concurs with County and Contract engineering review indicating feasibility of the proposed access point. Furthermore, ODOT had no comment on the proposal (see Exhibit BC2). Staff recommends **Conditions P2-1(A-N)** relating to public works and roadway construction requirements.

(2) All roads within existing or proposed public rights-of-way located outside an Urban Growth Boundary shall be designed and constructed pursuant to the Rural Design Criteria identified in Table I and Figure II. Plans and construction shall be approved by the County Engineer.

(5) For the protection of the public interest, the County Engineer may require improvements in excess of adopted standards, if terrain or other conditions warrant such a change.

FINDINGS:

Applicant Response (Exhibit BOP p. 67 – 68):

TABLE I, RURAL DESIGN STANDARDS

Local road standards are designated as RL-1, RL-2 and RL-3. Collector standards are designated as RC-1 and RC-2. Arterial standards are designated as RA-1 and RA-2.

<u>Standard</u>	<u>Zones</u>	<u>Projected ADT</u>	<u>Projected DHV</u>	<u>Minimum ROW</u>	<u>Surface Width</u>	<u>Paving Material</u>	<u>Crushed Base Equivalent</u>
RL-1	Resource	0-100	<30/hr	50 ft	18 ft	AC,PCC, APM	18 inches
RL-2	Dead end RR	0-200	<30/hr	50 ft	18 ft	AC,PCC APM	18 inches
RL-3	Resource, RR <1,000ft	100-750	<100/hr	60 ft	20 ft	4 inch AC,PCC	18 inches
RC-1	Resource	100-750	<100/hr	60 ft	20 ft	4 inch AC,PCC	18 inches
RC-2	Resource, RR	750-2000	<300/hr	60-70ft	24 ft	4 inch AC,PCC	20 inches
RA-1	All zones	1000-5000	<900/hr	80 ft	24-34ft	6 inch AC,PCC	20 inches
RA-2	All zones	>5000	>900/hr	100 ft	50-70ft	6 inch AC,PCC	24 inches

<u>Standard</u>	<u>Shoulder</u>	<u>Maximum Grade</u>	<u>Bike Path</u>	<u>Min. Curve Radius</u>	<u>Design Speed</u>	<u>Parking</u>	<u>Road Approach</u>
RL-1	4 ft gravel	17%	None	200 ft	30 mph	Limited Emergency	Shared 400ft gap
RL-2	4 ft gravel	15%	None	200 ft	30 mph	Parking Allowed	Shared 250ft gap
RL-3	5 ft paved	15%	RR Zone Class III	250 ft	30 mph	Limited Emergency	Shared 450ft gap
RC-1	5 ft paved	12%	RR Zone Class III	500 ft	45 mph	Emergency Only	Shared 400ft gap
RC-2	5 ft paved	10%	RR Zone Class III	760 ft	45 mph	Emergency Only	Shared 400ft gap
RA-1	6 ft paved	5%-8%	All zones Class III	800 ft	50 mph	Emergency Only	None
RA-2	6ft-12ft paved	4%-6%	All zones Class III	800 ft	50 mph	Emergency Only	None

The improvements to Coffin Butte Road include only a left-turn lane and bike lanes. The proposed improvements conform to the requirements of this section and the County TSP. See Exs. 2 and 15. The standards of this section are consistent with the cross-section of the County TSP; therefore, the proposed design and planned improvements are consistent with this section.

Applicant Response (Exhibit BOP p. 68):

The proposed roadway improvements have been designed by an engineering firm licensed in the State of Oregon, along with a traffic engineer licensed in the State of Oregon. The qualified professionals working on the Project have designed roadway improvements that conform to County standards and engineering best practices. Applicant understands that this section allows the County Engineer to require additional improvements, if warranted.

Staff Response, Public Works (Exhibit BC1 p. 29-31):

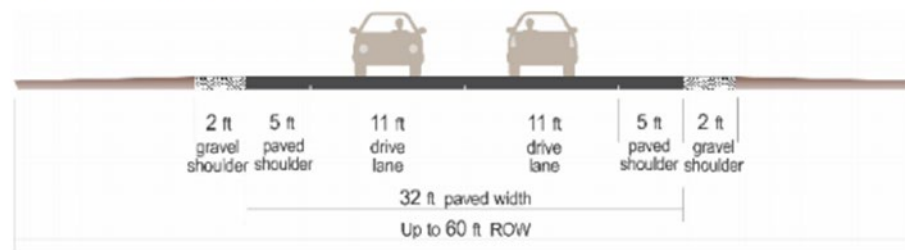
[...]

