



LAND USE COMPATIBILITY STATEMENT

What is a land use compatibility statement?

A LUCS is a form developed by DEQ to determine whether a DEQ permit or approval will be consistent with local government comprehensive plans and land use regulations.

Why is a LUCS required?

DEQ and other state agencies with permitting or approval activities that affect land use are required by Oregon law to be consistent with local comprehensive plans and have a process for determining consistency. DEQ activities affecting land use and the requirement for a LUCS may be found in Oregon Administrative Rules (OAR) Chapter 340, Division 18.

When is a LUCS required?

A LUCS is required for nearly all DEQ permits and certain approvals of plans or related activities that affect land use prior to issuance of a DEQ permit or approval. These permits and activities are listed in section 1,D on p. 2 of this form. A single LUCS can be used if more than one DEQ permit or approval is being applied for concurrently.

Permit modifications or renewals also require a LUCS when any of the following applies:

1. Physical expansion on the property or proposed use of additional land;
2. Alterations, expansions, improvements or changes in method or type of disposal at a solid waste disposal site as described in OAR 340-093-0070(4)(b);
3. A significant increase in discharges to water;
4. A relocation of an outfall outside of the source property; or
5. Any physical change or change of operation of an air pollutant source that results in a net significant emission rate increase as defined in OAR 340-200-0020.

How to complete a LUCS:

Step	Who Does It?	What Happens?
1	Applicant	Applicant completes Section 1 of the LUCS and submits it to the appropriate city or county planning office.
2	City or County Planning Office	City or county planning office completes Section 2 of the LUCS to indicate whether the activity or use is compatible with the acknowledged comprehensive plan and land use regulations, attaches written findings supporting the decision of compatibility, and returns the signed and dated LUCS to the applicant.
3	Applicant	Applicant submits the completed LUCS and any supporting information provided by the city or county to DEQ along with the DEQ permit application or approval request.

Where to get help:

For questions about the LUCS process, contact the DEQ staff responsible for processing the permit or approval. DEQ staff may be reached at 1-800-452-4011 (toll-free, inside Oregon) or 503-229-5630. For general questions, please contact DEQ land use staff listed at: www.deq.state.or.us/pubs/permithandbook/lucs.htm.

CULTURAL RESOURCES PROTECTION LAWS: Applicants involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction, or alteration of an archeological site or object or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking, to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, ext. 232.

**Oregon Department of Environmental Quality
LAND USE COMPATIBILITY STATEMENT (LUCS)**

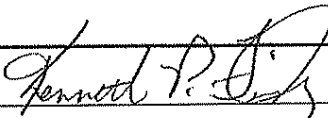
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SECTION 1 - TO BE COMPLETED BY APPLICANT	
IA. Applicant Name: Riverbend Landfill Co.	1B. Project Name: Side Slope Grading Modification
Contact Name: Paul Burns	Physical Address: 13469 SW Hwy 18
Mailing Address: 13469 SW Hwy 18	City, State, Zip: McMinnville, OR 97128
City, State, Zip: McMinnville, OR 97128	Tax Lot #: R5501-0200
Telephone: 503-472-8788	Township: 55 Range: SW Section: 1812
Tax Account #: 001209143	Latitude: 45.165
	Longitude: 123.253
1C. Describe the project, include the type of development, business, or facility and services or products provided (attach additional information if necessary):	
<p>Riverbend Landfill Co. proposes to modify its currently-approved grading plan along existing side slopes. The modification occurs within the existing footprint and does not require expansion onto the existing property or any adjacent properties. The overall height remains the same. See attached application materials for details.</p>	
1D. Check the type of DEQ permit(s) or approval(s) being applied for at this time.	
<input type="checkbox"/> Air Quality Notice of Construction <input type="checkbox"/> Air Contaminant Discharge Permit (<i>excludes portable facility permits</i>) <input type="checkbox"/> Air Quality Title V Permit <input type="checkbox"/> Air Quality Indirect Source Permit <input type="checkbox"/> Parking/Traffic Circulation Plan <input checked="" type="checkbox"/> Solid Waste Land Disposal Site Permit <input type="checkbox"/> Solid Waste Treatment Facility Permit <input type="checkbox"/> Solid Waste Composting Facility Permit (includes Anaerobic Digester) <input type="checkbox"/> Conversion Technology Facility Permit <input type="checkbox"/> Solid Waste Letter Authorization Permit <input type="checkbox"/> Solid Waste Material Recovery Facility Permit <input type="checkbox"/> Solid Waste Energy Recovery Facility Permit <input type="checkbox"/> Solid Waste Transfer Station Permit <input type="checkbox"/> Waste Tire Storage Site Permit	<input type="checkbox"/> Pollution Control Bond Request <input type="checkbox"/> Hazardous Waste Treatment, Storage, or Disposal Permit <input type="checkbox"/> Clean Water State Revolving Fund Loan Request <input type="checkbox"/> Wastewater/Sewer Construction Plan/Specifications (<i>includes review of plan changes that require use of new land</i>) <input type="checkbox"/> Water Quality NPDES Individual Permit <input type="checkbox"/> Water Quality WPCF Individual Permit (<i>for onsite construction-installation permits use the DEQ Onsite LUCS form</i>) <input type="checkbox"/> Water Quality NPDES Stormwater General Permit (<i>1200-A, 1200-C, 1200-CA, 1200-COLS, and 1200-Z</i>) <input type="checkbox"/> Water Quality General Permit (<i>all general permits, except 600, 700-PM, 1700-A, and 1700-B when they are mobile.</i>) <input type="checkbox"/> Water Quality 401 Certification for federal permit or license
1E. This application is for: <input type="checkbox"/> Permit Renewal <input type="checkbox"/> New Permit <input checked="" type="checkbox"/> Permit Modification <input type="checkbox"/> Other:	
SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL	
<p>Instructions: Written findings of fact for all local decisions are required; written findings from previous actions are acceptable. For uses allowed outright by the acknowledged comprehensive plan, DEQ will accept written findings in the form of a reference to the specific plan policies, criteria, or standards that were relied upon in rendering the decision with an indication of why the decision is justified based on the plan policies, criteria, or standards.</p>	
2A. The project proposal is located: <input type="checkbox"/> Inside city limits <input type="checkbox"/> Inside UGB <input checked="" type="checkbox"/> Outside UGB	
2B. Name of the city or county that has land use jurisdiction (the legal entity responsible for land use decisions for the subject property or land use): Yamhill County	

Last updated: March 19, 2014

**Oregon Department of Environmental Quality
LAND USE COMPATIBILITY STATEMENT (LUCS)**

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SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL		
Applicant Name: Riverbend Landfill Co.	Project Name: Side Slope Grading Modification	
2C. Is the activity allowed under Measure 49 (2007)? <input checked="" type="checkbox"/> No, Measure 49 is not applicable <input type="checkbox"/> Yes; if yes, then check one:		
<input type="checkbox"/> Express; approved by DLCD order #:		
<input type="checkbox"/> Conditional; approved by DLCD order #:		
<input type="checkbox"/> Vested; approved by local government decision or court judgment docket or order #:		
2D. Is the activity a composting facility? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes; Senate Bill 462 (2013) notification requirements have been met.		
2E. Is the activity or use compatible with your acknowledged comprehensive plan as required by OAR 660-031? <i>Please complete this form to address the activity or use for which the applicant is seeking approval (see 1.C on the previous page). If the activity or use is to occur in multiple phases, please ensure that your approval addresses the phases described in 1.C. For example, if the applicant's project is described in 1.C as a subdivision and the LUCS indicates that only clearing and grading are allowed outright but does not indicate whether the subdivision is approved, DEQ will delay permit issuance until approval for the subdivision is obtained from the local planning official.</i>		
<input type="checkbox"/> The activity or use is specifically exempt by the acknowledged comprehensive plan; explain:		
<input type="checkbox"/> YES, the activity or use is pre-existing nonconforming use allowed outright by (provide reference for local ordinance):		
<input type="checkbox"/> YES, the activity or use is allowed outright by (provide reference for local ordinance):		
<input type="checkbox"/> YES, the activity or use received preliminary approval that includes requirements to fully comply with local requirements; findings are attached.		
<input checked="" type="checkbox"/> YES, the activity or use is allowed; findings are attached.		
<input type="checkbox"/> NO, see 2.C above, activity or use allowed under Measure 49; findings are attached.		
<input type="checkbox"/> NO, (complete below or attach findings for noncompliance and identify requirements the applicant must comply with before compatibility can be determined): Relevant specific plan policies, criteria, or standards: Provide the reasons for the decision:		
Additional comments (attach additional information as needed): The proposed modification to the current grading plan continues an existing, previously-approved use. Findings are attached.		
Planning Official Signature:		Title: Planning Director
Print Name: Ken Friday	Telephone #: 503-434-7516	Date: 11/16/16
<i>If necessary, depending upon city/county agreement on jurisdiction outside city limits but within UGB:</i>		
Planning Official Signature:	Title:	
Print Name:	Telephone #:	Date:

Findings In Support of Land Use Compatibility Statement

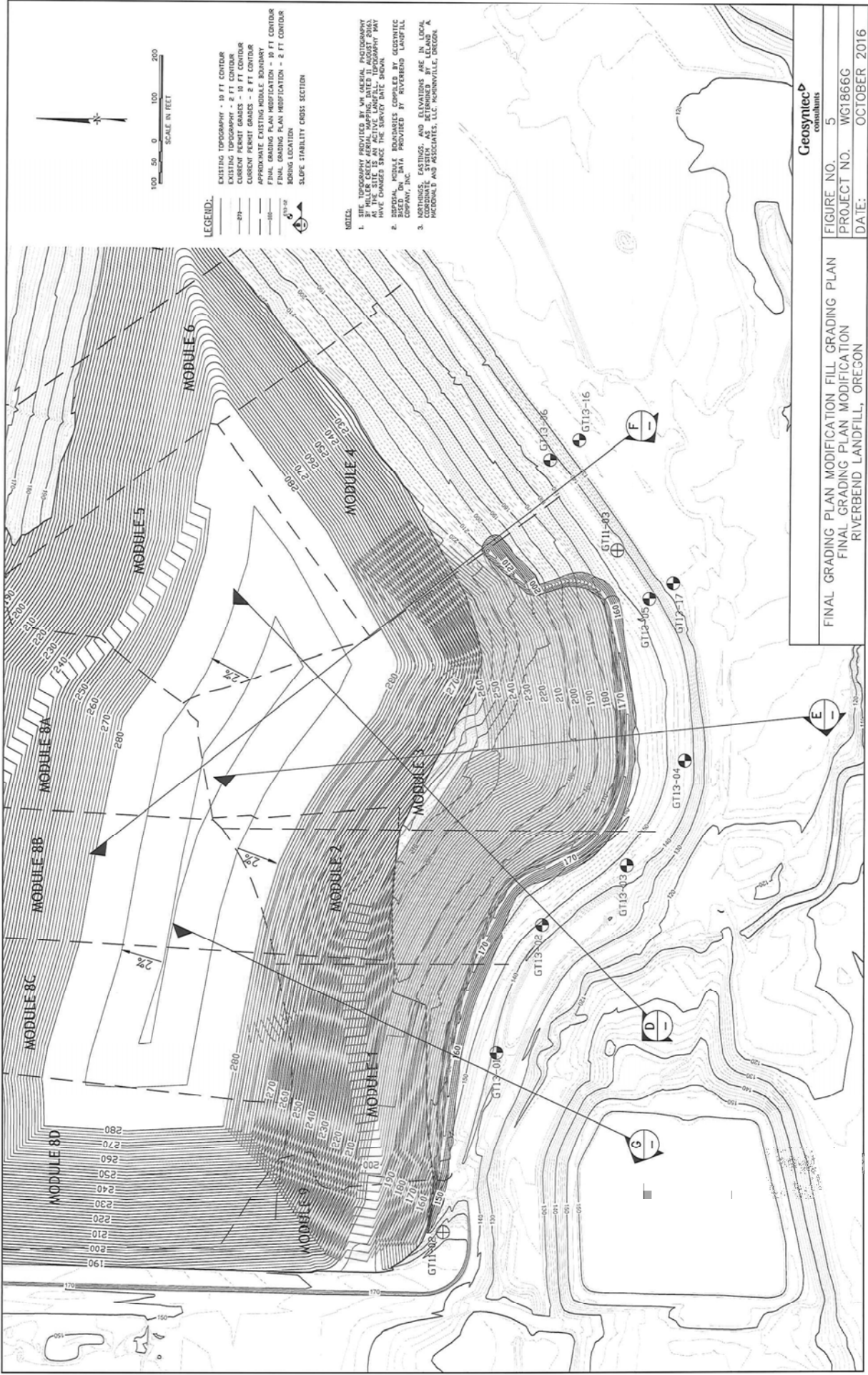
Riverbend Landfill, DEQ Permit Modification (Modified Grading Plan)

1. Riverbend Landfill Co. ("Riverbend") is submitting an application to the Oregon Department of Environmental Quality ("DEQ") seeking a modification to its existing solid waste disposal permit. According to Riverbend, the purpose of the application is to modify the existing grading plan DEQ has already approved for Riverbend Landfill. Prior to submitting the modification application to DEQ, Riverbend has requested a Land Use Compatibility Statement ("LUCS") from the County to document that the proposal is consistent with the landfill's current land use authorization.
2. The County finds that the continued development of Riverbend Landfill involving the creation, redesign, or expansion of waste disposal cells within the area that was previously zoned Public Works/Safety ("PWS") is consistent with Riverbend's existing land use approvals in that area.
3. The County finds that no land use approvals made by the County in the past have imposed restrictions on the lateral or vertical development of the landfill, or the continued operation of the landfill, within the previously-designated PWS zone.
4. In arriving at the conclusions in Finding 2 and Finding 3, the County reviewed documents relating to prior land use applications authorizing the development of Riverbend Landfill. It is clear from the County's prior authorizations that the County has already made a land use decision authorizing the use that is encompassed in Riverbend's proposal for re-grading within the landfill's existing footprint. In May 1980, the Yamhill County Board of Commissioners ("Board") approved an application for a plan amendment and zone change for the development of Riverbend Landfill, then owned by Riverbend's predecessor. At the time the zone change was granted, the County operated under the provisions of its 1976 zoning ordinance. Under the 1976 zoning ordinance, the landfill was an outright permitted use in the PWS zone. The 1976 ordinance did not require site design review for the development of any permitted uses, including a landfill. The 1976 ordinance did not impose any height or grade restrictions on landfill development. The only other provisions applicable to the site at that time were those relating to development in the floodplain, and the County also issued a floodplain development permit allowing fill in the floodplain for the purpose of creating Riverbend Landfill.

5. The modified grading plan is a technical change only to the manner in which Riverbend operates within its currently-approved footprint. It therefore continues the same use that was authorized in 1980, and it continues that use on the same property without reliance on the use of new land that has not previously been used for landfill activities.
6. Riverbend's proposal is also allowed without further review under the County's acknowledged comprehensive plan and zoning ordinance. After operations at Riverbend Landfill commenced, the County did adopt new comprehensive plan provisions and zoning ordinances potentially applicable to Riverbend's property. First, the County modified the PWS zone to require site design review ("SDR"). Although landfills remained as permitted uses in the PWS zone at that time, that use was made subject to the site design review ("SDR") criteria of the new zoning ordinance. Because it was initially approved under Ordinance 76, however, Riverbend Landfill's operation and design plan, which includes its grading plan, was never subject to the County SDR process, although DEQ must still approve the permit which regulates design and operations. Second, the County re-zoned Riverbend Landfill from the PWS zone to an Exclusive Farm Use ("EFU") zone in 2014. The purpose of rezoning the landfill to the EFU zone was to allow an expansion onto surrounding EFU-zoned lands and to allow Riverbend to make more efficient use of another adjacent property previously zoned as Recreational Commercial. The County did not intend for the rezoning process to alter or remove Riverbend's existing land use authority within the landfill's existing footprint.
7. Riverbend's proposal to modify the landfill's grading does not require a floodplain development permit. Riverbend's current proposal does not involve any development within the County's floodplain development overlay area. The County's current floodplain development regulations therefore do not apply to the proposal.
8. The land use approvals granted by the County in 1980 remain in effect, and need not be renewed because there has been no change in the use of the site as a landfill. The operation and continued development of the landfill will be contained within the original site approved by the zone change and plan amendment authorized in 1980. The operation and continued development of the landfill will also be contained within the existing landfill footprint.

