



*Friends of Toppenish Creek*

February 6, 2023

U.S. Environmental Protection Agency  
External Civil Rights Compliance Office  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1201A  
Washington, DC 20460

Dear EPA ECRCO:

This is a request from the Friends of Toppenish Creek (FOTC) to the Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) to re-open EPA Complaint No. 34RNO-16-R10 regarding the Yakima Regional Clean Air Agency (YRCAA). Salient reasons for this request are:

1. The YRCAA has kept information from the Limited English Proficiency (LEP) community that would allow this group to nominate a Spanish speaking South Yakima County resident to the YRCAA Board of Directors.
2. The YRCAA does not provide information to the LEP community that is necessary for participation in important decision making. There are upcoming policy decisions that will have long lasting impacts on Yakima County.
3. The YRCAA ignores WA State laws. (This may not fall within ECRCO's ability to address, but we include the evidence to demonstrate the YRCAA's disregard for the law.)
4. The YRCAA has failed to employ a certified Spanish language translator as promised in the EPA ECRCO/YRCAA Non-Discrimination Plan.
5. The YRCAA has failed to conduct annual civil rights training as promised in the EPA ECRCO/YRCAA Non-Discrimination Plan.
6. The YRCAA does not translate educational and legal documents that members of the LEP community are likely to encounter during routine interactions with the agency.
7. The YRCAA takes air samples and investigates complaints from more affluent English speaking parts of the county but does not do this for parts of Yakima County with higher percentages of LEP residents.

## Why don't people with Limited English Proficiency engage the YRCAA?

If a person with Limited English Proficiency (LEP) wants to learn about air quality in Yakima County, the quickest option is to access the Yakima Regional Clean Air Agency website at <https://www.yakimacleanair.org/> There is a button at the top right hand corner of the site that he/she can click to see the site in Spanish.

The YRCAA engages the public by convening quarterly Community Forums where the public can discuss air issues with agency staff. How might an LEP person learn about the YRCAA Community Forums? One would expect that the Community Forum would be listed under Avisos Públicos or Public Notices or even better with an announcement on the Home Page, but that is not the case. The LEP person must somehow know that a Community Forum exists; and know that information is found under Recursos or Resources. If he/she gets this far and clicks on Foro Comunitario there is a complete description in Spanish of the forum with rules to follow, a schedule through December 2022, and a link to the agenda for the December 12 forum. As of this writing the agenda is only in English. There is no link to a recording of the December meeting. There is no information about future meetings. The next meeting is in March of 2023. The YRCAA does not publicize Foro Comunitario reuniones in the Spanish media.

The YRCAA is governed by a five member Board of Directors. Four members are either elected officials or designated by elected officials. There is one member at large who is appointed by the YRCAA Board of Directors every four years.<sup>1</sup> In December 2022 the YRCAA appointed a man to this position without informing the LEP community of the opportunity to nominate a candidate who might represent people from South Yakima County who do not speak English well.<sup>2, 3, 4</sup> Four out of five current members of the YRCAA Board of Directors reside in affluent parts of Yakima County where the percentage of people who do not speak English well is low.

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<sup>1</sup> YRCAA Code A

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20Administrative%20Code%20Part%20A.pdf>

<sup>2</sup> Public Testimony October 2022 YRCAA Board Meeting, page 2

[http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20October\\_2022\\_Complete\\_Board\\_Packet.pdf](http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20October_2022_Complete_Board_Packet.pdf)

<sup>3</sup> Message to the YRCAA Board of Directors, November 2022

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.11%20Message%20to%20the%20%20Board%20of%20Directors.pdf>

<sup>4</sup> Minutes of the December 2022 YRCAA Board Meeting in the January 2023 YRCAA Board Packet. Three members of the YRCAA board were present, Yakima County Commissioner Amanda McKinney, Dr. Steven Jones, and member at large Jon Devaney. Dr. Jones nominated Jon Devaney for the member at large position and Amanda McKinney seconded. These two board members voted to re-appoint Mr. DeVaney to the four year member at large position. The only other candidate was Jean Mendoza, who had submitted a curriculum vitae with a statement that, if selected, she would advocate for regulation of the dairy industry. FOTC believes that Dr. Jones should have recused himself from voting due to his financial ties to the dairy industry. [http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20January\\_2023\\_Complete\\_Board\\_Packet\\_complete.pdf](http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20January_2023_Complete_Board_Packet_complete.pdf)

From late 2021 to mid-2022, the YRCAA failed to include Spanish speaking residents of Yakima County in selection of a new Executive Director.<sup>5, 6, 7, 8, 9, 10</sup>