The proposed expansion directly affects two roads in the County system: Coffin Butte Road and Soap Creek Road. Coffin Butte and Soap Creek Roads carry the functional classification of major collector as defined by the current Benton County Transportation System Plan (TSP). Neither of these roads meet current standards for a major collector.

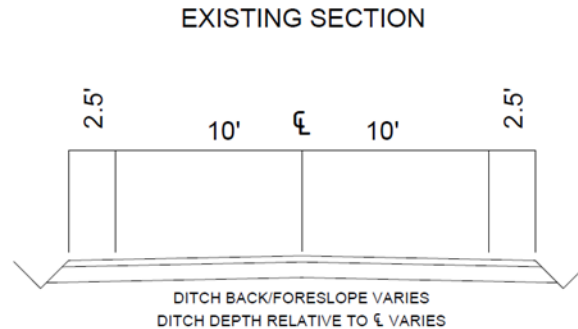
[...]

The typical proposed section for a Major Collector is illustrated below.

Figure 16. Major Collector Standard Cross-Section



Improvement of Coffin Butte Road to this standard will provide additional lane width and wide shoulders for vehicle stops and to accommodate bicycle, pedestrian, and emergency access where this function is currently very limited. The approximate typical existing section of Coffin Butte Road and Soap Creek Road is illustrated below. Existing shoulder widths vary from 2.5 feet to less than one foot.



Construction of the proposed improvements may require permitting through regulatory agencies including, but not limited to, the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), the Oregon Department of Fish & Wildlife (ODFW), the Oregon State Historic Preservation Office (SHPO), the Oregon Department of Geology and Mineral Industries (DOGAMI), U.S. Fish & Wildlife (USFW), the U.S. Army Corps of Engineers (COE), and the National Oceanic and Atmospheric Administration-National Marine Fisheries Service (NOAA-NMFS).

Benton County staff have cooperated with Kellar Engineering in this review process, and we concur with their findings and conditions regarding the Traffic Impact Analysis.

Final engineering design for any public infrastructure improvements will be required after Conditional Use approval. Review and approval of those calculations, drawings, right of way adjustments, and specifications will be completed prior to start of construction.

Staff Response, Planning: Staff concurs with county and transportation engineering review comments above; the proposed roadway improvements are feasible and consistent with county standards.

99.520 Improvements in a Public Right-of-Way.

An applicant intending to construct or upgrade a roadway within a public right-of-way shall be responsible for design and installation of all improvements within the public road right-of-way. Such improvements shall commence from an existing improved public roadway and continue to the subject property and 25 feet along the frontage of

the proposed parcel or lot, or to the private driveway serving the building site, whichever is greater. Required plans and construction of improvements shall be inspected and approved by the County Engineer.

FINDINGS:

Applicant Response (Exhibit BOP p. 69):

The proposal includes improvements in Coffin Butte Road (left-turn lane, bike lanes, and related stormwater improvements). Applicant understands that it will be responsible for design and installation of all improvements and plans to do so in accordance with the provisions of this section. See Ex. 2, sheets 5, 7, and 8.

Staff Response, Planning: As noted by the applicant in the submitted BOP (Exhibit BOP, p. 69), the applicant understands that it will be responsible for design and installation of all improvements, and that these improvements must be inspected and approved by the County Engineer.

FIRE PROTECTION

BCC 99.605

The standards in BCC 99.605 apply to applications proposing the creation of new lots or parcels or lot adjustments. This application proposes no new parcels or lots. Therefore, the **standards in this section do not apply.**

STORMWATER MANAGEMENT

99.660 Erosion and Sediment Control

(2) Applicability. The provisions of this section shall apply to all unincorporated areas of Benton County.

(3) Activities Requiring Erosion and Sediment Control Permit.

(a) The responsible party shall obtain an Erosion and Sediment Control (ESC) Permit from Benton County prior to initiation of ground-disturbing activities , if both (A) and (B) are met. Ground-disturbing activities listed in subsection (4) of this section are exempt from ESC permitting requirements.

(A) The ground-disturbing activities are associated with:

(i) Construction or land uses that require a permit or other review by Benton County; and

(ii) Any of the following:

(a) Construction of a public or private road, driveway, or structure; or

(b) Site preparation, associated installations (such as a septic system drainfield, ground-source heat pump, or tennis court), landscaping, and other ground-disturbing activities related to such construction.