9. The above findings are consistent with the County's prior interpretation of its zoning ordinance and Riverbend's land use authorization at Riverbend Landfill. In 1992, Riverbend applied to DEQ for an expansion of its then-existing solid waste disposal permit to accommodate a larger landfill and new facilities such as a leachate holding pond. As part of that process, DEQ sought a LUCS from the County. Although the County initially signed a LUCS indicating the proposed expansion was an outright permitted use, DEQ sought clarification of that determination because the County's zoning ordinance had changed by that time to add the SDR requirement.
10. In response to DEQ's request for clarification, and at the request of Riverbend, the County held a public hearing on the issue. Following that hearing, the Board issued Order 92-282, concluding that the landfill portion of the proposed expansion remained an outright permitted use, because the 1980 application contemplated the natural and progressive development of landfill cells throughout the entirety of Riverbend's property included in the original application. With respect to the new ancillary facilities that were not included as part of the original application in 1980, such as the leachate holding pond, the Board arrived at the opposite conclusion and determined such facilities had not been previously approved and would have to go through the SDR process.
11. The above findings are also consistent with the County's prior issuance of a LUCS since the 1992 decision. In 2012, Riverbend sought a LUCS from the County related to an expansion of the landfill that would utilize a mechanically stabilized earthen berm ("MSE Berm"). The MSE Berm allowed Riverbend to utilize new areas that were outside of the landfill's footprint as it existed at that time, but within the original PWS zone that was part of Riverbend's initial application in 1980. The County determined that the proposed MSE Berm was compatible with Riverbend's original land use authority without further review and made similar findings as above that the proposal continues the same use that was authorized in 1980. That LUCS was appealed to the Land Use Board of Appeals ("LUBA"). LUBA determined the LUCS was valid because the County's 1980 decision authorized the use of the entire property as a landfill, including expansions of the landfill on the property. The Court of Appeals upheld LUBA's decision.

12. In its present application to DEQ, RLI is seeking only to make technical modifications to its currently approved operations, including ensuring the graded areas are designed to magnitude 9.0 earthquake standards. Specifically, Riverbend's application to DEQ addresses only the manner in which it grades waste in the landfill; it does not seek to expand the landfill or to add new ancillary facilities as part of the application. The proposal is therefore wholly consistent with the existing land use authorization for landfill disposal previously approved at this site.
13. With these findings, the County confirms that the continued development of solid waste disposal cells contemplated in Riverbend's original approval remains a permitted use.
14. A copy of Board Order 92-280 is attached to these findings.
15. Although this LUCS is not a land use decision under the County's Zoning Ordinance, in light of the interest in the ongoing operations at Riverbend Landfill, the County will provide notice of this LUCS to property owners within 750 feet of the site.



FILED 53 PAGE 1646

FILED
YAMHILL COUNTY, OREGON
1992 MAY -7 AM 8:43

INDEXED
IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

92-280 FOR THE COUNTY OF YAMHILL

CHARLES STERN
DEPUTY CLERK

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of a)
Determination of Land)
Use Compatibility of)
Yamhill County Land)
Use Regulations with)
a Request to the De-)
partment of Environ-)
mental Quality for a)
Solid Waste Renewal)
Permit by Riverbend)
Landfill; Planning)
Docket M-1-92)

BOARD ORDER 92-280

DEPUTY

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in regular session on May 6, 1992, Commissioners Ted Lopuszynski, Debi Owens, and Dennis L. Goecks being present.

IT APPEARING TO THE BOARD that Riverbend Landfill Company ("RLC") has applied to the Department of Environmental Quality ("DEQ") for a renewal of its solid waste disposal permit to operate Riverbend Landfill in Yamhill County; and

IT FURTHER APPEARING TO THE BOARD that DEQ requires that the County determine whether the proposed permit renewal is compatible with the applicable Yamhill County land use regulations; and.

IT FURTHER APPEARING TO THE BOARD that on March 18, 1992, at the request of RLC, the Board held a public hearing to gather evidence on the issue of the compatibility of the proposed permit renewal application with the applicable Yamhill County land use regulations, and thereafter accepted written evidence until April 6, 1992; and

IT FURTHER APPEARING TO THE BOARD that following deliberations on April 8 and April 15, 1992, that a majority of the Board, Commissioner Goecks dissenting, approved a motion which preliminary determined that the proposed renewal permit was compatible with applicable Yamhill County land use regulations for the reasons stated in the findings attached as Exhibit "1"; and

IT FURTHER APPEARING TO THE BOARD that the findings contained in Exhibit "1" support the Board's determination of land use compatibility and should be adopted in support of a final decision of compatibility; NOW, THEREFORE

BOARD ORDER 92-280
Page 1

IT IS HEREBY ORDERED BY THE BOARD as follows:

1. The Board finds that the proposed solid waste permit renewal application of Riverbend Landfill Company to the Oregon Department of Environmental Quality ("DEQ") for operation of Riverbend Landfill is compatible with applicable Yamhill County land use regulations subject to the limitations regarding "site design review" contained in the findings attached as Exhibit "1". Exhibit "1" is hereby incorporated into this Board Order by reference.

2. County staff shall complete the Land Use Compatibility Statement ("LUCS") provided by DEQ by marking box "9(B)", which states that the proposed permit renewal application "is allowed subject to siting, design, construction or operational standards." Staff shall include a complete copy of this Board Order, the findings and all exhibits to DEQ in explanation of the land use compatibility determination.

3. County staff shall prepare, for consideration by the Board not later than April, 1994 after review by the Planning Commission and Solid Waste Advisory Committee, certain proposed amendments to the Yamhill County Zoning Ordinance. The amendments shall make future solid waste permit renewal applications subject to Site Design Review to the extent that the applications propose expansions, increases or enlargements of the following aspects of landfill operations which are greater than those contained in any renewal permit application filed prior to the date of the ordinance amendments:

- a. Volume control.
- b. Types of waste accepted.
- c. Height of cells and final cover.
- d. Groundwater and leachate management system.
- e. Odor control.
- f. Methane gas collection.
- g. Any revisions on the development plans dated December, 1990 issue to Riverbend Landfill for the solid waste permit application.

4. Notice of this decision shall be given in the same manner as notice of a final land use decision is given.

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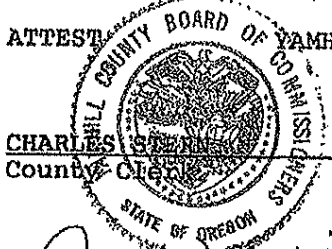
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BOARD ORDER 92-280
Page 2

5. The findings contained in Exhibit "1" are adopted in support of this Board Order.

DONE at McMinnville, Oregon this 6th day of May, 1992.

ATTEST YAMHILL COUNTY BOARD OF COMMISSIONERS



CHARLES STEINER
County Clerk

Ted. Lopuszynski
Chairman TED LOPUZYNSKI

By: *Jaynie Mitchell*
Deputy JAYNIE MITCHELL

Debi Owens
Commissioner DEBI OWENS

FORM APPROVED BY:
John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

EXHIBIT "1"
Findings

Board Order 92- 280

DATE OF BOARD
OF COMMISSIONERS
HEARINGS

March 18 and April 8, 1992

DATE OF BOARD
OF COMMISSIONERS
PRELIMINARY
DETERMINATION

April 15, 1992

DATE OF ADOPTION
OF BOARD ORDER,
FINAL DECISION

May 6, 1992

DOCKET: M-1-92

REQUEST: Endorsement of a Land Use Compatibility Statement for an application by Riverbend Landfill Company to the Oregon Department of Environmental Quality for permit renewal of a sanitary landfill.

APPLICANT: Riverbend Landfill Company

EXHIBITS:

- A. Completed Land Use Compatibility Statement
- B. Section 802 of the 1982 Zoning Ordinance (PWS zone)
- C. Section 29 and Schedule "A" of 1976 Zoning Ordinance (PWS zone)
- D. Section 1101 of the 1982 Zoning Ordinance (site design review)
- E. Board Order 80-262 approving floodplain development permit
- F. Ordinance 236 (plan amendment) and Ordinance 237 (zone change) to designate Riverbend Landfill site "Public"/PWS

EXHIBIT "1"
Board Order 92-280
Page 1

- G. October 20, 1983, letter from Daryl Garrettson, Yamhill County Counsel, to Metro regarding source of waste
- H. November 1, 1991 memorandum from Yamhill County Counsel to Planning Department regarding land use approval requirements

EXPLANATION OF REQUEST

On November 28, 1990, Riverbend Landfill Company ("RLC"), the operator of the Riverbend Landfill (the "landfill") located southwest of McMinnville, submitted a solid waste disposal permit renewal application to the Department of Environmental Quality ("DEQ"). The application included a Land Use Compatibility Statement ("LUCS"). In essence, the LUCS is a report to DEQ stating whether the activities proposed in the application before DEQ are "compatible" with the local government's plan and land use regulations. In completing the LUCS, DEQ requires an affected local government to state whether the uses proposed by the application are permitted outright, permitted subject to standards, prohibited or not addressed by the county's comprehensive plan and zoning ordinances.

The LUCS submitted with RLC's application to DEQ on November 28, 1990 had been completed by Yamhill County's senior planner. On the appropriate part of the LUCS, the senior planner had marked the box which stated that the landfill was allowed outright under the county's comprehensive plan and land use regulations.

On March 25, 1991 the DEQ engineer who reviewed the permit renewal application wrote RLC's manager regarding certain additional information necessary to process the application. The engineer suggested that RLC obtain clarification from the county that the application was compatible with the county's plan and zoning ordinance, notwithstanding the senior planner's completion of the LUCS in 1990.

On November 1, 1991 the county's legal counsel provided DEQ with a copy of his opinion to the planning director. In the opinion, county counsel stated that the landfill itself was an outright permitted use based on the county's 1980 approval under then existing zoning provisions, but that any new facilities were required to be processed under the site design review provisions of the zoning ordinance.

In response to DEQ's request that the county clarify its stated position that the landfill operation itself was an outright permitted use, RLC's manager sent a letter to county counsel on

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February 12, 1992 requesting that the county "conduct a public proceeding before issuing a Land Use Compatibility Statement for use by DEQ in its permit renewal process". The letter also stated that RLC believed the decision to be ministerial in nature. The Board of Commissioners (the "Board") agreed to conduct the hearing. County planning staff was directed to give notice of the hearing in the same manner notice is given in a discretionary land use hearing.

On April 15, 1992, following a public hearing on March 18, receipt of additional evidence through April 6, and deliberation on April 8, the Board adopted county counsel's November 1, 1991 opinion (Exhibit "H") and determined that the appropriate response to the LUCS was to mark box "9(B)" on the LUCS. Box "9(B)" stated that the landfill "is allowed subject to siting, design, construction or operational standards." The Board's decision was based on its determination the proposed permit application was allowed as a permitted use in the PWS zone, but that the zoning ordinance required that any new facilities be reviewed under the site design review provisions of the ordinance.

ELEMENTS OF RENEWAL PERMIT APPLICATION; CHRONOLOGY OF EVENTS

A. Elements of Renewal Permit Application.

The major elements of the solid waste renewal permit request made to DEQ by RLC on November 20, 1991 are the following:

- (a) Future disposal cell construction;
- (b) Leachate management;
- (c) Methane gas monitoring and collection;
- (d) Ground and surface water monitoring;
- (e) Storm and surface water management;
- (f) Closure and post-closure and facility operation.

B. Chronology of Events.

The following is a chronology of actions taken by the county that pertain to ordinance provisions and to the RLC property:

1970 Solid Waste Ordinance adopted.

- 1976 Zoning Ordinance adopted (Ord. 76). Landfills allowed outright in PWS zone, not subject to site design review.
- 1978 Solid Waste Ordinance amended (Ord. 154).
- 1979 Proposals for disposal franchise to operate landfill requested by county. RLC submits only proposal.
- 1980 January 23 - Solid Waste Advisory Committee hearing and recommendation to grant disposal franchise and Plan amendment/zone change to RLC
 February 6 - Board granted disposal franchise to RLC (B.O. 80-73)
 May 7 - Board hearing and approval of conditional use/floodplain permit (Docket CFP-16-80)
 May 14 - Board hearing and approval of Plan amendment/zone change (Dockets PA-79-80 and Z-180-80)
- 1981 November 25 - DEQ issued five-year solid waste disposal permit
 December 24 - Board extended franchise agreement to January 1, 2003
- 1982 January 13 - Revised landfill rates established (B.O. 82-15)
 December 1 - Zoning Ordinance amended, made permitted uses in the PWS zone subject to site design review.
- 1987 DEQ renewed RLC's solid waste disposal permit

HISTORY OF RIVERBEND LANDFILL

In 1979, the Yamhill County determined that the County's only two landfills, the Newberg and Whiteson Landfills, would reach capacity sooner than expected. Accordingly, the County decided to issue a request for proposals from the private sector to enter into a disposal franchise to develop and operate a new landfill to receive waste from areas served by Newberg and Whiteson Landfills. The Whiteson Landfill, owned by the County but operated by the future developers of Riverbend Landfill, was receiving waste from

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south central Yamhill County. The Newberg Landfill, privately owned and operated by Angus MacPhee, was receiving waste from Yamhill County and parts of Washington County.

On December 19, 1979, in response to the request for proposals, RLC submitted an application for the development of a new landfill at the current location. Following staff review, the application was referred to the Yamhill County Solid Waste Advisory Committee ("SWAC") for its review and recommendation.

On January 23, 1980, SWAC held a hearing to consider the applications received for solid waste disposal franchise. RLC's proposal for the development of a landfill at the current site was reviewed, including the need for a rezone to "Public Works Safety" and an amendment to the County's Comprehensive Plan. Following the public hearing the SWAC recommended to the Board of Commissioners (the "Board") that the County grant a disposal franchise to RLC and approve the rezone and plan amendment for the proposed landfill. The county planning commission also recommended approval of the requested zone change and plan amendment.

In May, 1980 the Board approved RLC's application for a plan amendment and zone change for the development of the Landfill. The plan map designation was changed from "agriculture/forestry large holding" to "public works safety". (Ordinance 236, May 14, 1980.) The zone map designation was changed from "EF/40-AF/20" to "PWS" ("public works safety"). (Ordinance 237, May 14, 1980.)

In connection with the application for the plan and zone map amendments, the Board also granted a conditional use floodplain permit allowing the deposit of fill within the 100-year flood plain of the South Yamhill River. As with the zone change, the floodplain development permit was approved under the provisions of the 1976 zoning ordinance. Conditions were attached to conditional use. These conditions related to the construction of a dike, roadway width within the landfill, access to Highway 18, groundwater and Yamhill River quality, engineering and hydrogeology, and compliance with state and federal environmental and floodplain requirements (Exhibit E).

At the time the zone change was granted, the County operated under the provisions of its 1976 zoning ordinance. (Exhibit "C".) Under the 1976 zoning ordinance, a sanitary landfill was an outright permitted use in the PWS district. The 1976 ordinance did not require site design review for the development of any permitted uses, including a landfill. The 1976 ordinance did not include any distinction between regional and non-regional landfills nor impose any height or grade restrictions on landfill development. There were no additional restrictions imposed on the Riverbend Landfill restricting its authority to receive waste from outside Yamhill

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County.

In an October 20, 1983 letter from Daryl S. Garrettson, county legal counsel, to Dan Duric, Director of Solid waste for the Metropolitan Service District, the county confirmed that Riverbend was authorized to receive waste from outside Yamhill County. The letter provided as follows:

"I have been requested by Ezra Koch, franchise operator of Riverbend Landfill, to send you a letter indicating the County's position regarding the receipt of waste from the Metropolitan Service District areas. At this time, Riverbend Landfill is franchised by Yamhill County pursuant to our Solid Waste Ordinance. The conditions for franchise do not restrict where waste can come from. The County at this time does not intend to place any restrictions relating to the source of waste disposed of at the Riverbend Landfill. . . ."

RLC obtained a solid waste disposal franchise from the County in 1980. (B.O. 80-73.) To allow for Pollution Control Bond financing of the Landfill's development, the County extended the franchise in 1981 to 2003. (B.O. 81-659.) By letter dated October 15, 1981 DEQ approved the proposed geotechnical study, design plans, and operational plans prepared for the first cells of the Riverbend Landfill. At the time DEQ required only a five-year operating plan, not a plan for the operation or design for the full development of the facility. On November 6, 1981 RLC received approval from DEQ for a solid waste disposal permit. (Solid Waste Disposal Permit No. 345) Rates for disposal were set in 1982 (B.O. 82-15), and the Landfill commenced operations.

