

To: Chair Fowler and Benton County Planning Commission members

From: Paul Nietfeld, Benton County resident and former member BCTT A.1 Subcommittee
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Subject: LU-24-027: Response to Staff presentation of July 8, 2025: Proposed odor mitigation

Date: July 16, 2025

Chair Fowler and Planning Commissioners:

As presented by the County in testimony of July 8, 2025 [approximately 19:26-22:30 in the video record], the County's proposed conditions for LU-24-027 include several odor mitigation operational conditions: OP-5, OP-7(A-D) and OP-11(A-F).

The landfill odor emissions have been cited by multiple residents as an undue burden, particularly since the significant increase in annual intake volume starting in 2017, and were considered so serious that Staff initially recommended denial of LU-24-027 in part based on the undue burden imposed by landfill odor "expected to "seriously interfere" with adjacent land uses and the character of the area." Subsequently, the Franchisee and the county's consultant have generated a set of proposed conditions that Staff judges will sufficiently mitigate the landfill odor burden. Specifically, the consultant firm Winterbrook stated "With these conditions we felt that this could actually mitigate the odor impacts with a reasonable evaluation of odor" after acknowledging that with the existing landfill "there is odor noticeable at the property boundary of the landfill... the average odor of this is detectable at <the> landfill, as one might expect for a landfill."

Multiple citizens have testified that the current level of landfill odor emissions seriously interferes with adjacent land uses, and even the county's consultant admits to the unsurprising finding that landfill odor is apparent at the property boundary. It is unrealistic to expect that the proposed odor mitigation conditions will correct this situation while adding additional refuse to the total landfill waste in place; many of these conditions (OP-7(A,B,D)) specify monitoring, not preventative or mitigative measures, and others (OP-11(A-F)) specify operational rules very similar to those already in place for the existing landfill cells, which have not prevented harmful odor emissions.

Operational condition OP-7(C) is the only new odor mitigative condition, proposing a limit on annual and total cumulative quantity of "organic waste" intake. In regard to this condition alone, approval of LU-24-027 would require that the Commission accept and endorse at least **three fictions**:

1. The franchisee is willing and able to measure the quantity and self-enforce the intake limit.

- a. The term "Solid Waste" itself is undefined, as I personally have discovered in engaging with County Council and the Disposal Site Advisory Committee in an attempt to verify the calculation of the annual Host Fee payment by the Franchisee to Benton County.
- b. The term "organic waste", being a subset of "Solid Waste", is similarly undefined.
- c. What cannot be defined cannot be measured.
- d. As documented by testimony in this matter, Franchisee does not control and does not carefully monitor the contents of the vehicles dumping waste into Coffin Butte.
- e. Franchisee has a long history of withholding information from the county, showing a consistent reluctance to provide data on the operation of the landfill which is needed by the county for proper oversight. Examples include the failure of Franchisee to provide the county with copies of regulatory submissions, as required by contract (2020 Landfill Franchise Agreement, Section 7(c)), the failure of Franchisee to provide the county with a definition of "Solid Waste" at a sufficient level of detail to be able to verify reported intake figures against the intake data

reported to ODEQ, and the failure of Franchisee to yet produce the 2025 Coffin Butte Annual Report, which was due May 30, 2025.

- f. Franchisee has a poor record of complying with key regulations such as methane emissions and flare operation, as documented by testimony in this hearing.

2. The county is willing and able to independently verify the quantity and, in the event of violation of the limit, enforce penalties that ensure future compliance to the limit.

- a. The County has no legal right to review the raw Coffin Butte intake record data (this right was ceded in the 2000 Landfill Franchise Agreement).
- b. The County has produced no evidence that it has ever enforced any condition of approval or zoning requirement for the Coffin Butte landfill.
- c. The County failed to take action when the 2000 Landfill Franchise Agreement intake threshold was exceeded for three years (2017-2019), despite having clear contractual recourse to, among other remedies, force a renegotiation of the landfill fees.
- d. Given the large revenue and profit values generated by the Coffin Butte Landfill, a fine for a violation would have to be quite large in order to serve as meaningful negative feedback to the Franchisee and compel compliance. At the current intake rate of approximately 1 M Tons annually and at competitive tipping fees of \$50-\$60/Ton, Coffin Butte currently generates about \$50-60M per year of top-line revenue; at a gross profit margin of 88% (landfill operations overall figure per the Republic Services SEC 10-K filing for 2024) this landfill generates a gross profit of approximately \$44-53M per year. Therefore, a penalty fine would need to be on the order of millions of dollars to effectuate compliance. The maximum fine currently defined in the Benton County code is \$1000 (BCC 31.135).

3. The removal of the intake cap and the resultant unlimited rate of waste emplacement into Cell 6 will at most have no additive impact on the quantity of odor emitted by the landfill as a whole.

- a. Citizen testimony documented that the intake volume increase in 2017 yielded an increase in odor to the point of seriously interfering with adjacent property uses.
- b. Staff has stipulated that Conditions of Approval associated with LU-24-027 will not apply to existing landfill cells (including the newly-initiated Cell 6); thus, the specified organic waste quantities will not apply to this cell.
- c. Franchisee's own documentation for LU-24-027 shows a planned increase in intake volume of 36-69% for the expansion cell alone; with no intake cap the actual intake volume would be limited only by Franchisee's ability to grow the business. In the years 2014-2018 Franchisee demonstrated the ability to double (100% increase) the Coffin Butte annual intake volume.
- d. Franchisee, knowing from public engagement on LU-21-047 the sensitivity of the community to adverse harms likely to result from an increased intake rate, could have renegotiated the 2020 Landfill Franchise Agreement to maintain the 1.1M Tons/year intake cap even in the event of approval to place waste in the expansion parcel, prior to submitting the expansion request LU-24-027. The Franchisee did not do this.

Additionally, note that the total organic waste volume of 41,110,068 tons specified in OP-7(C) exceeds the total current waste in place of approximately 24,000,000 tons (calculated from the 2023 Coffin Butte Annual Report) by about 70%. It is quite unreasonable to expect that such a large increase in organic waste volume will reduce odor level relative to the current landfill, which is already imposing an undue burden on adjacent properties per testimony on this application.

The proposed odor mitigation conditions are inadequate to prevent undue odor burdens if LU-24-027 is approved. LU-24-027 should be denied on this basis.