(B) The total area disturbed will be 0.25 acre (10,890 square feet) or more.

(b) All activities shall comply with the Benton County Illicit Discharge Detection and Elimination Code, whether or not the activity requires an Erosion and Sediment Control Permit.

(c) The responsible party shall also comply with other local, state and federal erosion control regulations that may apply. Ground disturbance that is part of a common plan of development is required to comply with DEQ permitting even if the ground disturbance alone is below the threshold for requiring a Benton County ESC Permit.

FINDINGS:

Applicant Response (Exhibit BOP p. 70):

The subject property is within an unincorporated area of Benton County; this section therefore applies. Upon approval of this CUP and prior to construction activities, Applicant plans to apply for all required additional development permits, including those related to erosion and sediment control, described in this section.

Staff Response, Planning: Erosion and sediment control permits are not required for the current conditional use application review, but will be required prior to site development, should the conditional use application be approved.

99.670 Post-Construction Stormwater Management

(2) Applicability. Land development within unincorporated Benton County shall comply with the requirements of this section.

(3) Permit Required. A property owner increasing or replacing the impervious surface on a property shall comply with this section and the technical standards outlined in the Stormwater Support Documents. [...]

FINDINGS:

Applicant Response (Exhibit BOP p. 75 – 76):

Stormwater controls have been designed to address the additional impervious areas as a result of the improvements to Coffin Butte Road, the new cell on the Development Site, and the new access roadway. See Ex. 2. See also Ex. 17 (CEC Preliminary Drainage Report). Applicant acknowledges that these improvements are subject to the Post-Construction Stormwater regulations under BCC 99.670 (1) to (3) and will be required to obtain a post-construction stormwater permit under subsections (3) and (4), and Applicant will be required to enter into an infrastructure improvement agreement under subsection (5) and a Stormwater Management Long-Term maintenance agreement, if required by the County engineer, under subsection (6). Applicant understands that issuance of a post-construction stormwater permit is not a land use decision under subsection (4)(d) and therefore is not a criterion for approval of the CUP. However, in recognition that the requirement will be applicable to the stormwater improvements, Applicant has included in the draft Conditions of Approval a condition of approval requiring it to obtain the permit at the time of ground disturbance as required by subsection (3)(a).

Staff Response, Public Works (Exhibit BC1 p. 29-31):

[...]

Drainage for the landfill complex flows roughly from west to east. The E.E. Wilson Wildlife Area, a network of ponds and wetlands east of the subject property are the direct receiving waters for drainage from the landfill. The E.E. Wilson Wildlife Area functions as one of the headwaters of Bowers Slough, a tributary of the Willamette River.

[...]

Construction of the proposed improvements may require permitting through regulatory agencies including, but not limited to, the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), the Oregon Department of Fish & Wildlife (ODFW), the Oregon State Historic Preservation Office (SHPO), the Oregon Department of Geology and Mineral Industries (DOGAMI), U.S. Fish & Wildlife (USFW), the U.S. Army Corps of Engineers (COE), and the National Oceanic and Atmospheric Administration-National Marine Fisheries Service (NOAA-NMFS).

[...]

Final engineering design for any public infrastructure improvements will be required after Conditional Use approval. Review and approval of those calculations, drawings, right of way adjustments, and specifications will be completed prior to start of construction.

Staff Response, MFA – Engineering (Exhibit BC1 p. 13):

MFA recommends the Applicant follow the Benton County Stormwater Support Documents, instead of the Corvallis Stormwater Standards, to finalize the stormwater calculations and design components for the ODEQ submittal. Based on MFA’s review of the information provided, the proposed stormwater detention facilities appear to be conservatively sized, and despite the use of a different standard, the overall design of the stormwater facilities appears adequate from a land use perspective.

Staff Response, Planning: Staff concurs with applicant and engineering comments above. Staff recommends **Conditions P1-5(B) and P2-1(D, F, H, K, and L)** requiring submission of additional stormwater and erosion control permitting materials for review and approval by the county prior to development.

SEWAGE DISPOSAL

99.705 Sewage Disposal.

Each proposed dwelling, parcel, lot, or place of public occupancy shall be served by a sewage disposal system which complies with the requirements of the Oregon Department of Environmental Quality requirements.