After the Landfill had commenced operations, the County adopted a new zoning ordinance. (Ordinance 310, December 1, 1982. Excerpts from the PWS section are attached as Exhibit "B".) Although a "sanitary landfill" continued to be a permitted use in a PWS zone, it was made subject to the site design review criteria of the ordinance. (Excerpts from Ordinance 310, as amended, relating to site design review are attached as Exhibit "D".) Thus, had the zone change to PWS been approved after the enactment of Ordinance 310, the Landfill operation and design plan would have been required to be processed under site design review. Because it was approved under Ordinance 76, the Landfill's operation and design plan has never been subject to County site design review, although DEQ must still approve the permit which regulates operations. In the zone change and comprehensive plan amendment there were no limitations placed on the final grade or capacity of the Landfill.

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EFFECT OF THE 1980 APPROVAL ON THE 1990 RENEWAL APPLICATION

The land use approvals granted by the County in 1980 remain in effect, and need not be renewed because there has been no change in the use of the site as a sanitary landfill. The operation and continued development of the Landfill will be contained within the original site approved by zone change and plan amendment in 1980. Only RLC's proposal to construct new facilities in conjunction with operation of the landfill require site design review approval. Included in these facilities are leachate collection facilities proposed to be constructed in the PWS zone. As an ancillary use necessary to the operation of the Landfill, the leachate facilities are a permitted use within the PWS zone; however, because they are constitute new facilities, they are subject to site design review.

The intent of RLC was clearly stated in its 1980 application form, in answer to the question, "Exactly what do you want to do with the property?":

"We wish to use the property as a regional sanitary landfill to replace the facility just south across the Yamhill River. Two structures are contemplated. (1) a small office building next to the entry road and (2) a metal shed-type building on site for a recycling facility. We propose to use not more than 20 acres at one time. Balance of the acreage will continue as a farm. Used land to be restored to farm usability."

The initial five-year operation and design plan for the first cells of the landfill was completed nearly one year after the land use approval process was complete. No final elevation or grade was agreed to as part of the land use approval process or the disposal franchise between RLC and the County.

When the County issued its request for proposal and RLC responded, it was clear that waste from Washington County was being disposed of at the Newberg Landfill. It was also clear that the Riverbend Landfill was going to replace the Newberg and Whiteson Landfills following their closures. The solid waste disposal franchise between the County and RLC contained no restriction on receipt of waste from outside Yamhill County. Consistent with this, from the start of operations at the Riverbend Landfill, the County has approved of the importation of solid waste from outside Yamhill County. Later, the County applied surcharges against the out of county waste to finance its solid waste activities and to fund potential remediation of Newberg and Whiteson Landfills. Additionally, the solid waste disposal franchise issued to RLC in advance of the land use approvals did not contain any restrictions on the size or height of the Landfill.

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New required accessory uses such as a new leachate storage lagoon or new holding tanks, would be permitted uses (as accessory to a sanitary landfill). However, because those uses would be facilities, establishment of the uses would be subject to site design review under the 1982 ordinance. The County draws a distinction between the primary landfill cell development which was contemplated in the original application and the development of modified or new facilities proposed or required as accessory uses to landfill operations.

The continued development of solid waste disposal cells contemplated in the original approval of the rezone and comprehensive plan amendment remains an outright permitted use. No land use approvals made by the County imposed restrictions on the lateral or vertical development of the Landfill within the PWS zone. Issues relative to the engineering or environmental safety or appropriateness of landfill design and operation were left to be addressed by DEQ in its review of the Landfill's operating permit.

Consistent with the land use approvals for the Landfill, the solid waste disposal franchise issued to RLC in advance of the land use approvals also included no restrictions on the size or height of the Landfill or the source of solid waste allowed to be disposed at the Landfill.

Leachate spray irrigation is a permitted use, as an accessory use to the Landfill. Leachate spray irrigation is also a permitted use on property zoned for exclusive farm use to the extent it meets the requirements of DEQ. From its inception Riverbend has spray-irrigated leachate on land designated for exclusive farm use. Since the crops irrigated with leachate have been cultivated and fed to livestock, we find that spray irrigation of leachate constitutes a "farm use" as defined by ORS 215.203 and is permitted on EFU property. This view is consistent with the Land Use Board of Appeals determination in Swenson v. DEQ, 9 Or LUBA 10 (1983).

Through a mapping error made at the time of the 1980 zone change and plan amendment for this site, the entire 229-acre site was not rezoned to PWS as intended. An error in modifying the zoning map following the rezone of the site resulted in nine acres of the site remaining in the EF-40 zoning district, an exclusive farm use zone. To change the zoning on that nine-acre parcel to match the 1980 rezone ordinance would now require a separate proceeding to cure the mistake. Because the only landfill-related use occurring on the nine-acre tract is the spray irrigation of crops, and no other use of the property is proposed, we believe the use is compatible with the County's land use regulations.

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APPLICABILITY OF COMPREHENSIVE PLAN POLICIES

The LUCS requires only that the county determine whether the proposed application is compatible with the county's plan and zoning ordinance. It does not specifically require analysis of comprehensive plan goals and policies. However, the Board has reviewed the comprehensive plan policies and finds that the proposed permit application is compatible with the Comprehensive Plan. The Board finds that no plan goals and policies include standards for approval, but instead deal with patterns of development, broad statements of coordination, and the encouragement of certain programs.

No comprehensive plan policies that impose mandatory approval standards on the landfill operation or address regional landfills have been identified by staff or parties to the public hearing. Because the following plan policies could arguably relate to the operation of the landfill, they are each addressed. However, the Board finds for the reasons stated that the proposed permit renewal is consistent with the comprehensive plan. Additionally, the Board finds that the plan policies and goals are satisfied for the reasons stated in Exhibit "A" of Planning Commission Resolutions PA-79-80; Z 180-80; CFP 16-80, which are hereby adopted and incorporated herein by reference.

1. Goal I.A.1 - Urban Area Development

To encourage the containment of growth within existing urban centers, provide for the orderly, staged, diversified and compatible development of all of the cities of Yamhill County, and assure an efficient transition from rural to urban land use.

Support for orderly development of the urban areas of the County must include a stable and economic waste disposal facility. The proposal serves this function. Moreover, as a DEQ-approved recycling center, the Landfill helps to promote orderly development in urban areas.

2. Goal I.B.2 - Rural Area Development

To provide an adequate amount of land, development areas and sites to accommodate those uses which are customarily found in rural areas or require or are better suited to rural locations, without compromising the basic goal relating to urban containment and orderly urban development.

The 1980 approval of this long term landfill site, and the proposed renewal, carry out the purpose of this goal. The site is

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large enough to handle and contain the area's waste disposal needs for years to come, yet the operation remains compatible with neighboring farm use. As a DEQ-authorized recycling agent, the Landfill helps to reduce the need for landfill space, and thus prolongs the useful life of this site as a landfill. We find that prolonged operation at this site is preferable to developing another landfill.

3. Goal I.E.1 - Economic Development

To maintain a rate and pattern of economic growth sufficient to prevent recurring high levels of unemployment and underemployment in the County, balance the real property tax base of the various cities and strengthen local economic bases.

Policy I.E.1.b

Yamhill County will encourage economic development projects which do not conflict with the predominant timber and agricultural character of the County.

The flexibility given to RLC to manage the development of the Landfill and the volume and sources of solid waste allows for reliable disposal and stable, predictable rates that contribute to and support economic development.

4. Policy VI.2.k

Yamhill County will encourage programs for resource recovery and recycling of solid wastes.

The Riverbend Landfill provides recycling of a variety of materials under DEQ authority. The continuing land use approval for this operation and the DEQ permit renewal support this policy.

5. Policy VII.A.a - Citizen Involvement

Yamhill County will continue to implement an ongoing citizen involvement program that provides County residents opportunity to be involved in all phases of the planning process.

As described in Subsection I of these findings, the solid waste advisory committee (SWAC) was heavily involved in the 1980 consideration of the RLC application for the Riverbend Landfill. In addition, the County's Solid Waste Management Plan Policies and Implementation Measures and related Background Report were developed with extensive review and revision by the SWAC. Both the SWAC and the Board of Commissioner believe the planning process to

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be ongoing. The County intends to continue the planning process with extensive involvement of the SWAC.

6. Policy VII.B.c

Yamhill County will encourage federal, state and regional agencies and special districts to coordinate their planning efforts with those of the County.

The County relies on the planning and expertise of DEQ to assure that the County-approved land use as a Landfill will continue to operate in an environmentally sound manner.

APPLICABILITY OF SOLID WASTE MANAGEMENT PLAN

On March 6, 1991, the Board of Commissioners adopted "Yamhill County Solid Waste Management Plan Policies and Implementation Measures" and a related Background Report. The plan was prepared by a consultant, R.A. Wright Engineering, in conjunction with the County staff and the County's solid waste advisory committee. The plan provides a strong general policy framework while being sufficiently flexible to respond to rapid changes in circumstances surrounding solid waste disposal.

The Solid Waste Management Plan does not contain mandatory approval criteria for determining land use compatibility. Further, it is not part of the comprehensive plan or zoning code. Although it is therefore unnecessary to address the Solid Waste Management Plan in order to address land use compatibility, the Board finds that the Solid Waste Management Plan is nonetheless compatible with the proposed permit application for the reasons stated below.

The current proposal for permit renewal is compatible with the each of the following policies in the "Solid Waste Disposal" category of the Solid Waste Management Plan:

1. Yamhill County recognizes that the life of the Riverbend Landfill should be maximized, within a reasonable rate structure, to meet the needs of Yamhill County residents and businesses.

The renewal proposal includes changes which update the facility in accordance with state and federal regulations and advances in landfill technology. These changes are consistent with maximizing the useful life of the facility. Continuing to update the existing facility is a far more economical approach to landfill siting than the alternatives of constructing a new facility or

exporting solid waste. This approach is consistent with the objective of maintaining a reasonable rate structure.

2. Yamhill County recognizes that the importation of wastes from outside Yamhill County is appropriate to support the availability of a landfill within the County and to stabilize in-county rates.

This proposal continues the practice of accepting a limited amount of waste from outside the County, which is consistent with the expectation and intent of the original approval and the disposal franchise entered into with RLC. The County will continue to assess a surcharge against out of county waste to fund the County's solid waste programs and to provide a form of insurance to pay for closure or post-closure costs relating to Newberg Landfill and other landfills within the county.

3. Yamhill County will work cooperatively with the operator of the Riverbend Landfill to monitor out-of-county wastes on a continuous basis, and may establish limitations on out-of-county wastes to balance local rates and landfill life.

This policy speaks not to restrictions of a land use but to the contractual obligations between the County and RLC as set forth in the solid waste disposal franchise. The application proposes no changes which would undermine this policy.

OTHER ISSUES RAISED

A number of issues have been raised that are beyond the scope of this proceeding. The Board finds that the scope of this proceeding is limited to evaluating the compatibility of the proposed permit application with Yamhill County's comprehensive plan and zoning ordinance. The Board's responsibility in this case does not include reopening the original land use approvals and relitigating the issues. The landfill has received prior approval. The new leachate lagoon has not. The lagoon aspect will be subject to site design review. The design and related issues will be addressed when that application is heard.

The LUCS process is an aspect of a five-year permit renewal process conducted by DEQ. While DEQ needs to know the zoning status of the landfill, nothing in its regulations or the County's zoning code require the applicant to bear the burden of reapplying for local land use approvals previously obtained. The essentials of the LUCS determination in this case are:

1. Landfills are a permitted use in the applicable zone.

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2. The landfill was previously approved through the applicable County plan amendment, zone change and conditional use processes.

3. The leachate lagoon, which was not previously approved, is a permitted use, accessory to the landfill, but subject to design review.

These conclusions have not been contested during the hearing process. Many other issues have been raised which may be relevant to the franchise amendment process or the DEQ permit renewal, but the applicant bears no burden to address franchise or DEQ issues. Neither must the applicant readdress previously approved uses as if the LUCS process were a new zone change or conditional use application. For this reason the applicant has no burden to readdress the comprehensive plan.

Many of these issues were raised during the original approval process, or could have been. The time for challenging those approval decisions has long since passed.

With respect to the following issues we find that they are either outside the proper scope of this proceeding or incorrect characterizations of the original land use approvals:

A. Limitations on Use Claims.
 1. Regional Landfill Issue.

The claim has been made repeatedly that the landfill has become "regional," in violation of the original zone change, by accepting out of County materials. We reject the claim.

For the reasons stated above, the zone change and plan amendment did not limit the landfill to waste generated inside Yamhill County. Opponents have attempted to imply a local source condition from certain statements from the applicant during the zone change process. We find, however, that the applicant clearly expressed the intention to use the facility for waste generated outside Yamhill County. The County's agreement with this intention is demonstrated by the evidence indicating our participation in contracts permitting the receipt of waste from the Metro and Columbia County areas and our adoption of ordinances imposing surcharges on out of county waste.

No local source only condition was ever imposed at the time of approval. In fact, the DEQ definition of "regional landfill" relied on by opponents, did not exist until long after the zone change and plan amendment were granted and therefore could not have been the basis for such a condition.

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2. Expansion Claim.

The argument that the applicant is now creating a regional landfill is closely related to the claim that a new land use decision is necessary due to proposed expansion. We adopt county counsel's November 1, 1991 memorandum (Exhibit "H") to explain the error in this notion. We reject the claim.

The mischaracterization of this application as an expansion clearly began with a March 25, 1991 letter from DEQ to Robert Emrick of RLC. The testimony Joe Gingerich, DEQ's representative in the public hearing on the LUCS, established to our satisfaction that the misunderstanding was based upon review of a site plan showing less extensive development than is reflected in the current permit renewal materials. Other testimony established that this site plan was not part of the original zone change proposal. In fact, the site plan reviewed by DEQ did not even exist until long after the zone change and plan amendment were granted.

3. Volume and Height Claims.

Various claims have been made regarding conditions limiting volume or height. No such conditions were attached to the zone change or to the plan amendment.

The height limit claims relate to statements regarding the height of tree buffers. We find no basis in these statements to infer a height limitation.

The volume limit claim is based upon information provided by the applicant, in the context of proving public need, describing then current County waste volumes. The information does not relate in any way to a yearly cap on waste volume. In fact, if volumes are now higher, the case for public need for the landfill is more compelling.

4. Return to Farm Use.

Several persons cited ORS 459.055 regarding returning landfills to EFU uses. The fundamental problem with raising this statute in the current proceeding is that it applies to DEQ decision-making and not to the County. Moreover, it applies to establishing landfills on EFU land. The current process involves neither EFU land nor establishment of a new landfill.

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B. Claims of RLC's failure to comply with other governmental requirements.

1. State and federal permit compliance.

The Board finds that complaints of non-compliance with state and federal permits are beyond the scope of this proceeding. DEQ has authority to determine whether its permit is being violated, and has adequate ability to take prompt action in the event of non compliance. The landfill can continue to operate only if it complies with state and federal permits.

This reasoning applies to air quality claims as well.

2. County water resource policy compliance.

We find no evidence that any of the County's Water Resource policies have been violated. While an assertion has been made that these policies have been violated, no evidence was presented. The only factual evidence presented regarding potential water contamination related to a different landfill in a different location. This evidence is not relevant to the current proceeding. Continued compliance with DEQ regulations and Corps of Engineers requirements assure compliance with the County's water resource policies.

3. Fish and Wildlife.

Broad concerns were also raised regarding potential impact on fish and wildlife. As with other environmental claims, no evidence was offered to establish current or likely harm. The evidence that fish and wildlife are being protected is the continuing compliance with DEQ regulations relating to water quality and the handling of leachate. We accept this as persuasive.

4. Water Quality Claims.

Concerns were raised which related to comprehensive plan policies regarding Public Facilities and Services relating to groundwater, Environmental Quality plan language relating to enforcement and to Agricultural Lands language because of concern about waterborne contamination.

The record is clear that the County relies upon DEQ's permit and enforcement processes to ensure compliance with all water quality related conditions. The record demonstrates that DEQ has issued all required permits. It is only through compliance with those permits and DEQ's regulations that the landfill can continue to operate.

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C. Other Concerns.