The YRCAA does not regulate the influential dairy industry as required by RCW 70A.15.1005, RCW 70A.15.2270, RCW 70A.15.3060 and RCW 70A.15.3150,<sup>11</sup> although emissions from Yakima dairies comprise a major source of air pollution in South Yakima County.<sup>12</sup> There is so much methane from manure management in South Yakima County that venture capitalists are prepared to invest millions of dollars to harvest some of the methane for refinement to renewable natural gas (RNG).<sup>13, 14, 15</sup>

The YRCAA misinterprets RCW 70A.15.4530 by suggesting that emissions from CAFOs in the county are simply odor and dust and exempt from the Clean Air Act. Consequently, the YRCAA does not measure major air pollutants from CAFOs that impact human health and the environment, especially in areas where the percentage of people with LEP is highest.<sup>16</sup> In

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<sup>5</sup> Letter to the YRCAA Board of Directors, May 28, 2022

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.5.28%20Letter%20to%20YRCAA%20Board%20re%20APCO%20Selection.pdf>

<sup>6</sup> Letter to the YRCAA Board of Directors, June 19, 2022

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.6.19%20Letter%20to%20YRCAA%20Board%20APCO.pdf>

<sup>7</sup> Email regarding YRCAA Special Board Meeting, July 14, 2022

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.7.14%20Email%20special%20Meeting.pdf>

<sup>8</sup> Letter to YRCAA Board Chairman DeVaney, August 24, 2022

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.8.24%20Email%20Letter%20of%20Concern.pdf>

<sup>9</sup> YRCAA Response to FOTC Letters from July and August, in the October 2022 YRCAA Board Packet, page 50/58.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20October%202022%20Complete%20Board%20Packet.pdf>

<sup>10</sup> Letter to Chairman DeVaney, September 12, 2022

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.9.12%20Dear%20Chairman%20Devaney.pdf>

<sup>11</sup> Arguments for Dissolving the YRCAA, May 12, 202, page 15.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202021.5.12%20FOTC%20Arguments%20for%20Dissolving%20the%20YRCAA.pdf>

<sup>12</sup> Washington State 2017 Comprehensive Emissions Inventory.

<https://apps.ecology.wa.gov/publications/documents/2002012.pdf>

<sup>13</sup> Request for the YRCAA Board of Directors to address renewable natural gas from manure methane. October 6, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.10.6%20Message%20to%20YRCAA%20Board%20re%20RNG.pdf>

<sup>14</sup> Email to the YRCAA Board of Directors regarding renewable natural gas. November 4, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.11.4%20Email%20RNG.pdf>

<sup>15</sup> RNG Construction Application to YRCAA.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.4.27%20SS%20RNG%20Construction%20Application.pdf>

<sup>16</sup> Arguments for Dissolving the YRCAA, May 12, 202, pages 22 – 29.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202021.5.12%20FOTC%20Arguments%20for%20Dissolving%20the%20YRCAA.pdf>

December 2022 the YRCAA incorrectly told the public at a Community Forum that the EPA and Ecology say there is no ozone problem in Yakima County. This is not true.<sup>17</sup>

The YRCAA Board of Directors allows a board member with significant financial ties to the dairy industry to vote on measures regarding that industry.<sup>18</sup>

The Washington State Healthy Environment for All (HEAL) Act is the first statewide law in Washington to create a coordinated state agency approach to environmental justice. The YRCAA has incorrectly stated, “. . . the HEAL Act is not applicable to the YRCAA and the latter is statutorily prohibited from voluntarily adopting its requirements.”<sup>19, 20</sup> The YRCAA has failed to inform LEP Yakima County residents of their rights under the HEAL Act and fails to include environmental justice in YRCAA policies and procedures.

The YRCAA has a long history of ignoring complaints from South Yakima County.<sup>21, 22</sup> FOTC proposes that LEP residents of the county do not engage in air quality discussions due to common knowledge that their efforts are futile. LEP residents talk to their neighbors. They know that people have complained about air quality to the YRCAA for decades, that people spend hundreds, even thousands of volunteer hours on air quality, that academic research by the University of Washington and Johns Hopkins University on childhood asthma and allergies in South Yakima County is absent from the YRCAA website.<sup>23, 24, 25, 26</sup>

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<sup>17</sup> Letter to YRCAA regarding ozone. 2022.12.14.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.12.14%20YRCAA%20Ozone.pdf>

<sup>18</sup> Arguments for Dissolving the YRCAA, May 12, 202, page 15. Also see reference 4 above.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202021.5.12%20FOTC%20Arguments%20for%20Dissolving%20the%20YRCAA.pdf>

<sup>19</sup> YRCAA Complete Board Packet for October 2022, page 52/58.