FINDINGS:

Applicant Response (Exhibit BOP p.76):

Water and sewer is not proposed to be extended to the development area. In the event that the employee building needs water and sewer accommodations, it will be served by the same well and subsurface facilities that serve the existing office building. These sections do not apply

Staff Response, Planning:

The applicant states in the BOP (Exhibit BOP p.11) that the existing VLI offices (on TL 1101) are served by a septic system and the planned new employee building would be served by a holding tank that would not be connected to the existing septic system. The applicant states in Exhibit CL2 (p. 2) that the proposed maintenance building on Tax Lot 1200 will be served by a 400-gallon septic tank (shown in Figure 2 and Exhibit E2, Sheet 6).

Following Conditional Use approval, Benton County Environmental Health would be notified at the time of building permit application and would review, comment, and provide conditions for commercial sewage disposal. Furthermore, if the use warrants it, DEQ would review and approve new holding tanks. This standard is not applicable.

WATER SUPPLY

BCC 99.800 through 99.850

FINDINGS:

Applicant Response (Exhibit BOP p.76):

Water and sewer is not proposed to be extended to the development area. In the event that the employee building needs water and sewer accommodations, it will be served by the same well and subsurface facilities that serve the existing office building. These sections do not apply

Staff Response, Planning:

The applicant states in the BOP (Exhibit BOP p.11) that the landfill is not served by a domestic water service and that it is not needed for the proposed landfill expansion. They state that the existing VLI offices (on TL 1101) are served by a well, as is the planned new employee building. The details of the two wells used for water production at the landfill are attached to the application as Exhibit E6.

Following Conditional Use approval, Benton County Environmental Health would require standard testing for the wells prior to connection. Ultimately, DEQ is the primary governing agency for potable water at facilities like Coffin Butte Landfill. This standard is not applicable.

The applicant states in Exhibit CL2 (p. 2) that there is no well or other water source on Tax Lot 1200 and that applicant will truck in potable water for the proposed maintenance building.

IMPROVEMENTS AGREEMENT

BCC 99.905 Improvements Agreement.

When required as a condition of development for a conditional use, partition, subdivision, planned unit development, or stormwater management permit, the applicant shall execute a standard improvements agreement provided by the County Engineer guaranteeing the construction of any required public improvements. [...]

99.915 Performance Guarantee.

(1) The applicant shall file with the County Engineer a performance guarantee to assure full and faithful performance. [...]

(2) The guarantee shall ensure that the applicant has funds committed in the amount determined by the County Engineer for the purpose of covering the cost of the improvements and repairs, including related engineering and incidental expenses. In the event of default by the applicant, the guarantee shall ensure that the County shall have, upon demand, funds to construct, complete or pay for all improvements or incidental expenses, including improvements full or partially constructed by the County, and bills which are outstanding for work done thereon by any party.

FINDINGS:

Applicant Response (Exhibit BOP p.78):

The proposal includes public and private improvements. In the event that the County requires an improvement agreement, Applicant understands that the provisions of this section apply.

Staff Response, Planning: As noted by the applicant, should the proposal be approved, a standard improvement agreement will be required prior to development.

VI. RECOMMENDATION

Based on findings in the Staff Report and information in the record, staff concludes that applicant has provided sufficient evidence to show that, with proposed conditions of approval, the application can meet all relevant standards. Therefore, **staff recommends Approval of this application with Conditions recommended in Section VII.**

VII. PROPOSED CONDITIONS OF APPROVAL

Imposing Conditions

ORS 215.416(4) authorizes the county to impose conditions on approval of a land use permit. Benton County Code 53.220 also allows the county to impose conditions of approval on a conditional use permit.

An evidentiary basis for a condition must exist, such that the “evidence in the record could lead a reasonable person to conclude that considering the impacts of the proposed development there is a need for the condition to further a legitimate planning purpose.” *Sherwood Baptist Church v. City of Sherwood*, 24 Or LUBA 502, 505 (1993); *Skydive Oregon v. Clackamas County*, 25 Or LUBA 294 (1993). Conditions of approval are not a substitute for compliance with approval criteria. See, e.g., *Hodge Or. Props. v. Lincoln County*, 194 Or App 50 (2004), and must relate to approval criteria. *Harra v. City of West Linn*, 77 Or LUBA 136 (2018). The decision maker does not have authority to impose conditions unrelated to the criteria. *Caster v. City of Silverton*, 56 Or LUBA 250, 256-60 (2008).