Additional concerns related to traffic, scenic views, economic development and tourism. In this proceeding the applicant does not have the burden of addressing or readdressing those matters which could have been addressed during the zone change process which sited the landfill. The LUCS process does not reopen the door to relitigating the original siting decision.

While concern has been expressed about traffic, no evidence has been introduced establishing increased levels of accidents or that any of the roads serving the facility are beyond capacity.

Likewise, no special view or vista which has been inventoried for our comprehensive plan has been demonstrated to be affected.

We also find that the economic development concerns are outweighed by the fact that an available landfill facility, and stable rates, are necessary to support the County's employers. The original decision to site a new landfill was based upon the Board's understanding of the importance of having a landfill within the County. No reason has been offered which would lead us to re-evaluate the wisdom of the previous decision.

Given the buffering that exists on the site, we do not believe there will be any significant impact of the landfill on tourism. While this is a concern which has been expressed in testimony, if any evidence existed to indicate that the presence of the landfill has harmed the tourist industry in the County it could have been presented during the hearing and was not.

CONCLUSION

The use of the site as a landfill is an outright permitted use that is compatible with current County plan policies and land use regulations. The proposed changes in the leachate holding facilities are permitted accessory uses to a landfill in the PWS zone, but they require site design review approval.

The proposed permit renewal application is compatible with Yamhill County's comprehensive plan and land use regulations, subject to site design review requirements for new facilities as stated in county counsel's November 1, 1991 memorandum. The county should return the Land Use Compatibility Statement to DEQ with box "9(B)" marked, with a copy of these findings and the implementing Board Order attached to provide the basis for the Board's determination of compatibility.

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23. What impact will your proposed development have on the following?
Traffic? (Estimate trips per day to be generated as a result of your development.) Approximately 1,000 vehicles per month. State Highway Department has been requested to survey possible need for left turn lane.

Parking? (How many parking spaces will be needed?) The working area will provide adequate parking for three or four employees.

Schools? (How many students will be added to existing schools?) None.

Fire Protection? (Will your proposed development place a burden on the fire department serving your area?)

No. We have our own fire truck.

Police Protection? (Will your proposed development place a burden on the police department serving your area?)

No more than presently caused by Whiteson Fill.

Dust, Odor, Noise? (Will your proposed development create any unusual nuisances that may be objectionable to nearby residents?)

There is little or no dust problem projected. Frequent cover virtually eliminates odor. There will be noise from the tractor when in operation--about the same as the farm machinery--less than the moto-cross track.

24. Discuss how your application conforms to the goals and policies of the Yoshill County Comprehensive Plan, 1974, which the Comprehensive Plan was adopted by the Yoshill County Board of Commissioners in 1974 and gives direction to all changes in existing land use in Yoshill County. A summary of these goals and policies is available to you at no charge in the Planning Department.

(See proposed findings.)

6-Exhibit A

(3)

35. Discuss how your application conforms to the Statewide Planning Goals adopted by the Land Conservation and Development Commission. If your request does not conform to any particular goal, discuss why an exception should be taken to that goal to allow your development to occur (Goal #2).

(See proposed findings.)

The undersigned understands that this application must be complete and accurate; that the fee for a zone change or plan amendment, as required by Yamhill County, shall be paid prior to having this application processed; that an official public hearing after at least thirty (30) days public notice will be held by the Yamhill County Planning Commission; that after the hearings on zone changes the decision of the Planning Commission is final unless appealed to the Board of Commissioners within fifteen (15) days of the decision, and after the hearings on Comprehensive Plan amendments the recommendation of the Planning Commission will be presented at a further public hearing before the Board of Commissioners on the application; and that notice of all hearings shall be made in the manner as prescribed in Section 48 of the Yamhill County Zoning Ordinance, Ordinance No. 83, 1976.

The undersigned also agrees to waive the requirement of Section 43.400 of Ordinance No. 43 that a public hearing be held within sixty (60) days of receipt of an application, if it appears to the Planning Director that this requirement is not reasonable due to excessive applications pending before the Planning Commission.

Applicant's Signature _____
Date _____

7-Exhibit A
11/77

(6)

15. What changes, if any, have occurred in your neighborhood or community since August, 1974 which should be considered in evaluating this application? NOTE: August, 1974 is the date of adoption of the Yamhill County Comprehensive Plan.

In 1974 it was projected that the present landfill, located at Whiteson, would serve south and central Yamhill County until the year 1986 at which time it was contemplated that waste from this area of the County would be taken to the Newberg Landfill. Since that time, increased usage of the Whiteson site has resulted in changed projections. Those projections now anticipate that the Whiteson Fill will reach its capacity in the year 1981. Further, the lack of a suitable landfill site within the boundaries of the metropolitan service district has resulted in garbage and waste from Washington County, and especially the Tigard area, being transported to the Newberg Landfill. This has resulted in the shortening of the Newberg Landfill life expectancy to six years, or the year 1986. The addition of McMinnville area garbage would shorten that life expectancy to three years. (See attached letter from Newberg operator. The City of Newberg has requested that, given the shortened life-expectancy of the Newberg Fill, that it (the Newberg Fill) not be considered as an alternative for the south and central areas of Yamhill County.

17. What effect would the proposed development have on the use of nearby residential, commercial or industrial development, agricultural lands, mineral resource sites (including rock and gravel), and the quality of water and air generally? Indicate which, if any, are not applicable to this application.

The development in question will have no impact on mineral resource sites. In regard to air and water impact, the proposed landfill would be governed and monitored by the Department of Environmental Quality, the State of Oregon, and Yamhill County. These agencies have developed regulations which must be followed, and which will prevent the contamination of any air or water resources. The soils of the proposed property are cove, silty clay loam, thick surface (0-28 slope). The permeability of this soil is 0.06 inches per hour or less at a depth of 16.24 inches. For all practical purposes, this soil could be termed "impervious" and would prevent contamination from seeping into regional or permanent water tables. In addition, monitoring wells would be drilled to test ground water to ensure that no contamination in fact occurs.

In regard to air quality, DEQ requires that frequent cover be placed over the dumped waste materials to ensure that odors are not generated. The surrounding residential or commercial uses on adjacent property would be screened from view by construction of a containment berm. The property is surrounded by trees, approximately 30 feet to 60 feet high, which provide a visual barrier. It is anticipated that no sight contamination will result from the use. In the event a sight contamination did develop, the applicant would plant appropriate screening.

Regarding agricultural uses, the property for which this application is made would, itself, be an agricultural use except for approximately 20 acres which will be taken out of agricultural production for landfilling purposes. When those 20 acres are filled, a new 20 acres will be utilized and the previous filled area will be re-converted to agricultural uses.

(7)

8 - Exhibit A

The top soils will be segregated out and reserved for use as a final cover of the filled materials. Since the filling operation will be surrounded by its own internal agricultural uses, it is anticipated that no impact will result to surrounding property agricultural uses.

20. What public need, if any, would be met by the proposed change that is not already met by other available property in the County? The State-wide Planning Goals and Guidelines (as adopted by the Land Conservation and Development Commission) should be consulted in determining public need. NOTE: The greater the departure from the present zone/plan designations, the greater the burden on the applicant to demonstrate public need.

Approximately 17,500 cubic yards of waste materials a month are presently being generated and filled in the central and south areas of Yamhill County. This material must be disposed of in compliance with State law (i.e., landfilling). The present landfill site at Whitson in which these materials are presently being disposed, will be filled in 1981. The only other site in Yamhill County is located at Newberg, and that site will be full in 1986. The Newberg site is presently receiving garbage from north Yamhill County and southern Washington County (especially Tigard). If garbage from the south-central area of Yamhill County was sent to the Newberg site, it is anticipated that that site would be full in the year 1983. The mayor of the City of Newberg has asked the County not to rely on Newberg as an alternative site when the Whitson Landfill is full. There is no other property presently zoned for a landfill in Yamhill County. The nearest operating site outside of Yamhill County is located in Salem, and has a present life expectancy of four years.

In regard to other properties in the County of a general nature, this property is better suited for the following reasons: it is centrally located to the service area in that it is centered in the McMinnville-Amity-Shoriday triangle, and close to the primary generator of waste materials, the City of McMinnville. Because of this, it would reduce transportation costs and the use of fossil fuels. The property is predominantly flood-plain, which will result in reduced excavation costs which in turn will reduce operating costs, which in turn will result in decreased dumping costs to the general public. The soils of the subject property are predominantly cove, silty loam with a permeability rate of 0.06 inches per hour or less at a depth of 16 - 24 inches, which will, therefore, result in no contamination of ground water. The property in question is isolated by the Yamhill River and screened by trees 30 to 60 feet high, and thereby will result in no visual impact on surrounding uses. The surrounding property owners do not object to a landfill operation, and the property in question is directly accessed by Highway 18, a major state highway, resulting in no impact on sub-standard country roads from heavy traffic. The property is also located directly across the Yamhill River from the present landfill site.

In addition, as part of the disposal franchise process, the applicant will be undertaking a waste-reduction program on the landfill site by providing a recycling center. Further, the applicant will, as part of his hauling operation, be conducting a pilot program in the City of

(8)

9-Exhibit A

McMinnville for the purpose of picking up source-separated recycling materials from McMinnville area residents. In cooperation with Yamhill County and the Yamhill County Recyclers, a waste reduction program for the County as a whole has been developed which will be partially financed by a recycling surcharge to be placed on materials dumped at the landfill. It is hoped that, by developing this waste reduction program, a reduction in the monthly amount of waste materials presently being landfilled will result. Given the fact that 17,500 yards of waste materials are being generated each month, and that recycling efforts cannot presently utilize all of these materials, it is necessary that the materials be disposed of in a safe and legal manner. Therefore, the only alternative available to Yamhill County is to provide for a landfill site.

21. Is there other land in the County presently recognized to allow the type of development you have requested? If so, why can't the proposed development occur on that land or is there a particular reason why your property is more suited for the development? NOTE: Evidence must be provided by the applicant which clearly indicates that the proposed land use is better suited to the proposed site than other areas in the County already zoned and/or planned for that use.

There are presently only two areas planned and zoned for sanitary landfills within Yamhill County. Those areas are Whiteson and Newberg. The Whiteson site will be full in 1981, and Newberg in 1986. If the waste materials of the south and central areas of Yamhill County are sent to the Newberg Landfill, its life expectancy would be reduced to completion in the year 1983. Further, it would be inefficient to transport waste materials an additional 13 miles to Newberg, resulting in increased use of fossil fuels. In addition, see the answer to number 20 above for the suitability of the property.

10-Exhibit A

(9)

EXCEPTIONS STATEMENT

FILM 34 PAGE 1891

Since the proposed application will be taking agricultural lands and forestry lands out of production and placing those lands in non-farm or forest uses, i.e., landfilling, statewide Goals No. 3 and No. 4 would be violated and an exception is required under Goal No. 2. For that reason, the following are the Findings in justification of an exception to statewide Goals No. 3 and No. 4.

NEED

Approximately 17,500 cubic yards of waste material are presently being generated in the south and central areas of Yamhill County. These materials must be disposed of in compliance with state law, i.e., landfilling. The present landfill for the south central area of Yamhill County, located at Whiteson, will be full in 1981. The only other landfill site in the County is located at the Newberg area and it is anticipated that landfill will be full in 1986. The Newberg site is currently receiving waste materials from not only north Yamhill County, but also southern Washington County. If waste materials from the south central area of Yamhill County were added to the Newberg site, it is anticipated that it will be full in 1983. The mayor of Newberg has specifically requested that the County not rely on the Newberg site as an alternative when the Whiteson landfill site is full. There are no other presently zoned landfill sites within Yamhill County. The nearest operating site outside Yamhill County is located in Salem and has a present life expectancy of four years. The Oregon State Legislature has provided, through Oregon Revised Statute, Chapter 459, that disposal of waste materials is a matter of statewide concern. In addition, they have set forth in those statutes and in the rules adopted pursuant thereto, the acceptable manner of disposing of waste materials. Those manners essentially come down to one of

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EXCEPTIONS STATEMENT

two ways; either a sanitary landfill or burning. Because Yamhill County is located in the sensitive Willamette Valley airshed, burning is not a viable alternative given the present state of technology in that field. Since this waste material is being generated and must be placed somewhere, the only alternative left is to landfill the materials.

ALTERNATIVE LOCATIONS

There are no alternative locations planned and zoned for a landfill operation within Yamhill County. The only two sites are the Whitson and Newberg sites and it is anticipated that the Whitson site will be completed in 1981 and the Newberg site in 1986. The proposed property has many attributes which make it as good as, or better than, any other potential landfill site in the south central area of Yamhill County. These attributes are:

1. The site is centrally located to the service area, being approximately three to four miles from the City of McMinnville which is the prime waste source generator, and situated in the triangle created by the cities of Amity, Sheridan, and McMinnville.
2. The property is primarily flood plain which will result in reduced excavation costs, thereby contributing to reduced operating costs and decreased dumping fees to the general public.
3. The property is predominantly coarse silty loam soil with a permeability rate of 0.06 inches per hour or less at a depth of 16 - 24 inches, which will result in no contamination of groundwater.
4. The property is isolated by the Yamhill River and screened from view by trees 30 - 60 feet high, which in turn results in no visual impact on surrounding uses.

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EXCEPTIONS STATEMENT

- 5. The surrounding property owners do not object to the landfill operation.
- 6. The property is directly accessed by Highway 18, a major highway, resulting in no impact on substandard county roads.
- 7. The property is located directly across the Yamhill River from the present landfill site.

LONG TERM ENVIRONMENTAL, ECONOMIC,
SOCIAL, AND ENERGY
CONSEQUENCES

In regard to the environmental consequences, there will be no direct impact on water or air. There will be no impact on the ground water sources, nor the Yamhill River as a result of the characteristics of the soil described under "alternative locations" above. Further, construction techniques, as part of the proposal, will include a berm to prevent leaching of the Yamhill River and a series of monitoring wells designed to detect any contamination of water sources. There would be no direct impact on air quality, since the operator of the landfill will be required to follow DEQ regulations which require intermittent cover to prevent odors from being generated. As part of the proposal, the top soil materials will be segregated and used as a final cover to prevent future impact on the production capability of the soil. It should be noted, however, that one cannot predict, at this stage of technology, what the long term effects of burying garbage will be. At this time there is no alternative to landfilling in regard to disposal of waste materials. It should also be noted that, as part of the proposal and franchising process for this landfill, a series of recycling measures will be undertaken for the purpose of reducing waste materials generally. At this stage, recycling has not reach sufficient magnitude to obviate the need for a landfill.

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EXCEPTIONS STATEMENT

Page Four

The long term economic affects would be that 20 acres of agricultural land will be taken out of production at any one time. In return, a public need will be met for a landfill site. If a landfill site is not located within the central Yamhill County area, waste materials will then have to be transported a significant distance to other sites. This would increase dumping costs which would necessarily be passed through to the commercial/industrial waste generator who would then pass those costs on to the consuming public.

Given the isolated nature of the site, it is anticipated there will be no social impact.

The energy impact would be that transportation costs will be reduced by centrally locating the landfill. This will result in decreased usage of fossil fuels. In addition a recycling measure, as part of the franchise proposal, will have the impact of conserving energy. These recycling proposals include (1) a recycling center located on the landfill site itself, and (2) a source-separation pilot program conducted in the City of McMinnville for the purpose of assisting in the recycling of the residential waste materials. There is, of course, a long term energy impact to be considered in the burying of garbage, but at this time there are no alternatives available to Yamhill County to landfilling. The only measures which can be undertaken are to encourage further recycling, which is being done as part of this proposal and further, the implementation of a waste reduction plan which Yamhill County is now undertaking with the Yamhill Valley Recyclers, the mid-to-central area County recycling group.

COMPATIBILITY TO ADJACENT USES

The property in question is bordered on two sides by agricultural uses; one side by a moto-cross track, and the other side

14- Exhibit A

EXCEPTIONS STATEMENT

FILM 34 PAGE 1805
Page Five

by the Yamhill River. Directly across the Yamhill River from the proposed site is the location of the present Whiteson landfill site. The main objection, or interference with surrounding uses would come from sight impact. However, DEQ regulations require both intermittent cover, and further, the property in question is surrounded by trees approximately 30 - 40 feet high which will obstruct the landfilling operation from view. The landfilling operation itself will be obscured by a containment berm which must be built around the area to be filled.