[http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20October\\_2022\\_Complete\\_Board\\_Packet.pdf](http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20October_2022_Complete_Board_Packet.pdf)

<sup>20</sup> CCA and HEAL Act Concerns. Letter to Yakima County commissioners. October 10, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.10.10%20CCA%20and%20HEAL%20Concerns%20Commissioners.pdf>

<sup>21</sup> Arguments for Dissolving the YRCAA, May 12, 202, pages 22 – 29.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202021.5.12%20FOTC%20Arguments%20for%20Dissolving%20the%20YRCAA.pdf>

<sup>22</sup> Descriptive Analysis of YRCAA Response to Complaints.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Descriptive%20Analysis%20of%20YRCAA%20Response%20to%20Complaints.pdf>

<sup>23</sup> Williams et al (2011) Airborne cow allergen, ammonia and particulate matter at homes vary with distance to industrial scale dairy operations: an exposure assessment. *Environmental Health* 10 :72. Retrieved from

<http://www.ehjournal.net/content/10/1/72>

<sup>24</sup> Ammonia Levels in Yakima County.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Ammonia%20Levels%20in%20Yakima%20County%20FOTC.pdf>

<sup>25</sup> Loftus, C., Yost, M., Sampson, P., Arias, G., Torres, E., Vasquez, V. B., ... & Karr, C. (2015). Regional PM<sub>2.5</sub> and asthma morbidity in an agricultural community: a panel study. *Environmental Research*, 136, 505-512. Available at

[file:///C:/Users/Jean%20Mendoza/Downloads/cdc\\_52350\\_DS1.pdf](file:///C:/Users/Jean%20Mendoza/Downloads/cdc_52350_DS1.pdf)

## The YRCAA Agreement and Non-Discrimination Plan

In 2016 the Friends of Toppenish Creek filed a civil rights complaint, EPA Complaint No. 34RNO-16-R10, with the EPA External Civil Rights Compliance Office (ECRCO) alleging that the YRCAA provides a lower level of services to people who live in South Yakima County as compared to North Yakima County. As an example, FOTC has noted that ammonia levels in the south are 63 times higher than ammonia levels in the north and the YRCAA has declined to investigate.<sup>27</sup>

In August 2019 the YRCAA signed an informal agreement with EPA ECRCO that closed the case.<sup>28</sup> The YRCAA agreed to:

- *translate into Spanish (and other languages as appropriate) and make publicly available any notice and/or documents provided to English-speaking residents both electronically and in hard copies, including any notices and/or documents regarding permitting activity, air quality, and/or other environmental issues (e.g. burn ban announcements).*
- *conduct public meetings and/or outreach regarding its permitting, air quality, and/or other environmental programs, services, or activities in a way that ensures meaningful participation for Spanish-speaking LEP residents.*
- *develop and implement a nondiscrimination program that contains the procedural safeguards required by EPA's regulations at 40 C.F.R. Parts 5 and 7.*

The YRCAA has failed to take these actions. Here are specific examples from the plan:

### On pages 4 & 5/41 the YRCAA states:

*Analysis of Population Served or likely to be encountered (Appendix A) An analysis using data from the United States Environmental Protection Agency's (USEPA) EJ Screen database revealed the population eligible to be served or likely to be encountered by any YRCAA program is comprised of 45% Hispanics and 48% Non Hispanic. The Non-Hispanic population further breaks down into the following populations: White Alone (48%), Black Alone (1%), American Indian (4%) and Non Hispanic Asian Alone (1%). Additionally, 6,988 Spanish speaking households were identified as "linguistically isolated", meaning no one 14 years of age and over speaks English "very well" or speaks English only.*