Conditions of approval may be imposed to provide the details of how compliance will be achieved “and assure those criteria are met.” *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992). The county may find compliance with approval criteria by establishing compliance is feasible, subject to compliance with specific conditions of approval. *Meyer v. City of Portland*, 7 Or LUBA 184 (1983), *aff’d*, 67 Or App 274 (1984). If the applicant demonstrates feasibility of compliance, the County then has authority and obligation to impose conditions of approval to ensure compliance with these criteria. (For example, if limited hours of operation are necessary to establish that a use will not seriously interfere with uses on adjacent property, the decision maker may find that compliance with the criteria is feasible, subject to a condition that requires that the hours of operation be limited to a specified time period.) If a condition of approval is imposed in order to ensure compliance with an approval criterion based on a finding of feasibility, a preponderance of the evidence in the record must support a finding that the condition is “likely and reasonably certain” to result in compliance. *Gould v. Deschutes County*, 227 Or App 60, 606-607 (2009).

Proposed Conditions of Approval

The applicant’s proposal is hereby granted Preliminary Conditional Use Approval. Operational (Final) Approval is subject to completion of Phase 1 and Phase 2 Preliminary Approval Conditions listed below. The applicant shall adhere to the following conditions under the terms of approval of this conditional use permit.

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

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

Upon the applicant submitting documentation demonstrating that the Preliminary Approval Conditions have been met, the Planning Official will issue a written notice of Operational Approval at which time the applicant may initiate construction of approved development, subject to the Operational Approval Conditions below.

Operational Approval Conditions shall remain in effect for the duration of the use. Failure to comply with the Operational Approval Conditions may result in revocation of the Conditional Use Permit.

The following Preliminary Approval Conditions shall be met within four years of the date of decision; the Planning Official may grant one extension for up to a year prior to the expiration of the preliminary approval period if the applicant makes a written extension request stating the reasons preventing completion within the

approval period. Failure to complete the Preliminary Approval Conditions within the period of validity shall render this Conditional Use Permit void.

Preliminary Conditions of Approval

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.		
Ref.	Recommended COA	Applicable code citation
P1-1	Wetlands. On Tax Lot 1200, Applicant shall prepare and obtain approval from the Oregon Department of State Lands (DSL) 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.	99.255(1) Development Activities in Wetlands.
P1-2	Site Plan Map. Applicant shall submit to the Planning Official a final site plan map per County specifications 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.	77.310(2) LS Zone Conditional Use Review.
P1-3	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 land owners to conduct forest operations consistent with the Forest Practices Act and Rules, and that recognizes the hazards associated with the area.	60.220(2) FC Zone Conditional Use Criteria.
P1-4	Screening. Applicant shall install the landscape screening as shown in Applicant 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.	53.215(1) Adjacent Properties and Character of the Area, Visual Impacts
P1-5	DEQ. (A) Applicant must provide copies of DEQ permits from the last 10 years to the County prior to beginning site preparation or grading activities. (B) Prior to the ODEQ solid waste permitting submittal, Applicant shall prepare the stormwater report and all related designs for the detention and conveyance features utilizing the most recent version of the Benton County Stormwater Support Documents.	53.215(1) Adjacent Properties and Character of the Area, Water Quality
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.		