In regard to agricultural uses, since the property in question will be, and remain in agricultural uses except for 20 acres which will be removed from agricultural production at any one time, it would be anticipated that there would be no impact on agricultural uses. Since the filling operation itself will be surrounded by its own internal agricultural use, there can be no impact anticipated on surrounding property agricultural uses. The only area of concern in regard to agricultural uses would be in the area of vector control. DEQ regulations require intermittent cover for the purpose of preventing development of harborage for rats and other vectors. The applicant has operated the Whiteson fill across the river for a period of several years, and during that period has never had a vector or rat problem develop. Based upon this experience it would be anticipated there will be no vector problem.

15-Exhibit A

FINDINGS FOR A ZONE CHANGE

FILM 34 PAGE 1896

Finding No. 1. Approximately 17,500 cubic yards of waste material per month are currently being generated in the south central areas of Yamhill County. This material must be disposed of in compliance with state law, i.e., landfilling. The present landfill site serving the south central area of Yamhill County at Whiteson will be full in 1981. The only other site located in Yamhill County is at the Newberg site and it is anticipated that site will be full in 1986. The Newberg site is presently receiving materials from north Yamhill County and southern Washington County. The mayor of Newberg has specifically requested that the County not rely on Newberg as an alternate site when Whiteson is full. There are no other properties presently zoned for landfill sites in Yamhill County. There is no other acceptable method of disposing of waste materials presently in Yamhill County at this time. For these reasons there is a public need to dispose of these waste materials. Granting this request will serve that public need, as the property in question is ideally suited for landfilling. (1) It is anticipated the property will have a life expectancy of approximately 50 years. (2) The soils on the property are coarse silty loam, have a permeability factor of 0.06 inches per hour at 16 - 24 inch depth resulting in no contamination of ground water sources. (3) The property is centrally located and isolated. In addition, the statement of the applicant on his application, on his answer to Question 20 is adopted as Findings for the question of public need and incorporated herein.

Finding No. 2. The public need is best served by granting this petition and that the interest is best served by granting the application at this time. In making a Finding on this question, the Commission hereby adopts applicant's responses to Questions No. 20 and No. 21 of the application, incorporates them herein as Findings.

Finding No. 3. That the public need is best served by changing the classification of subject site as compared to other

FINDINGS FOR A ZONE CHANGE -- Page One

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FINDINGS FOR A ZONE CHANGE

HLN 34 MGS 1897

available property. The only other available property in Yamhill County presently zoned for landfilling operations are both the Whiteson and Newborg sites. Those sites are not available for the reasons stated in Findings No. 1 and No. 2 above, and this site is as good as, or better than the other site in the central Yamhill County for the reasons stated in the Exceptions Statement to Goals No. 3 and No. 4, which reasons are adopted herein as Findings and, by this reference, incorporated herein.

Finding No. 4. The proposed action is in accordance with the intent of the Comprehensive Plan of Yamhill County for the reasons stated in Plan Amendment Findings 1 through 9, which Findings are adopted as the basis of this Finding and incorporated herein.

Finding No. 5. The factors listed in ORS 215.005 were consciously considered, as evidenced by Findings 1 through 9 of the Plan Amendment, and Findings 1 through 4 above, and the Exceptions Statement attached hereto. Those Findings are adopted herein as the basis for Finding No. 5, and by this reference incorporated herein.

Finding No. 6. A mistake in planning or zoning the property under consideration is not a factor in this decision.

Respectfully submitted,

Riverbend Landfill Co., Inc.

by

Ezra Koch
EZRA KOCH

FINDINGS FOR A ZONE CHANGE -- Page Two

17-Exhibit A

FILM 34 PAGE 1898

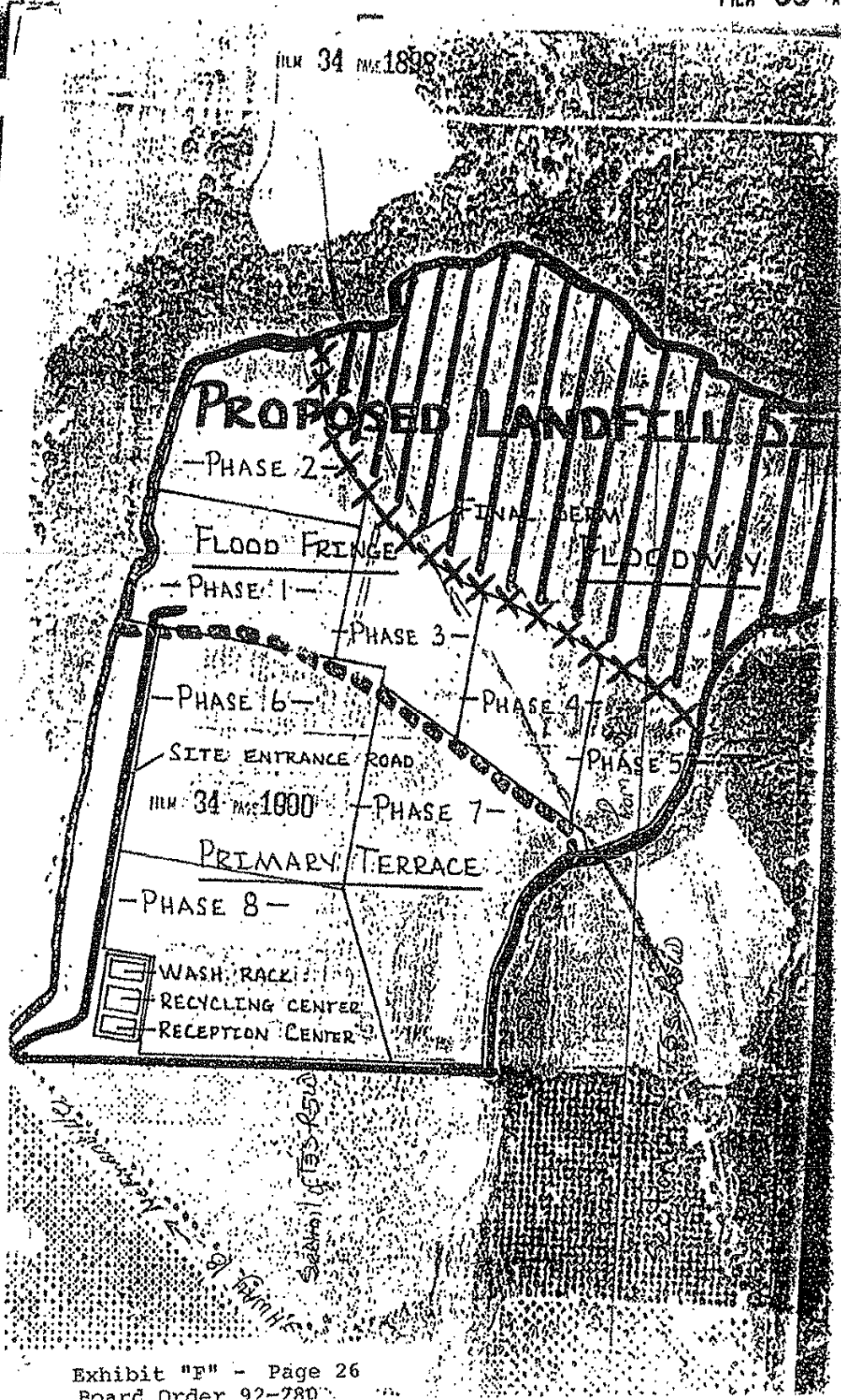


Exhibit "F" - Page 26
Board Order 92-280

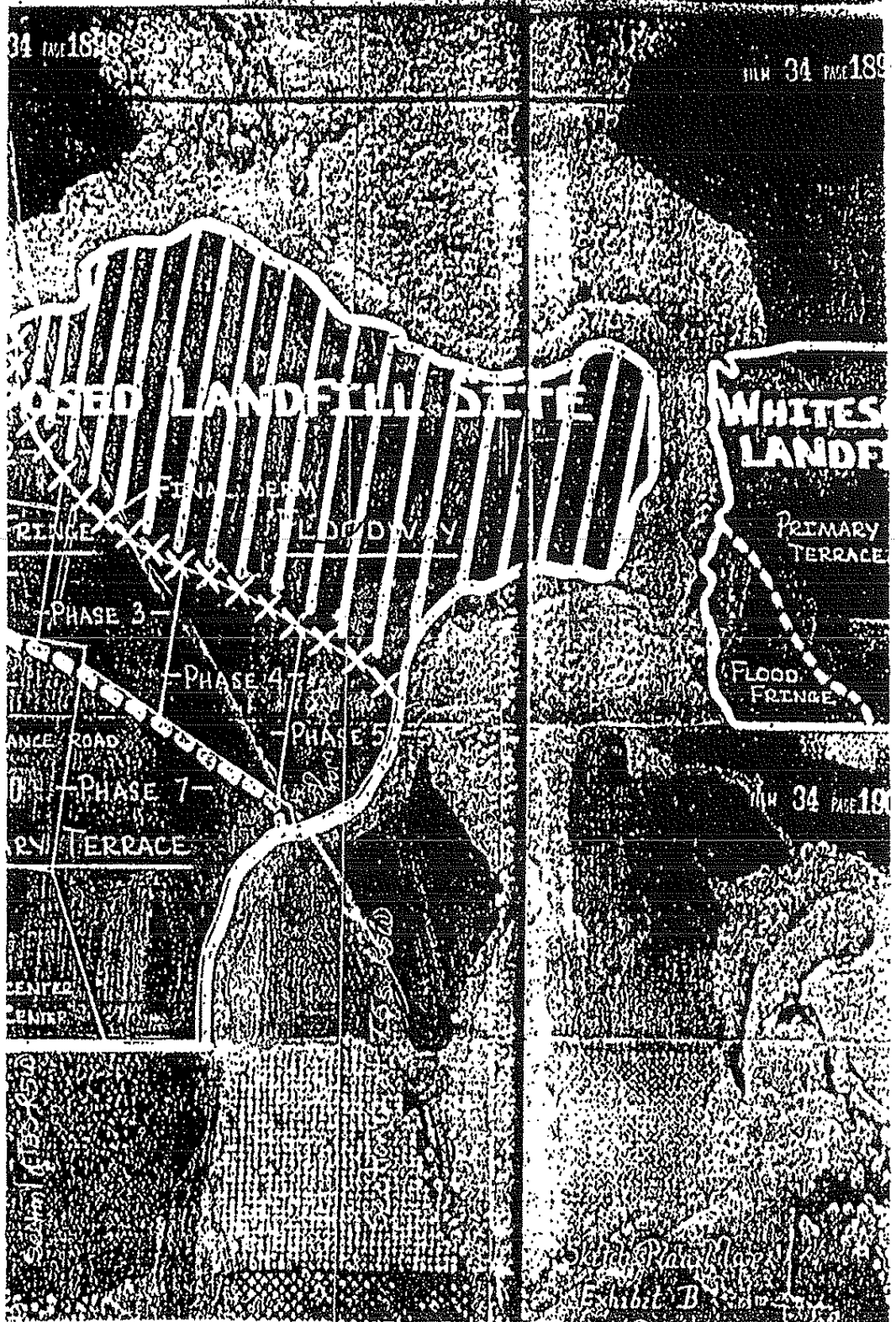


Exhibit "F" - Page 27
Board Order 92-280

YAMHILL COUNTY

Oregon

October 20, 1983



Dan Duric
 Director of Solid Waste
 Metropolitan Service District
 527 Southwest Hall
 Portland, Oregon 97201

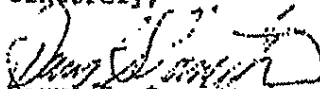
Re: Riverbend Landfill

Dear Mr. Duric:

I have been requested by Ezra Koch, franchise operator of Riverbend Landfill, to send you a letter indicating the County's position regarding the receipt of waste from the Metropolitan Service District areas. At this time, Riverbend Landfill is franchised by Yamhill County pursuant to our Solid Waste Ordinance. The conditions for franchise do not restrict where waste can come from. The County at this time does not intend to place any restrictions relating to the source of waste disposed of at the Riverbend Landfill. The only caveat I would mention is that the rates to be charged are set pursuant to the County Solid Waste Ordinance and any waste received would be expected to comply with that rate structure. What this means is that there would be no preferences nor penalties charged to waste received from the Metro area.

If you have any other questions or comments, please do not hesitate to contact me.

Sincerely,


 Daryl S. Garrettson
 County Counsel

DSG:cw

cc: Ezra Koch ✓
 Board of Commissioners

Exhibit "H" FILE 53 PAGE 1680
Yamhill County

1843

COURTHOUSE • FIFTH & EVANS • MCMINNVILLE, OREGON 97128-4523 • (503) 472-9371

OFFICE OF COUNTY COUNSEL

November 1, 1991

JOHN M. GRAY, JR.
COUNTY COUNSEL
JOHN C. PINKSTAFF
ASSISTANT COUNTY COUNSEL

M E M O R A N D U M

TO: Michael Brandt, Planning Director
Rob Hallyburton, Senior Planner

FROM: John M. Gray, Jr., County Counsel *jmjg*

RE: Riverbend Landfill; DEQ Request for County's
Position on Land Use Compatibility of Proposed
Landfill Uses Related to Solid Waste Renewal
Permit No. 345

NOV 7 1991
RECEIVED
YAMHILL COUNTY DEPT. OF
PLANNING AND DEVELOPMENT

INTRODUCTION

You have requested the advice of this office in regard to certain questions posed by the Oregon Department of Environmental Quality (DEQ) regarding the application of Riverbend Landfill Company (RLC) for a renewal of its permit to operate a landfill in Yamhill County. (DEQ WS Permit No. 345) Specifically, you request that I respond to certain questions posed by Joachim Gingerich, DEQ Environmental Engineer, in a March 25, 1991 letter to Robert Emrick of RLC.

Each of the questions involve the compatibility of current or proposed activities at RLC with the county's comprehensive plan and land use regulations. Some background is necessary before a response to the questions is made.

BACKGROUND

In 1980, the county approved RLC's application for a plan amendment and zone change on certain property south of McMinnville

MEMORANDUM TO PLANNING DEPARTMENT
November 1, 1991
Page 1

for the purpose of constructing and operating a sanitary landfill. The plan map designation was changed from "agriculture/forestry large holding" to "public works safety". (Ordinance 236, May 14, 1980.) The zone map designation was changed from "EF/40-AF/20" to "PWS". (Ordinance 237, May 14, 1980.)

At the time the zone change was granted, the county operated under the provisions of the 1976 zoning ordinance. (Excerpts from Ordinance 83, 1976 are attached as Exhibit "A".) A sanitary landfill was an outright permitted use in the PWS district. The 1976 ordinance did not require site design review for the development of any permitted uses, including a landfill.

RLC obtained a solid waste disposal franchise from the county in 1980, and extended the franchise in 1981. (Board Orders 80-73 and 81-659.) RLC prepared an operational plan and received approval from DEQ for a solid waste disposal permit thereafter. Rates for disposal were set in 1982 (Board Order 82-15), and the landfill commenced operations.

After the landfill had commenced operations, the county adopted a new zoning ordinance. (Ordinance 310, December 1, 1982. Excerpts from the PWS section are attached as Exhibit "B".) Although a "sanitary landfill" continued to be a permitted use in a PWS zone, it was made subject to the site design review criteria of the ordinance. (Excerpts from Ordinance 310, as amended, relating to site design review are attached as Exhibit "C".) Thus, had the zone change to PWS been approved after the enactment of Ordinance 310, the landfill plan would have been required to be processed under site design review. Because it was approved under Ordinance 76, the landfill plan was not processed under county site design review, although it was subject to DEQ permit review.

CURRENT DEQ REQUEST; RESPONSE TO QUESTIONS

RLC has now applied to DEQ to renew its operating permit. One of the conditions of DEQ's permit renewal is that the county issue a "land use compatibility statement" that confirms that the county considers the proposed operations plan to be consistent with the county's land use regulations. In the March 25, 1991 letter to Robert Enrick, DEQ asks or implies several questions concerning the compatibility of the proposed landfill operations plan with the county's land use regulations. These questions, together with our answers, follow.

Question 1. Is the proposed landfill operating plan, including proposed height contours and leachate holding ponds,

MEMORANDUM TO PLANNING DEPARTMENT
November 1, 1991
Page 2

compatible with the county's land use regulations if activities are restricted to property now designated PWS?