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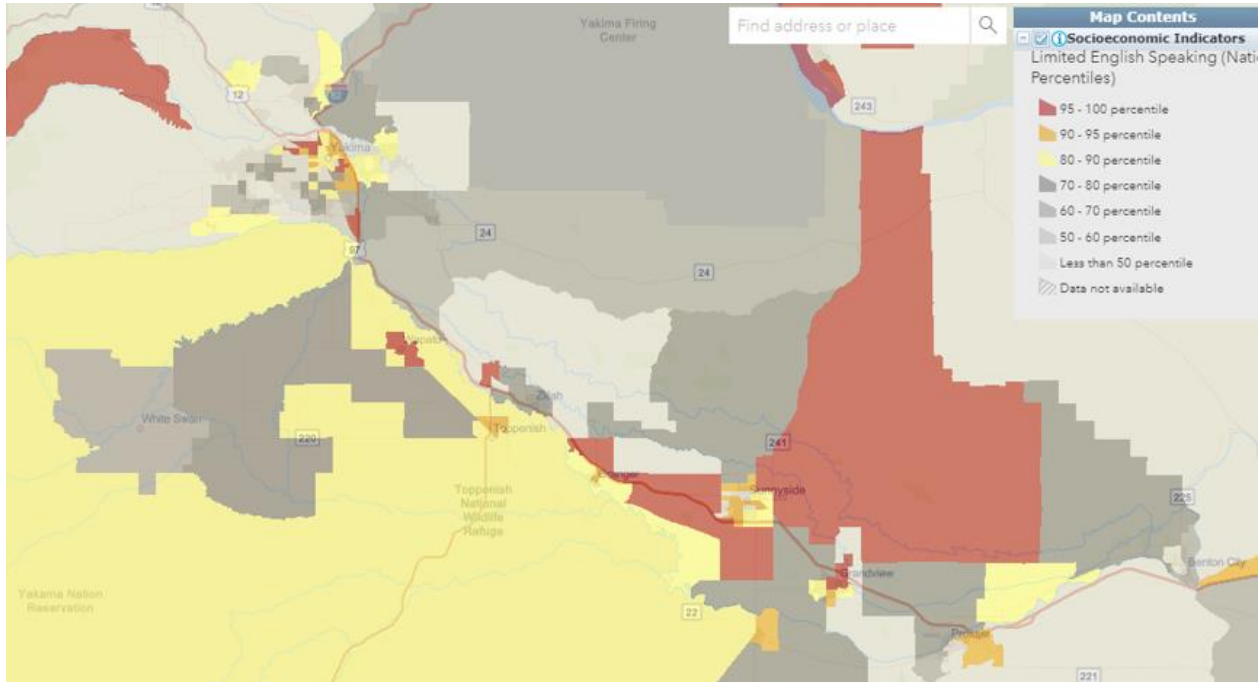
<sup>26</sup> Loftus, C., Yost, M., Sampson, P., Torres, E., Arias, G., Vasquez, V. B., ... & Karr, C. (2015). Ambient ammonia exposures in an agricultural community and pediatric asthma morbidity. *Epidemiology (Cambridge, Mass.)*, 26(6), 794. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4587379/>

<sup>27</sup> Ammonia Levels in Yakima County. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Ammonia%20Levels%20in%20Yakima%20County%20FOTC.pdf>

<sup>28</sup> Yakima Regional Clean Air Agency. YRCAA Non-Discrimination Plan at <https://www.yakimacleanair.org/about/non-discrimination.html>

**FOTC Response:** The YRCAA Analysis of Population Served is an average of the Yakima County population. It does not take into account significant regional differences within the county that are shown on the EPA EJ Screen and the WA Health Disparities map.<sup>29, 30, 31, 32</sup>

Here is a copy of the EPA EJ Screen Mapping of Limited English Speaking for Yakima County, available at <https://ejscreen.epa.gov/mapper/> South Yakima County covers the bottom two thirds, and North Yakima County covers the upper third of the map.



About 80% of the population in South Yakima County is Latino and at least 25% of the southern population speaks little or no English. About 30% is under the age of 18.<sup>29, 30</sup>

Contrast these numbers with demographics for the affluent northern parts of Yakima County where four out of five YRCAA board members live. In these areas white people comprise the major ethnic group. People in these areas speak English and earn \$10,000 more per capita than people in the south.<sup>29, 30</sup>

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<sup>29</sup> U.S. Census. Explore Census Data. at <https://data.census.gov/>

<sup>30</sup> ZipCodes.com at <https://www.zip-codes.com/search.asp?fld-zip=codes&srch=Lookup+ZIP+Code>

<sup>31</sup> Maps from U.S. Environmental Protection Agency EJ Screen.  
<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20EJ%20Screen.pdf>

<sup>32</sup> Maps from the WA State Health Disparities Map.  
<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20WA%20Health%20Disparities%20Map.pdf>

In 2022 neighbors of two limited use landfills located in a section of Northern Yakima County with few LEP resident, complained to the YRCAA and other agencies about air emissions from the landfills. The agencies met with the people and set up fence line air monitoring to evaluate the problem – as they should.<sup>33, 34, 35, 36</sup> People who live in South Yakima County have complained about emissions from CAFO dairies for decades and have been routinely ignored.<sup>37</sup>