P2-1	<p>Public Works.</p> <p>(A) Applicant shall survey, design, and construct improvements to Coffin Butte Road between Hwy 99W and milepost 0.377 to, at minimum, a Major Collector standard.</p> <p>(B) To accommodate westbound left turns into the new facility, Applicant shall construct a center turn lane with a turn pocket storage capacity of four (4) standard semi-trailer trucks (~180 feet) with islands and 30:1 tapers to match existing.</p> <p>(C) Historically, the County has employed a section of 5" of HMAC over 17" of CAB for facilities that receive heavy truck traffic. The Applicant shall complete a pavement design analysis in conformance with the AASHTO Guide for Design of Pavement Structures to determine if the above section is adequate on Coffin Butte Road given the high volume and loaded weights of the heavy truck traffic. The Applicant shall construct either the section identified in the analysis or a minimum 5" of HMAC over 17" CAB, whichever is more restrictive.</p> <p>(D) Applicant shall design and construct Coffin Butte Road drainage ditches, stormwater conveyances, connections to off-right of way conveyances, and detention facilities to accommodate runoff using ODOT standards, details and methodologies.</p> <p>(E) At the time of submittal of engineering drawings and specifications for road improvements in the County right of way, Applicant shall provide further geotechnical analysis and clarification related to the slope stability along the north end of Section B-B' due to the proximity of the cut slope crest to the public right-of-way and existing utilities. Applicant shall also provide a complete seismic analysis of the subject slope, including the potential of earthquake-induced deformation which may impact the County's facility or the utilities contained within the right of way.</p> <p>(F) Construction and post-construction storm drainage discharge shall conform to the standards and tenets established by Oregon Drainage Law and shall conform to all ODEQ and County Stormwater Support Documents, erosion and sediment control details, and best management practices. The applicant shall apply, pay fees, and obtain approval for a County Post-Construction Stormwater Management (SWM) Permit.</p> <p>(G) Applicant, the County and ODOT must work cooperatively to analyze and address requirements for modification of the Coffin Butte Road/Hwy 99W intersection, if deemed necessary.</p> <p>(H) Applicant shall provide calculations, design, and specifications for all proposed public infrastructure to County Public Works staff for review and approval.</p>	<p>General</p> <p>99.510 Road Approach Permits.</p> <p>99.515 Road Design and Construction Standards.</p>
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	<p>(I) Applicant shall apply and obtain approval for a Permit to Perform Work in the County Right of Way. The permit will be issued when construction drawings are approved, and all supporting documentation has been provided to the County.</p> <p>(J) Applicant shall provide the County with a unit price cost estimate for the work to be performed within the 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 4.0% of the estimate provided.</p> <p>(K) Applicant shall obtain a DEQ 1200-C permit, and a County Erosion and Sediment Control (ESC) permit prior to start of land disturbing activities. (The applicant may wish to consider including the work within the Benton County right of way in the 1200-C application.)</p> <p>(L) Applicant shall obtain approval for all required local, state and federal permits prior to start of road improvements.</p> <p>(M) Construction of improvements to Coffin Butte Road will require a Miscellaneous Permit to Perform Work on the County Right of Way. Issuance of this permit may require the Applicant to enter into an Agreement for Improvements (AFI) to secure the proposed work.</p> <p>(N) Applicant shall provide the County with a detailed construction and sequencing plan for accomplishment of the conditions of approval. The conditions listed here involve a series of construction requirements and quasi-judicial actions that must be achieved in a manner to protect the interests of the applicant, the travelling public and the County's transportation system including a circulation plan endorsed by public safety officials.</p>	
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P2-2	<p>Construction Phase.</p> <p>During construction of the expansion area for commercial use (construction of the leachate ponds, haul road, new landfill cell, and employee building), Applicant shall:</p> <p>(A) Limit construction to the hours of 6 a.m. to 6 p.m.</p> <p>(B) Limit any required blasting to the hours of 12 p.m. to 5 p.m.</p> <p>(C) Conduct all blasting pursuant to its approved permit issue by the Oregon Department of Geology and Mineral Industries (DOGAMI).</p> <p>(D) Obtain all required permits applicable to the work.</p> <p>(E) Comply with all applicable DEQ regulations applicable to the work.</p>	<p>Construction conditions – not responding to CU criteria</p> <p>99.110 Sensitive Land consideration.</p>
P2-3	<p>Active Rookery Protection.</p> <p>(A) Applicant shall hire a qualified biologist to monitor active rookeries throughout the critical nesting period of February 15 through July 31 to determine site-specific nesting chronology, nest productivity, the degree of habituation to disturbance, and nearby foraging habitat. Applicant's biologist shall submit a rookery location map of active rookeries by January 1 of each year to the County and ODFW.</p> <p>(B) Applicant shall identify a buffer of 300 feet around the primary nest zone of active rookeries and limit activities to maintain alternate nest trees, allow for growth of the colony, protect against windthrow, and prevent harassment.</p> <p>(C) Applicant shall not engage in major construction within a quarter mile of an active rookery during the critical nesting period from February 15 through July 31.</p>	<p>Chapter 87 Sensitive Wildlife Habitat</p>
P2-4	<p>Structures within the FC zone</p> <p>Applicant shall maintain a primary and secondary fuel-free fire-break surrounding each structure on land within the FC zone that is owned or controlled by the owner, in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry (ODF).</p>	<p>60.405(1) FC Zone Fire Break</p>

Operational Conditions of Approval

(to be met for the duration of the business):

Operational Conditions of Approval. Monitoring of operating COAs will be subject to BCC Title 31. Enforcement.		
Ref.	Recommended COA	Applicable code citation
OP-1	<p>Hours of Operation. Operating hours for disposal of waste in the landfill shall be as follows:</p> <p>(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.</p> <p>(B) On Sunday, the site will not open to any customers before 12 p.m. and will close 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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	53.215(1) Adjacent Properties and Character of the Area – Noise
OP-2	<p>Noise.</p> <p>(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</p>	53.215(1) Adjacent Properties and Character of the Area – Noise