Answer: Yes (as to height contours and grades) and no (as to leachate holding ponds). It is our opinion that the proposed elevations and final grade reference in the DEQ letter are permitted uses which do not require site design review. We believe that the original 1980 plan amendment and zone change for the landfill contemplated the natural and progressive development of the landfill cells. Further, the county's action did not restrict elevations. In our opinion, issues related to the safety or appropriateness of elevations and final landfill grades are technical engineering issues properly addressed by DEQ in its review of the operations plan for permit renewal.

In contrast, we reach a different conclusion for the development of a new leachate holding facility. Even though the leachate facility is a permitted use in the PWS zone (as-accessory to a sanitary landfill), we believe development of facilities to be subject to site design review under the 1982 zoning ordinance. We make a distinction between development which was contemplated in the original application (such as additional landfill cells) and development of substantial new facilities proposed or required as accessory uses to landfill operations. Thus, even if a leachate holding facility is developed on property now zoned PWS, our opinion is that the development is subject to site design review under the 1982 zoning ordinance.

Question 2. Is a proposal to store leachate in holding tanks constructed on property now designated PWS compatible with the county's land use regulations?

Answer: No. A proposal for holding tanks on the existing PWS zoned property, although permitted as an accessory use to a sanitary landfill, would require site design review. We reach this conclusion because the proposal requires the construction of new facilities which were not necessarily contemplated at the time of the original approval in 1980.

Question 3. Is the disposal of leachate by spray irrigation compatible with the county's land use regulations if the disposal occurs on property zoned PWS?

Answer: Yes. We believe the use is authorized, assuming DEQ technical approval, as an accessory use.

Question 4. Is the disposal of leachate by spray irrigation compatible with the county's land use regulations if the disposal occurs on property zoned for exclusive farm use?

MEMORANDUM TO PLANNING DEPARTMENT
November 1, 1991
Page 3

Answer: Yes. Riverbend has disposed of leachate during certain periods of the year by spray irrigation on land designated for exclusive farm use since it began operations. Crops irrigated with the leachate have been cultivated and fed to livestock. Therefore, we believe that the spray irrigation of leachate constitutes a "farm use" as defined by ORS 215.203 and is therefore permitted in EFU property. This view is consistent with the Land Use Board of Appeals determination in Swenson v. DEQ, 9 Or LUBA 10 (1983).

In Swenson, DEQ granted a permit to the City of Eugene and other entities allowing construction of a facility to dispose of wastewater from Agripac, a commercial cannery in Eugene. The plan called for a system where effluent from Agripac was to be piped to a 20 acre holding pond, where it was aireated then disposed of by spray irrigation on farm crops. The holding pond and the spray irrigation occurred on property zoned for exclusive farm use.

The Swensons appealed the grant of the permit to LUBA on the ground, among others, that the project violated Statewide Planning Goal 3 (the agricultural goal) because the activities permitted to take place on agricultural land were not "farm uses" within the meaning of ORS 215.203. LUBA considered the issue to be whether the project, including the siting of the holding pond and pump station on agricultural land, could be considered "the current employment of land for farm use." LUBA held that it could, and that spray irrigation of the Agripac effluent was an accepted farming practice. No other Oregon appellate cases involving spray irrigation of effluent in EFU land have been found.

Although there may be a distinction between the liquid waste generated by a commercial cannery and the liquid waste generated by a sanitary landfill, it is clear that Riverbend has been irrigating crops with the aireated effluent since operations at the landfill began. The crops have apparently fed livestock. For that reason, and in light of Swenson, it is our opinion that the spray irrigation of aireated effluent from the landfill is a farm use.

Although it does not affect the DEQ renew permit for Riverbend or the proposed operations plan, we should note that in the course of land use review we have discovered an apparent error on the county's zoning map. The original application of RLC requested a plan amendment and zone change on 229 acres. The application contained a map furnished by the applicants which did not reference a tax lot number. No tax lot number was stated on the application. From a review of assessor's information in effect in 1980, the 229 acre tract was comprised of two tax lots, "1255-10" representing a 220 acre tax lot and "1255-2-1" representing a 9 acre tax lot.

MEMORANDUM TO PLANNING DEPARTMENT
November 1, 1991
Page 4

When the implementing ordinances were adopted in May, 1980, they referred to "a 229-acre tract" described as "Yamhill County Tax Lot No. 1255-10". The operative part of the ordinances granted the zone and plan map change on "Tax Lot 1255-10". After the ordinances were adopted, the then existing official counter map in the planning department was amended to reflect the change. However, only the 220 acre tract (Tax Lot 1255-10) was changed to "PWS". The 9 acre tract (Tax Lot 1255-2-1) remained "EF-40." A new tax lot numbering system has since been implemented by the assessor's office. Tax Lot 1255-10 has become Tax Lot 5512-200, while Tax Lot 1255-2-1 is shown as an independent tax lot referenced to Tax Lot 5512-200. The current official zoning map shows the 220 acre parcel as "PWS" and the 9 acre parcel as "EF-40."

Even though it is apparent from the face of the implementing ordinances that the county intended both tax lots to comprise the PWS zoning, the 9 acre tract must be considered by county as EF-40 until a separate proceeding is undertaken to cure the mistake. Because the only landfill related use occurring on the 9 acre tract is the spray irrigation of crops, and no other use of the property is proposed, we believe the use is compatible with the county's land use regulations.

Please call me with any questions.

JMG:meg

cc: Board of Commissioners

MEMORANDUM TO PLANNING DEPARTMENT
November 1, 1991
Page 5

Exhibit "H" - Page 5
Board Order 92-280

J-5

DEPARTMENT OF ENVIRONMENTAL QUALITY
 LAND USE COMPATIBILITY REQUIREMENT FOR ENVIRONMENTAL PERMITS/APPROVALS

The Department of Environmental Quality requires regulatory source permits/approvals for facilities that discharge or release pollutants into the environment. Through these permits, specific environmental criteria or standards must be met. The criteria and standards are intended to ensure that public health, safety and the environment are protected.

Land uses that are subject to environmental regulations must also comply with local government planning regulations. Land uses are classified into land use zones, in part due to their general impact on and compatibility with other types of uses. It is the Department's policy that proof of local land use compatibility be submitted with a source permit application. This assures that the type of land use and activities in conjunction with that use have been reviewed and approved by local government before a permit is processed and issued.

I. NEW PERMITS/APPROVALS. The Department of Environmental Quality requires that a Land Use Compatibility Statement (LUCS) from the affected local government(s) be submitted with an application for the following:

- | | |
|--|---|
| 1. Air Contaminant Discharge Permits (ACDP) | 9. Pollution Control Bond Fund Requests |
| 2. Noise Impact Boundaries for Racing Facilities | 10. Wastewater System Facility/Sewer System Plans |
| 3. Airport Abatement Plan/Noise Impact Boundaries | 11. Water Quality Construction Grants |
| 4. Air Indirect Source Construction Permits | 12. Municipal Wastewater Treatment System State Revolving Loan Requests |
| 5. Parking and Traffic Circulation Plans | 13. Certification of Water Quality Standards for Federal Permits |
| 6. Solid Waste Disposal Permits/Authorization Letter | 14. On-Site Sewer Permits |
| 7. Waste Tire Storage Permits | 15. Water Discharge Permits (NPOES/MPCF/General) |
| * 8. HX/PCB Storage, Treatment and Disposal Permits | |

II. PERMIT MODIFICATION/RENEWAL. A permit modification requires an approved LUCS if any of the following apply: (1) The permitted source or activity involves the use of additional property or a physical expansion on the existing property. The LUCS applies to physical changes on the property, not to existing permit conditions; (2) The permitted source or activity involves a significant increase in discharge to state waters or into the ground; (3) The permitted source or activity involves the relocation of an outfall outside of the source property; (4) For a major modification of an air contaminant discharge permit, which means any physical change or change of operation of a source that results in a net significant emission rate increase as defined in OAR 340-20-225(25).

A permit renewal requires an approved LUCS if the renewal is to address a modification which applies to (1), (2), (3), or (4) above, or if an approved LUCS was not provided for the existing permit.

An applicant seeking a Department permit or approval is required to submit a LUCS to the affected local government(s) for a determination of compatibility with the local comprehensive plan(s). Typically, a local compatibility review includes a determination that the use or proposed use is allowable within its given zoning designation. The local government must include written findings of fact substantiating its determination. Required findings must: 1) State the relevant criteria, standards or policies; 2) State the facts relied upon in rendering the decision; and 3) State the conclusions and reasoning, referencing applicable policies. For example, if a use is allowed outright, a copy of the zone provision or citation and summary would constitute sufficient findings. If a review of some sort is required, the findings must include the review criteria and review conclusions.

In cases where a city and county share jurisdiction, a compatibility determination, sign off, and written findings are required from both entities.

* See administrative rule Division 20 requires specific findings.

TO BE COMPLETED BY APPLICANT

Name: _____ Address: _____
City State Zip

Phone: _____ Type of permit/approval: _____

2. Application to DEQ will be for: New Permit/Plan Approval Permit Renewal
 Permit Modification Authorization Letter

3. Name and address of business: _____

4. Describe the type of business and product or service the business provides:

5. If not a new source, explain the change in circumstances that require a permit/approval:

6. Describe the specific source/facility that requires a permit/approval:

7. For permit modification/renewal only: Does the criteria in section II, page 1 apply to the proposed permit modification or renewal? Yes No
Explain basis for determination:

If yes, describe how the changes may impact land uses, i.e. increased lot coverage; increased air emissions, water discharges or noise levels; impacts to transportation system, etc.:

TO BE COMPLETED BY LOCAL GOVERNMENT

8. Business/facility location: Inside city limits Inside UGB Outside UGB
What local government(s) has planning jurisdiction over this use? Yamhill County

Is the local plan currently acknowledged? Yes No If no, is this use affected by any portion of the plan which is not acknowledged? Yes No

9. The business/facility:

- | | |
|---|---|
| A. <input type="checkbox"/> *Is an allowed outright use. | G. <input type="checkbox"/> Is allowed subject to conditional use or review requirements which require public notice. |
| B. <input checked="" type="checkbox"/> Is allowed subject to siting, design, construction or operational standards.
(See attached board order) | D. <input type="checkbox"/> Is prohibited by the plan. |
| | E. <input type="checkbox"/> Is not addressed by the plan. |

* This means the use may exist without any further local planning conditions or authorizations.

If A. applies, identify or provide duplicate copy of applicable zone/provisions and state specific name of the designated allowed use applied to this business/facility.

If applicable, have the additional requirements under B. or C. been met? Yes No

Date of decision or expected decision: Site Design Review of leachate storage facility granted March 27, 1992

Written findings are required for determinations checked under section 9. B, C, D and E. Findings may include plan policies, criteria, conditions, standards or related regulations. (State findings below or attach separately to statement.) If the activity is not addressed in the plan, under 9. E., compatibility findings must be based on the statewide goals.

See attached Board Order, May 6, 1992

10. Is public notice and opportunity for public hearing required? Yes No
(for site design review)

If yes, date of notice: March 27, 1992 Date of public hearing: None requested

If a public hearing was held, attach a summary or hearing report.

11. Would the city/county like to receive a copy of DEQ's public notice regarding this source?
 Yes No

REQUIRED SIGNATURES

City land use jurisdiction: _____ Phone: _____

Signature: _____ Title: _____ Date: _____

County land use jurisdiction: Yamhill County, Oregon Phone: 434-7501

Signature: Ted Lopuszynski Title: Chairman, Board of Commissioners Date: May 6, 1992
Ted Lopuszynski

Please direct questions to the Management Services Division at 800-452-4011 or 229-6408, or contact the Division responsible for processing the application (Air, Water, Solid Waste) through the above toll free number.

Exhibit "B"

802. PUBLIC WORKS/SAFETY DISTRICT (PWS)

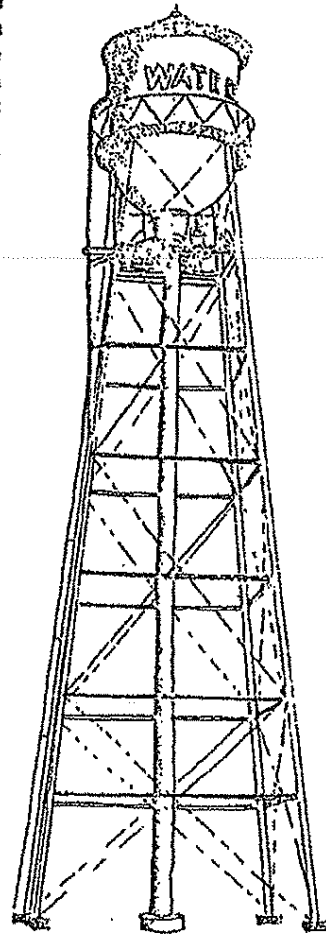
802.01 Purpose.

The purpose of the PWS District is to accommodate the present foreseeable demand for public works and safety facilities and utility facilities and uses to serve local needs and to serve regional needs, when appropriate. When sited adjacent to urban development, PWS uses shall be compatible and coordinated with city comprehensive plans. The PWS District shall be subject to the site design review provisions of this Ordinance regarding the review, approval, programming, installation and maintenance of all improvements.

802.02 Permitted Uses.

In the PWS District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 802.06, and pursuant to Section 1101 for site design review:

- A. Utility facility, substation, transformer, gate station, pumping or lift station; telephone, telegraph, radio, microwave, or television transmitter facilities of any kind, and any storage facilities in conjunction with any of the above;
- B. Municipal water supply, treatment, storage, transmission and distribution facility;
- C. Municipal sewage collection, treatment and disposal system;
- D. Sanitary landfill;



- E. Public works yards, shops, bus barns, equipment and materials storage yards, and similar uses;
- F. Fire stations;
- G. Dwelling for caretaker or watchman in conjunction with a permitted use. If a dwelling is a mobile home, it shall, in addition to the requirements of this Section, also be subject to the mobile home standards set forth in Section 1002;
- H. Accessory uses;
- I. Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- J. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the Type A application procedure set forth in Section 1301; and
- K. Signs, pursuant to the sign provisions set forth in Section 1006.

802.03 Conditional Uses.

In the PWS District, no use may be allowed as a conditional use.

802.04 Prohibited Uses.

Uses of land and water not specifically mentioned in this Section shall be prohibited in the PWS District.

802.05 Nonconforming Uses.

Nonconforming uses found in the PWS District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this Ordinance.

802.06 Standards and Limitations.

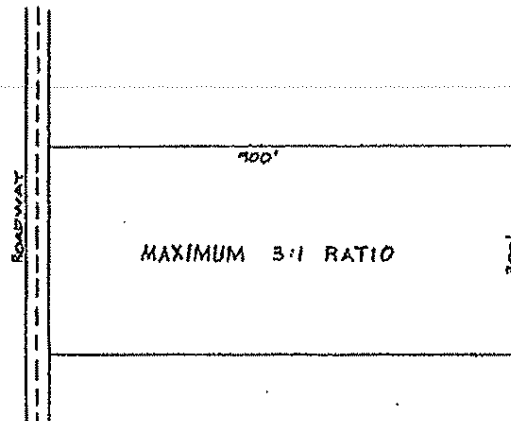
In the PWS District, the following standards and limitations shall apply:

A. Dwelling Density.

Not more than one (1) dwelling shall be permitted on any parcel.

B. Parcel Size and Dimension.

1. Minimum Parcel Size. The minimum parcel size shall be 20,000 square feet, plus 20,000 square feet for any dwelling.
2. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.



C. Setbacks.

The minimum setback for all yards shall be twenty (20) feet for all uses, except five (5) feet for all yards for signs and except as provided for accessory uses in subsection 802.06(H).

D. Parcel Coverage.

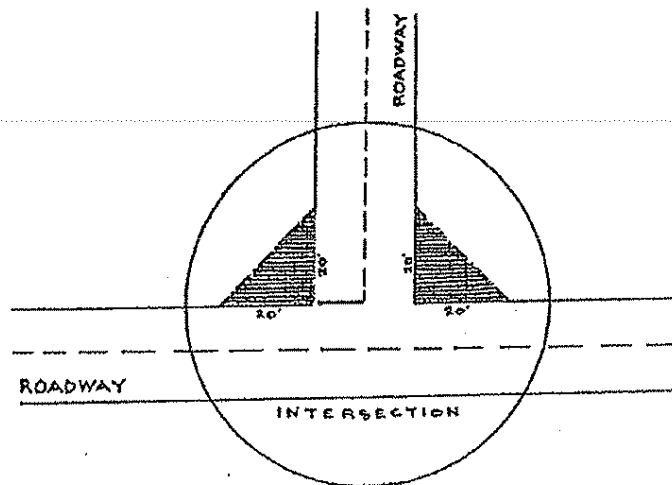
The maximum parcel coverage shall be appropriate to the use, subject to Section 1101 for site design review.