	<p>is limited to on-site vehicles. To verify equipment sound levels, remain 10 dB below the levels shown in the Noise Study:</p> <ul style="list-style-type: none"> (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. (iii) The Applicant shall conduct sound measurements for onsite equipment using the same methodology that was used to establish the baseline data in the 2023 noise assessment (see Exhibit E11). The study shall be conducted during normal operating hours. <p>(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.</p>	
OP-3	<p>Maintenance of Tree Buffer. Applicant shall maintain the existing tree buffer along Hwy 99W and the new screening measures required in P1-4 above. Applicant will replace any dead trees annually during the rainy season.</p>	53.215(1) Adjacent Properties and Character of the Area – Visual Impacts
OP-4	<p>Outdoor Lighting.</p> <p>(A) All outdoor lighting fixtures shall be fully shielded and directed downward to prevent light trespass and skyglow.</p> <p>(B) Fixtures must utilize beam angles and shielding that confine light to the intended area, with no upward light emission.</p> <p>(C) Lighting shall comply with the Five Principles for Responsible Outdoor Lighting:</p> <ul style="list-style-type: none"> (i) All light shall have a clear purpose. (ii) Light shall be directed only where needed. (iii) Light levels shall be no higher than necessary. (iv) Lighting shall be used only when useful. (v) Warmer color temperatures ($\leq 3000\text{K}$) shall be used where possible. 	53.215(1) Adjacent Properties and Character of the Area – Visual Impacts
OP-5	<p>Maximum Elevation. The final grade of the new landfill cell shall not exceed 450 feet above mean sea level in elevation.</p>	53.215(1) Adjacent Properties and Character of the Area – Noise, Odor, Visual Impacts, Litter

OP-6	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.	General 53.215(1) Adjacent Properties and Character of the Area – Traffic
OP-7	<p>Odor Monitoring and Mitigation.</p> <p>(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. 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 the Applicant’s annual report to the County. In addition, while site personnel are 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 (H₂S), 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 H₂S 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.</p> <p>(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.</p> <p>(C) Applicant’s evidence submitted to support the conclusion that the proposed expansion will not seriously interfere with uses on adjacent properties or with the character of the area with regard to odor impacts is based on Applicant’s submitted odor studies’ assumption that the maximum organic waste acceptance will be no more than 41,110,068 tons by 2052. Accordingly, a condition of approval is appropriate to align with the Applicant’s studies assumed total organic waste acceptance volume, with provision that the annual organic waste acceptance volumes are within 10% of the modeled 930,373 tons per year through 2052.</p> <p>(D) During the first 48 months of landfill operations, the Applicant shall employ at its cost the services of a qualified third-party for an independent verification of the daily odor surveys conducted using certified inspectors with</p>	53.215(1) Adjacent Properties and Character of the Area – Odor

	training in how to appropriately use a Nasal Ranger Field Olfactometer. Applicant is required to perform independent third-party verification at least once every 30 days and the third-party survey shall be documented and recorded. The standard D/T dial settings for a Nasal Ranger Field Olfactometer are set to 2, 4, 7, 15, 30, and 60. If independent verification results in a measured D/T of 4 or greater, Applicant shall immediately take steps to mitigate the odor level measured by independent verification. In addition, if Applicant consistently measures lower D/T values than the independent third-party, County should consider extending the independent third-party verification surveys beyond the 48-month timeframe.	
OP-8	Maintenance of Other Required Permits. Applicant shall obtain and maintain all required federal, state, and County permits for construction and operation of the landfill. Applicant shall file copies of all such permits with the County Planning Division within 30 days of issuance.	General 53.215(1) Adjacent Properties and Character of the Area – Water Quality, Air Quality
OP-9	Compliance with Archeological Report Conditions. Applicant will comply with the operational conditions set forth in Applicant's Exhibit 26.	General
OP-10	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 regarding PFAS/PFOA, methane, and any other landfill gas component.	53.215(1) Adjacent Properties and Character of the Area – Water Quality, Air Quality
OP-11	<p>Site Operations.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(D) Applicant shall keep all landfill infrastructure in good repair, and shall repair as promptly as possible any disabled, damaged, or nonworking infrastructure.</p> <p>(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</p>	53.215(1) Adjacent Properties and Character of the Area – Odor, Litter, Fire Risk, Water Quality, Visual Impacts

	<p>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.</p> <p>(F) Applicant shall not accept regulated hazardous waste as defined in 40 CFR 258.20(b) at the site.</p> <p>(G) Groundwater sampling wells shall be installed as provided in Applicant's Exhibit 2 and monitored in accordance with state and federal requirements.</p>	
OP-12	<p>Fire Protection.</p> <p>(A) Applicant shall maintain the 4000-gallon water truck in good repair so that it is always fully available 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.</p> <p>(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 (DSAC) meeting. Applicant shall report all fire incidents to DEQ.</p> <p>(C) Applicant shall conduct semi-annual fire-protection and emergency preparedness training of its on-site personnel.</p>	53.215(1) Adjacent Properties and Character of the Area – Fire Risk
OP-13	<p>Groundwater Monitoring.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	<p>53.215 (1) Adjacent Properties and Character of the Area - Water Quality</p> <p>53.215(2) Water Quality</p> <p>60.220(1)(a) Farm Impacts</p>

	<p>(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.</p> <p>(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.</p> <p>(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.</p>	
OP-14	Working Face. Applicant shall not dispose waste north of Coffin Butte Road during the Development Area's operation. Only one working face shall operate at a time.	General
OP-15	<p>Litter Control.</p> <p>(A) General Compliance. The Applicant shall implement and maintain all current litter control measures as described in the Applicant's June 20, 2025 Letter to the Benton County Planning Commissioners, including all measures applicable to the expansion area.</p> <p>(B) Working Face Fencing</p> <p>(i) The Applicant shall ensure continuous deployment of bull fencing around the entire landfill working face to minimize windblown litter.</p> <p>(ii) A secondary line of bull fencing shall be deployed behind the existing line along the entire landfill working face, providing an added barrier for litter containment.</p> <p>(C) Perimeter Fencing and Containment. The Applicant shall install and maintain Defender Fencing in appropriate high-risk areas as identified in operational plans.</p> <p>(D) The main haul road shall have continuous deployment of wire fencing reinforced with orange snow fencing to control roadside litter.</p>	53.215(1) Adjacent Properties and Character of the Area – Litter

	<p>(E) The entire landfill property, including portions zoned as Forest Conservation (FC), shall be enclosed with a chain link fence to mitigate off-site litter dispersion.</p> <p>(F) Off-Site Litter Management. The Applicant shall expand its litter collection program to include Tampico Road and Soap Creek Road, conducting regular patrols and clean-up operations to address any landfill-related litter.</p> <p>(G) Private Delivery Requirements. To prevent litter originating from uncovered private vehicles, the Applicant shall implement and enforce a policy that prohibits acceptance of any trash delivery unless fully covered or secured in accordance with DEQ standards and site-specific requirements.</p> <p>(H) Monitoring and Reporting. The Applicant shall document litter control efforts and submit semi-annual reports to the County demonstrating compliance with these conditions, including photographic evidence, inspection logs, and corrective actions taken.</p> <p>(I) Enforcement and Review. Failure to maintain compliance with these conditions may result in enforcement action or review of permit approval, at the discretion of Benton County</p>	
OP-16	<p>Active Rookery Protection.</p> <p>(A) Applicant shall hire a qualified biologist to monitor active rookeries throughout the critical nesting period of February 15 through July 31 to determine site-specific nesting chronology, nest productivity, the degree of habituation to disturbance, and nearby foraging habitat. Applicant's biologist shall submit a rookery location map of active rookeries by January 1 of each year to the County and ODFW.</p> <p>(B) Applicant shall identify a buffer of 300 feet around the primary nest zone of active rookeries and limit activities to maintain alternate nest trees, allow for growth of the colony, protect against windthrow, and prevent harassment.</p> <p>(C) Applicant shall not engage in major construction within a quarter mile of an active rookery during the critical nesting period from February 15 through July 31.</p>	<p>53.215(1) Adjacent Properties and Character of the Area – Wildlife</p> <p>Chapter 87</p>

VII. MOTIONS

I move that the Conditional Use Permit for expansion of the Coffin Butte Landfill be:

- A) **APPROVED**, based on evidence in the record and findings in favor in the Staff Report, and subject to the recommended conditions of approval contained in the Staff Report.

OR,

- B) **APPROVED WITH MODIFICATIONS**, based on evidence in the record and findings in favor in the Staff Report as modified at the public hearing, and subject to recommended conditions of approval contained in the Staff Report modified as follows: [specify].

OR,

- C) **DENIED**, based on evidence in the record and findings in opposition and conclusions developed at the public hearing.