E. Access.

Before a dwelling may be established on any parcel as provided in this Section, the parcel shall have

a legal, safe and passable means of access by abutting at least twenty (20) feet either directly upon a public road, or by a private easement which is at least thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet. Nothing in this Section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

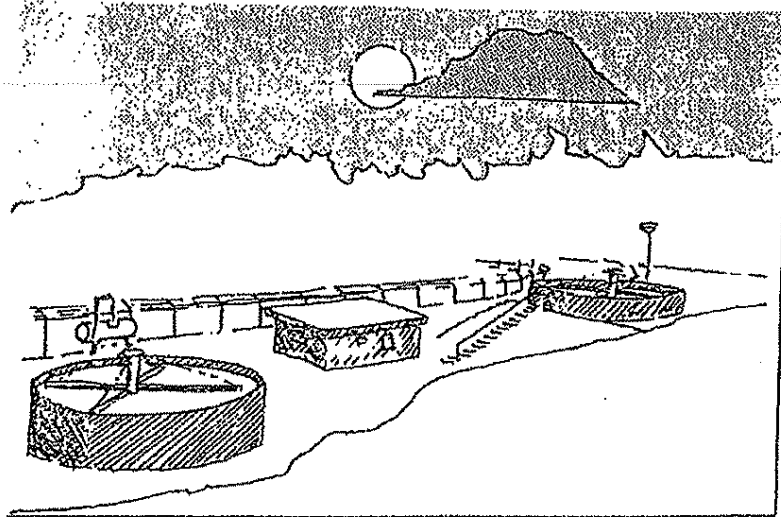
F. Clear-Vision Areas.



A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: County roads; public roads; private roads serving four or more parcels; and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding thirty (30) inches in height within a triangle formed by the lot corner nearest the intersection, and the two points twenty (20) feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least twelve (12) feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be thirty-five (35) feet;
2. The maximum building height for all other structures shall be sixty (60) feet; and
3. Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this Ordinance.



H. Accessory Uses.

An accessory use shall comply with the standards and limitations for principal uses except as follows:

i. Structures.

- a. No separate accessory structure shall be erected within ten (10) feet of any other building on the same parcel, except that a greenhouse for personal, noncommercial use may adjoin a dwelling.

2. Fences, Walls and Hedges. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision requirements of subsection 803.07(F).

I. Off-street Parking.

Off-street parking and loading requirements for any use in the PWS District shall be as provided in Section 1007.

SECTION 29. PUBLIC WORKS/SAFETY DISTRICT (PWS)

29.100 Purpose. (1) The PWS District is intended to accommodate the present foreseeable demand for public works and safety facilities to serve both local and regional needs in areas which are both suited to the uses intended and compatible with adjacent urban development. The PWS District shall be combined with the Planned-Unit Development (PUD) District and shall be subject to all of the provisions contained therein in respect to the review, approval, programming, installation and maintenance of all improvements.

(2) Uses of land and water not compatible with public works and safety facilities shall be prohibited.

29.200 Use Provisions and Specification Standards. Use provisions and specification standards, including permitted, conditional and prohibited uses and structures, minimum lot or site requirements, maximum residential density, minimum yard or setback requirements, maximum lot or site coverage, maximum height of structures, minimum off-street parking and loading requirements and limitations on signs are as set forth in Schedule "A".

29.300 Special Provisions. (1) The provisions of Sections 19.300 to 19.340, inclusive, and Section 10.300 of this Ordinance, shall apply in the PWS District except that references to "E-40 District" in Section 10.300 shall be changed to "PAI District"

(2) Notwithstanding the provisions of Section 29.200 of this section and of Section 7 of this Ordinance, transmission and distribution systems for municipal water supply and collection systems for municipal sewerage, as distinct from the appurtenant facilities associated therewith, shall not be accorded a zoning district designation on the OFFICIAL ZONING MAP, but shall otherwise be subject to all provisions of this Ordinance.

71 E-1

PERMITTED USES

- (1) Municipal water supply, treatment, storage, transmission and distribution facility.
- (2) Municipal sewage collection, treatment and disposal system.
- (3) Sanitary landfill.
- (4) Public works yards, shops, bus barns, equipment and materials storage yards, and similar uses.
- (5) Fire stations.
- (6) Single-family dwelling or mobile home for caretaker or watchman, in conjunction with a permitted use.
- (7) Signs, subject to Section 30.300.

CONDITIONAL USES

None

PROHIBITED USES

All other uses.

MINIMUM LOT OR SITE REQUIREMENTS (AREA, WIDTH, DEPTH)

1,500 sq. ft. for any permitted use, plus 9,000 sq. ft. for single-family dwelling or mobile home.
Minimum width, 80 feet.
Maximum depth-to-width ratio, 3:1.

MAXIMUM RESIDENTIAL DENSITY

Not applicable

MINIMUM YARD OR SETBACK REQUIREMENTS

20 ft. front and 5 ft. side and rear yards for all uses, unless varied or waived under PUD, subject to Section 33.

MAXIMUM LOT OR SITE COVERAGE

20% for any use, unless waived or varied under PUD subject to Section 33.

MAXIMUM HEIGHT OF STRUCTURE

As established for PAI District

MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS

As established under Section 35.510.

LIMITATIONS ON SIGNS

As established under Section 29.300¹

¹Net land area, excluding any street, school, park or open space.
All standards apply to site area unless otherwise specified.

1101. SITE DESIGN REVIEW PROCESS AND STANDARDS

1101.01 Purpose.

The site design review process is intended to guide future growth and development in accordance with the Comprehensive Plan and other related County Ordinances, to provide for an efficient process and framework to review commercial and industrial development proposals, to insure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment, and to resolve potential conflicts that may arise between proposed developments and adjacent uses. This Section shall apply to all development in all Commercial, Industrial, and Public Facilities Districts, all development in the PRO District, and all other uses as may be required by this Ordinance in the AF-10, VLDR and LDR Districts.

1101.02 Evaluation of Site Development Plans.

A. The review of a site development plan shall be based upon consideration of the following:

1. Characteristics of adjoining and surrounding uses.
2. Economic factors related to the proposed use.
3. Traffic safety, internal circulation and parking.
4. Provision for adequate noise and/or visual buffering from noncompatible uses.
5. Retention of existing natural features on site.
6. Problems that may arise due to development within potential hazard areas.
7. Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.

B. All development application for site design review are subject to the development standards of the underlying zoning district and may be modified pursuant to satisfaction of the considerations provided in Subsection 1101.02(A). The Director may waive submittal requirements consistent with the scale of the project being reviewed, upon determining that requirements requested to be

waived are not necessary for an effective evaluation of the site development plan.

1101.03 Site Development Plan Review Procedures.

The Director shall review site development plans subject to the following procedures:

- A. Pre-application conference. A pre-application conference shall be held prior to submittal. An application form together with appropriate ordinance requirements shall be provided to the applicant at the pre-application conference.
- B. Preliminary Site Development Plan Submittal and Review. A preliminary plan, together with a site design review application, shall be submitted for review in accordance with the Type A application procedure set forth in Section 1301 and the requirements of this Section and the underlying zoning district. The Director shall inform the applicant in writing within forty-five (45) days of receipt of the preliminary plan and application as to compliance with applicable ordinance and development standards, and shall stipulate any modifications or changes necessary for final plan approval. If modifications or changes are not required, a preliminary plan may be approved as a final plan.
- C. Final Site Development Plan Submittal. If a final site development plan is required, the final plan shall be submitted for review in accordance with the requirements of this Section. The Director shall inform the applicant in writing within fifteen (15) days of receipt of the final site plan of action taken for approval.
- D. Appeal of Director's Decision. The decision of the Director may be appealed to the Board, pursuant to the provisions of Section 1404 for appeals.

1101.04 Preliminary Site Development Plan Requirements.

The following site design information shall be represented at a scale of 1"=50', or an appropriate scale as may be approved by the Director:

- A. Existing site conditions as follows:
 - 1. Site topography at the following minimum intervals:

- a. Two (2) foot intervals for slopes of up to 15%.
 - b. Five (5) or ten (10) foot intervals for slopes in excess of 15%.
 - c. Identification of areas exceeding 35% slopes.
2. Site drainage, creeks, ponds or areas of standing water, potential flooding and soil or geologic hazard.
 3. Major trees 8" in diameter at five (5) feet height, together with areas of significant natural vegetation. Where the site is heavily wooded, an aerial photograph, not to exceed 1" = 400' may be submitted; and only those trees that will be affected by the proposed development need be sited accurately.
 4. Classification of soil types within the site and discussion of their suitable uses.
 5. Existing structures, improvements, roadway access and utilities, together with the film volume and page number of all easements affecting the property.
 6. Existing land uses, ownerships, property lines and building locations on adjoining and adjacent property within three hundred and fifty (350) feet of the subject property.
- B. Proposed changes and improvements to the site as follows:
1. Proposed site improvements, including:
 - a. Boundary lines and dimensions for the property and proposed topographical changes.
 - b. All proposed structures, including finish floor elevations and setbacks.
 - c. Vehicular and pedestrian circulation patterns and parking, loading and service areas.
 - d. Site drainage plan, including location of sumps or settling ponds.

F-3

e. A boundary survey and cross sections, and profiles as may be required by the Director.

2. Proposed utilities, including subsurface sewerage, water supply system and electrical services. Inverse elevations shall be shown for all underground transmission lines.
3. Proposed access to public roads and highways, railroads or other commercial or industrial transportation systems.
4. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses.
5. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks.

C. A written statement to accompany the site development plan, containing the following:

1. A statement of present ownership of all lands included within the proposed development.
2. A schedule of expected development.

1101.05 Final Site Plan Requirements.

The final development plans shall include the same information required for a preliminary plan together with any revisions, adjustments or refinements that may be required for compliance with the general development standards:

A. The final plan shall include the following information and shall be labeled by the Director as follows:

Exhibit A - Proposed Schedule of Development

Exhibit B - Site Analysis (map of existing conditions)

Exhibit C - Site Plan

Exhibit D - Final Grading Plan

Exhibit E - Landscape Plan in accordance with Section 1010

Exhibit F - Cross Sections, Elevations and/or Architectural Drawings of Proposed Structures.

- B. If submittal of any of the above exhibits are waived by the Director, justification to support such a decision shall be provided by the Director.
- C. Any proposed changes in connection with an approved plan shall be reviewed and approved in accordance with the same procedures set forth under this section.

1101.06 Compliance with Site Development Plans.

Failure to comply with this Section or with an approved site development plan shall constitute a violation of this Ordinance and shall be subject to Section 1406 for enforcement.

90-262

IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL
SITTINGS FOR THE TRANSACTION OF COUNTY BUSINESS

FILM 34-1877
FILED
YAMHILL COUNTY, OREGON
MAY 20 10 16 AM '80
WANDA CATT
COUNTY CLERK
Deputy

In the Matter of Approving
a Conditional Use Floodplain Permit
for Riverbend Landfill Company.

ORDER NO. 80-262

THE BOARD OF COMMISSIONERS of Yamhill County, Oregon, (the Board) on the 7th day May, 1980, sat for the transaction of County business, Commissioners Ted Lopuszynski, John P. Macaulay and Colin Armstrong being present.

IT APPEARING TO THE BOARD that Ezra Koch and Fred Koch, Riverbend Landfill Company, have applied for a conditional use floodplain permit to allow the deposit of fill within the 100 year floodplain of the South Yamhill River, in conjunction with a Plan amendment and zone change on a 279 acre tract located approximately three (3) miles Southwest of the City of McMinnville, more particularly described as Yamhill County Tax Lot 1255-10, and

IT FURTHER APPEARING TO THE BOARD that the Yamhill County Planning Commission at their April 17th, 1980 meeting and the Yamhill County Solid Waste Advisory Committee at their January 23rd, 1980 meeting recommended approval of the above request, and

IT FURTHER APPEARING TO THE BOARD that on the 7th day of May, 1980, the Board held a public hearing on the proposed conditional use floodplain permit and voted to approve the applicant's request based on findings attached hereto as Exhibit A and by this reference made a part hereof.

IT IS, THEREFORE, HEREBY ORDERED BY THE BOARD that a conditional use floodplain permit to allow the deposit of fill within the 100 year floodplain of the South Yamhill River on Yamhill County Tax Lot 1255-10, be and hereby is approved.

DONE this 7th day of May, 1980, at McMinnville, Oregon.



ATTEST:

WANDA CATT
County Clerk

Patricia A. Muller
Deputy

APPROVED AS TO FORM

BY: *Daryl S. Garretts*
County Counsel

YAMHILL COUNTY BOARD OF COMMISSIONERS

Ted Lopuszynski
Chairman

John P. Macaulay
Commissioner

Colin Armstrong
Commissioner

G-1

1. In order to ensure compliance with the requirements of the Yamhill County Flood Hazard Ordinance, Ordinance No. 69, 1975, the Final Master Plan shall be submitted to the Army Corps of Engineers for their review. Planning staff will coordinate the review and submit findings to the Planning Commission prior to approval of the Final Master Plan.
2. That the proposal is in full compliance with DEQ regulations and that subsequent plan copies are filed with DEW and coordinated with the County.
3. That DEQ's recommended conditions, 1 and 2 and 3 from the April 25, 1980 letter, be fully complied with.
4. That construction of the proposed dike include provisions for bank stabilization to be reviewed and coordinated by the County and the Yamhill SWCD.
5. That the roadways within the proposed landfill area be of sufficient width to allow two-way traffic of garbage trucks and that the Final Master Plan include provisions for an approved roadway system to the various phased areas of the landfill.
~~XX~~
6. That any concerns relating to the access to and from Highway 18 are satisfied in accordance with Oregon Department of Transportation requirements.
7. That monitoring wells be drilled in the immediate vicinity of the landfill and inspected on a regular basis to ensure that groundwater quality in the area is not adversely affected.
8. That on a regular basis DEQ monitors the South Yamhill River downstream from the proposed landfill site to ensure that the water quality is not adversely affected.

BOARD OF COMMISSIONERS ACTIONS Approved May 7, 1980

The Board of Commissioners approved this docket item with the same eight conditions.

FILM 34 PAGE 1873

BEFORE THE BOARD OF COMMISSIONERS
OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED
YAMHILL COUNTY, OREGON
MAY 14 3 53 PM
WANDA BATT
COUNTY CLERK

In the Matter of an Ordinance }
to Amend the Yamhill County }
Comprehensive Plan of 1974, } ORDINANCE NO. 236
for Property Leased by }
Riverbend Landfill Company, }
Inc. }

WHEREAS, the Board of Commissioners enacted Ordinance No. 62 on the 25th day of September, 1974, adopting the Yamhill County Comprehensive Plan; and

WHEREAS, Riverbend Landfill Company, Inc. has applied for an amendment to the Yamhill County Comprehensive Plan, 1974, as revised by the Yamhill County Comprehensive Land Use Plan, 1979, to change the Plan Map designation from "Agriculture/Forestry Large Holding" to "Public Works Safety;" in conjunction with an amendment to the Yamhill County Zoning Ordinance No. 83, 1976, on a 229-acre tract and a Conditional Use Flood Plain Permit to allow the deposit of fill within a hundred-year flood plain of the South Yamhill River, on a parcel located approximately three miles southwest of McMinnville, more particularly described as Yamhill County Tax Lot 1253-10.

WHEREAS, the McMinnville Planning Advisory Committee, on March 26, 1980, recommended approval of the proposed amendment; and

WHEREAS, the Yamhill County Planning Commission on April 17, 1980, recommended approval of the request to change the

1 -- ORDINANCE NO. 236 (5/14/80)

YAMHILL COUNTY COURSE
ROOM 111 COMMISSIONERS
303 E. BRIDGE STREET
MCMINNVILLE, OR 97128
(503) 472-3371, ext. 286

1 Plan Map designation; and
 2 WHEREAS, the Board of Commissioners on May 7, 1980,
 3 held a public hearing as required by ORS 215.060 on the proposed
 4 Plan amendment and voted to approve the application based on
 5 the findings attached hereto as Exhibit A which, by this
 6 reference, is made a part hereof, except as said findings were
 7 modified at said hearing to reflect the fact that certain
 8 neighboring property owners did appear and object to the
 9 proposed Plan amendment.

10 NOW, THEREFORE, IT IS HEREBY ORDAINED that the
 11 Yamhill County Comprehensive Plan Map, 1974, be and hereby is
 12 amended to show Yamhill County Tax Lot No. 1255-10 as "Public
 13 Works Safety."

14 This Amendment being necessary for the health, safety
 15 and welfare of the people of Yamhill County and the Board of
 16 Commissioners having declared an emergency to exist, it shall
 17 be effective upon the approval hereof.

18 DONE this 14th day of May, 1980, at McMinnville,
 19 Oregon:

20 ATTEST:
 21 WANDA CATT, County Clerk

YAMHILL COUNTY BOARD OF COMMISSIONERS:

Ted Lopuszynski
 Chairman TED LOPUSZYNSKI

23 by *Patricia A. Mullen*
 PATRICIA A. MULLEN, Deputy

John P. Macaulay
 Commissioner JOHN P. MACAULAY

25 APPROVED AS TO FORM:
David S. Carleton
 DAVID S. CARLETON
 Yamhill County Counsel

Colin Armstrong
 Commissioner COLIN ARMSTRONG

YAMHILL COUNTY COURSE
 ROOM 104 COURTHOUSE
 300 S. 27th ST. WINTER
 McMinnville, OR 97128
 (503) 472-9371, ext. 286

FILM 34 PAGE 1875

80-261 BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON FOR THE COUNTY OF YAMHILL

YAMHILL COUNTY CLERK MAY 14 9 52 AM 1980 WANDA BAYT COUNTY CLERK

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance) to Implement the Planning) Commission Resolution) authorizing an Amendment to) Yamhill County Zoning Ordinance No. 83, 1976, Requested) by Riverbend Landfill Company,) Inc.)

ORDINANCE NO. 237

THE BOARD OF COMMISSIONERS of Yamhill County, Oregon (the Board), on the 14th day of May, 1980, sat for the transaction of County business, Commissioners Ted Lopuszynski, John P. Macaulay, and Colin Armstrong being present.

WHEREAS, Ordinance No. 130 of the Board, dated the first day of June, 1977, designates the Yamhill County Planning Commission as the hearings body for determining whether requests for amendment to the Yamhill County Zoning Ordinance No. 83, 1976 shall be granted or denied; and

WHEREAS, pursuant to Ordinance No. 138 and ORS 215.402 to 215.422, such decisions by the Planning Commission to approve or deny such request for amendment to the Zoning Ordinance are final unless an aggrieved party appeals the Planning Commission's decision within 15 days or unless the Board, in its discretion, elects to review the decision upon its own motion within 30 days; and

WHEREAS, the Yamhill County Planning Commission has adopted a Resolution approving an amendment to the Zoning

1 -- ORDINANCE NO. 237 (5/14/80)

YAMHILL COUNTY COMMISSION ROOM 101, COURTHOUSE 5th & Commercial Astoria, Oregon 97103 (503) 472-9371, ext. 286

1 Ordinance upon the application of the above named person or
 2 persons, a copy of which is attached hereto and, by this
 3 reference, incorporated herein as if fully set forth herein; and
 4 WHEREAS, more than 30 days have elapsed since this
 5 decision was announced by the Yamhill County Planning Commission
 6 and no appeals to, or reviews by the Board have been requested,
 7 NOW, THEREFORE, based upon, and for the reasons
 8 set forth in the attached Resolution, it is hereby ORDAINED
 9 that the official Zoning Map of the Yamhill County Eoning
 10 Ordinance No. 83, 1976, be and hereby is, amended consistent
 11 with and as set forth in the attached Resolution of the Yamhill
 12 County Planning Commission.

DONE this 14th Day of May, 1980, at McMinnville,

Oregon

ATTEST: WANDA CATT, County Clerk

YAMHILL COUNTY BOARD OF COMMISSIONERS:

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

Patricia A. Mullen
PATRICIA A. MULLEN, Deputy

John P. Macaulay
Commissioner JOHN P. MACAULAY

APPROVED AND FORGONE:

Colin Armstrong
Commissioner COLIN ARMSTRONG

Shirley S. Garrettson
SHIRLEY S. GARRETTSON
Yamhill County Counsel

YAMHILL COUNTY COUNSEL
SHIRLEY S. GARRETTSON
574 1/2 E. 2ND STREET
MCMINNVILLE, OR 97128
(503) 472-9371, ext. 286

FILM 34 PAGE 1877

PO-262 IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON FOR THE COUNTY OF YAMHILL

FILED YAMHILL COUNTY, OREGON MAY 20 10 26 AM '80

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

WANDA CATT COUNTY CLERK

In the Matter of Approving a Conditional Use Floodplain Permit for Riverbend Landfill Company.

ORDER NO. 80-262

THE BOARD OF COMMISSIONERS of Yamhill County, Oregon, (the Board) on the 7th day May, 1980, sat for the transaction of County business, Commissioners Ted Lopuszynski, John P. Macaulay and Colin Armstrong being present.

IT APPEARING TO THE BOARD that Ezra Koch and Fred Koch, Riverbend Landfill Company, have applied for a conditional use floodplain permit to allow the deposit of fill within the 100 year floodplain of the South Yamhill River, in conjunction with a Plan amendment and zone change on a 229 acre tract located approximately three (3) miles Southwest of the City of McMinnville, more particularly described as Yamhill County Tax Lot 1255-10, and

IT FURTHER APPEARING TO THE BOARD that the Yamhill County Planning Commission at their April 17th, 1980 meeting and the Yamhill County Solid Waste Advisory Committee at their January 23rd, 1980 meeting recommended approval of the above request, and

IT FURTHER APPEARING TO THE BOARD that on the 7th day of May, 1980, the Board held a public hearing on the proposed conditional use floodplain permit and voted to approve the applicant's request based on findings attached hereto as Exhibit A and by this reference made a part hereof.

IT IS, THEREFORE, HEREBY ORDERED BY THE BOARD that a conditional use floodplain permit to allow the deposit of fill within the 100 year floodplain of the South Yamhill River on Yamhill County Tax Lot 1255-10, be and hereby is approved.

DONE this 7th day of May, 1980, at McMinnville, Oregon.

ATTEST:

WANDA CATT

Patricia A. Mullen

Deputy

APPROVED AS TO FORM

Daryl S. Garrettsch, County Counsel

YAMHILL COUNTY BOARD OF COMMISSIONERS

Ted Lopuszynski Chairman

John P. Macaulay Commissioner

Colin Armstrong Commissioner

FILM 34 PAGE 1878

YAMHILL COUNTY PLANNING COMMISSION

R E S O L U T I O N

(PA-79-80/Z-180-80/CFP-16-80)

The Planning Commission of Yamhill County, Oregon, on the 17th day of April, 1980, sat for the transaction of County business at a regularly scheduled session. Planning Commissioners Heckman, Bell, Bunn, Doll, Grimm, Miller, Schatz and Stockhoff were present.

WHEREAS, the Yamhill County Board of Commissioners adopted Yamhill County Zoning Ordinance No. 83, 1976, on the 11th day of February, 1976, being the Yamhill County Zoning Ordinance text and Official Zoning Map; and

WHEREAS, ORS 215.010 provides that a governing body may create a county planning commission, and pursuant to ORS 215.406, may designate the planning commission to serve as a hearings officer with all the powers and duties of a hearings officer as prescribed by ORS 215.010 and 215.402 to 215.422; and

WHEREAS, the Yamhill County Board of Commissioners created the Yamhill County Planning Commission by adoption of an unnumbered Board Order on the sixth day of November, 1957, and designated that Planning Commission as hearings body for petitions for amendments to the Yamhill County Zoning Ordinance No. 83, 1976, by adoption of Ordinance No. 138 on the first day of June, 1977; and

WHEREAS, it appears to the Planning Commission that a petition submitted on behalf of Riverbend Landfill Company, Inc. has been filed with the Yamhill County Department of Planning and Development pursuant to § 43 of Ordinance No. 83 to amend said Ordinance and change the Official Zoning Map designation from "Exclusive Farm 40-Agriculture/Forestry 20" to "Public Works/Safety" with a

1 -- RESOLUTION

FILK 34 MC1870

P.U.D. overlay for a parcel described as being a 229-acre tract located approximately three miles southwest of the City of McMinnville, more particularly described as Yamhill County Tax Lot No. 1255-10; and

WHEREAS, the McMinnville Planning Advisory Committee reviewed the amendment request at a public hearing on March 26, 1980 and recommended approval of the request; and

WHEREAS, the Planning Commission, on the 17th day of April, 1980, held a public hearing as required by ORS 215.223 and 215.416 on the proposed amendment and voted to approve the request based on the Findings and Conclusions attached hereto as Exhibit A and, by this reference, made a part hereof; NOW, THEREFORE,

IT IS HEREBY RESOLVED that the Official Zoning Map be and hereby is amended to show the zoning designation on Yamhill County Tax Lot 1255-10 as "Public Works/Safety" with a PUD overlay as shown on the Sketch Plan attached hereto as Exhibit B and, by this reference, made a part hereof.

This Resolution shall be in force and effect from and after the date the change is properly recorded on said Official Zoning Map. The Yamhill County Planning Director be and hereby is directed to authorize and amend said Zoning Map in conformance with this Resolution.

Passed by the Yamhill County Planning Commission on the 17th day of April, 1980 by the following vote:

////

2 --- RESOLUTION

RES 34 MAY 1980

"Ayes": Heckman, Bell, Bess, Ball, Grimm, Miller,
Schatz and Stockhoff.

"Nays:" None.

Abstentions: None.

APPROVED by the Chairman this 10th day of May, 1980.

ATTEST:

YAMHILL COUNTY PLANNING COMMISSION

DAVE BISHOP
DAVE BISHOP
Director, Yamhill County Department
of Planning and Development

Charles Heckman
Chairman CHARLES HECKMAN

1 -- RESOLUTION

Exhibit A

YAMHILL COUNTY LAND USE APPLICATION NUM: 34 PAGE 1881

Yamhill County Department of Planning and Development
Yamhill County Courthouse
McMinnville, OR 97128
503-472-3171 EXT. 201

File No. _____
Fee Paid _____ RECEIVED _____
Date Received _____
Staff Number _____

- PLAN CHANGE ZONE CHANGE
- Present Designation APLH Present District EP40/AT-20
- Proposed Designation PMS Proposed District PMS/PUD
- LOT SIZE VARIANCE
- CONDITIONAL USE
- ZONE VARIANCE
- SPECIAL EXCEPTION
- Plan Designation: _____
- Zone District: _____

Name of Applicant: Ezra Koch & Fred Koch Home: 472-7201
Riverbend Landfill Co., Inc. Phone Office: 472-3176
Mailing Address: P.O. Box 509 McMinnville, Oregon 97128
Applicant is: Legal Owner Contract Purchaser Agent
 Lessee

DESCRIPTION OF SUBJECT PROPERTY

Legal Owner: Harvin Bernards Signature: _____
Mailing Address: Route 1, Box 276
Tax Lot No. _____ Lot Size 229 (acres/xxxxxx)
1/4 of 1/4 of Section _____ Township 5S Range 5W
General location: Fronting _____ side of Highway 18
(name or number of road)
3 mile NE from McMinnville (city)

1. What is requested: Plan Amendment/Zone Change
An allowed by Art VI Section 43 of the
Zoning Ordinance.

2. Justification of Request: (Attach separate sheet);

1-Exhibit A

(OVER)

3. Present Use of Property: Farming MUN 34 DEC 1882

4. Date of Purchase of Property: Lease - Dated

5. Has a septic system Site Approval been obtained for the parcel?
 Yes _____ No X

6. Has a septic system Permit been issued for the parcel? Yes _____
 No X. If yes, list septic permit number: _____

7. Has a well been drilled on the parcel? Yes X No _____

8. Has a road been constructed into the parcel? Yes _____ No X
 If no, has a road approach permit been obtained? Yes _____ No X
 What is the road approach permit number? _____
 If yes, indicate type and width of road: _____

9. Are there currently any structures on the property? Yes X No _____
 If yes, list type and current use of each structure: Residence and several farm buildings

10. Is the property serviced by city water or sewer? Yes _____ No X
 If yes, list servicing agency: sewer _____ water _____

11. Do you own any property abutting the parcel for which this request is made? Yes _____ No X
 If yes, list tax lot number(s): _____

12. To your knowledge, have any previous requests been made to the Issuing Department on this tax lot? Yes _____ No X
 If yes, please indicate applicant's name and district number: _____

I hereby certify that the above information and evidence submitted are in all respects true and correct to the best of my knowledge and belief. I understand that issuance of a permit based on this application will not excuse me from complying with effective ordinances and resolutions of Yamhill County and Oregon Revised Statutes despite any errors on the part of the issuing authority in checking this application.

NOTE:
 Attach details, accurate site plans (1"=400' scale preferred). Other statements, plans, photos, etcetera, which would help to substantiate and clarify your request may also be submitted.
See Exhibit A

Applicant's signature _____
 Date _____

13. Exactly what do you want to do with the property? If structures are to be built, how many, how large, and for what use will the structures be constructed?

We wish to use property as a regional sanitary landfill to replace the facility just south across the Yamhill River. Two structures are contemplated: (1) a small office building next to entry road and (2) metal shed-type building on site for a recycling facility. We propose to use not more than 20 acres at one time. Balance of acreage will continue as a farm. Used land to be restored to farm usability.

14. What use is presently being made of the property?

Part of Bernard's farming operation: general farming, grazing and turkey growing.

15. What changes, if any, have occurred in your neighborhood or community since August, 1974 which should be considered in evaluating this application? NOTE: August, 1974 is the date of adoption of the Yamhill County Comprehensive Plan.

See attached Sheet.

16. What, if any, mistake was there in the application of the Comprehensive Plan or zoning designation for the property which should be considered in evaluating this application?
None.

(2)

3-Exhibit A

Exhibit "F" - Page 11
Board Order 92-280

17. What effect would the proposed development have on the use of nearby residential, commercial or industrial development, agricultural lands, mineral resource sites (including rock and gravel), and the quality of water and air generally? Indicate which, if any, are not applicable to this application.

(See attached sheet.)

18. Will the proposed use interfere with surrounding land usage or will surrounding land uses impose any restrictions on the proposed use? Explain how the proposed use is or is not compatible with surrounding land use.

The entire property is screened naturally by tall trees; the flood plain area is not visible from any public road. The upland area would be sight-protected by a berm. There is presently a turkey raising operation on site; a large turkey farm next (SW) to it, and a commercial moto-cross track to the south. None of these operations will be impacted by sight. As filled areas are completed, they will be restored to farm use. The flood plain area will have been lifted out of the flood-plain and become better farm ground.

19. Is the property in question presently served by any of the following? If yes, list servicing agency.

- Water? No Yes Well on site
- Sewer? No Yes
- Fire Protection? No Yes Will have fire truck of our own.
- Police Protection? No Yes County
- Electricity? No Yes
- Telephone? No Yes
- Garbage Removal? No Yes
- School Bus? No Yes

Indicate any other utility or public facility which will be necessary to service the proposed development and the agency which will supply these facilities.

Heavier electrical service; local electric utility.

4-Exhibit A

(3)

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30. What public need, if any, would be met by the proposed change that is not already met by other available property in the County? The State-wide Planning Goals and Guidelines (as adopted by the Land Conservation and Development Commission) should be consulted in determining public need. *NOTE:* The greater the departure from the present zoning plan designations, the greater the burden on the applicant to demonstrate public need.

(See attached sheet.)

21. Is there other land in the County presently recognized to allow the type of development you have requested? If so, why can't the proposed development occur on that land or is there a particular reason why your property is more suited for the development? *NOTE:* Evidence must be provided by the applicant which clearly indicates that the proposed land use is better suited to the proposed site than other areas in the County already zoned and/or planned for that use.

(See attached sheet.)

22. Is the property in question subject to any of the following:

- Flooding? No Yes Partly in flood plain.
- Landslides? No Yes
- High Water Table? No Yes Seasonally,
- Steep Slopes? No Yes
- Soil Erosion? No Yes 20 acres in flood-way would not be used for landfill.

5-Exhibit A

(4)