**On page 5/41 the YRCAA states:**

*The agency website provides Spanish translation of vital documents of general interest. Examples of such documents are;*

→ *YRCAA Complaint Form*

→ *Permit Applications*

→ *Board Meeting announcements*

→ *Board Meeting Agendas*

→ *Community Forum Announcement* → *Community Forum Agenda*

→ *Burn Ban Information*

→ *YRCAA Non-Discrimination Plan translated*

**FOTC Response:** There is no Spanish translation of any permit documents and forms on the YRCAA website.<sup>38</sup>

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<sup>33</sup> Yakima Herald Republic – Landfills. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Landfills%20YHR.pdf>

<sup>34</sup> Rocky Top Ecology Tech Memo. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Ecology%20Tech%20Memo%20re%20DTG%20Site%20visit,%20Jan%202020,%202023.pdf>

<sup>35</sup> Rocky Top Ecology Letter to Yakima Health District. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20ECY%20to%20YHD%20re%20Anderson%20DTG%20Cracks%20and%20Emissions,%20Jan%202020,%202023.pdf>

<sup>36</sup> Rocky Top Yakima Health District Letter. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YHD%20letter%20to%20DTG%20re%20Air%20Monitoring,%20Feb%202020,%202023.pdf>

<sup>37</sup> Arguments for Dissolving the YRCAA, May 12, 202, pages 22 – 29. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202021.5.12%20FOTC%20Arguments%20for%20Dissolving%20the%20YRCAA.pdf>

<sup>38</sup> Examen del YRCAA Website. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Analysis%20of%20the%20YRCAA%20Website.pdf>

If a person with Limited English Proficiency wishes to burn anything outdoors at his/her residence the law says he/she must obtain a burn permit. The applicant must sign an affidavit that says:

*Affidavit: I, the undersigned, have read, understand and accept the responsibility to comply with all the conditions. Failure to comply with all conditions specified above is a violation, subject to penalty. I agree that YRCAA may enter my property for inspection of compliance with permit conditions.*

This is a legally binding document with serious penalties for violation. It is only available in English. See <https://www.yakimacleanair.org/img/pdf/73.pdf>

**On page 6/41 the YRCAA states:**

*The YRCAA also employs a certified Spanish staff interpreter who provides real time interpretation services for individuals with limited English proficiency within the office environment.*

**FOTC Response:** To the best of our knowledge, the YRCAA employs a bilingual receptionist, but she is not certified.<sup>39, 40</sup> There is no job description in the YRCAA Code B that requires any employee to be a certified interpreter.<sup>41</sup>

**On page 7/41 the YRCAA states:**

*the YRCAA also complies with the applicable state requirements contained within Chapter 34.05 of the Revised Code of Washington (RCW) and Chapter 42.30 RCW. Chapter 34.05 RCW is known as the Washington State Administrative Procedures Act (APA) and Chapter 42.30 is known as the Washington State Open Public Meetings Act (OPMA).*

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<sup>39</sup> Message to YRCAA Board of Directors, November 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.11%20Message%20to%20the%20%20Board%20of%20Directors.pdf>

<sup>40</sup> Public Records Request re Interrupters.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.11.28%20PRR%20Certified%20Interpreter.pdf>

<sup>41</sup> YRCAA Administrative Code Part B.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20Administrative%20Code%20Part%20B.pdf>



**FOTC Response:** FOTC has complained about YRCAA violations of the Open Public Meetings Act in the past.<sup>42, 43, 44, 45</sup> In the summer of 2022, the YRCAA presented candidates for the position of YRCAA Executive Director to South Yakima County with insufficient public notification, and especially insufficient notification to the LEP community. Only thirty people from South Yakima County were notified by email with 24 hours' notice.<sup>46, 47, 48</sup> There is much more to be said about probable violations of the OPMA, but this likely falls under WA State jurisdiction and is outside the 180 day window for a complaint.

**On page 9/41 the YRCAA states:**

*FOTC has made two requests of the Washington State Department of Ecology to conduct a formal review of the YRCAA. The first request was made on June 10<sup>th</sup>, 2016, and the subsequent request was made on January 31<sup>st</sup>, 2019. Both requests were denied and the WSDOE response letters can be viewed in Appendix D.*

**FOTC Response:** The issues that FOTC presented to Ecology in these complaints have yet to be resolved. Those issues are regulation of emissions from the dairy industry, follow up on the Yakima Air Winter Nitrate Study and the Agency for Toxic Substance Disease Registry study of air quality, public engagement, and voting by a member of the YRCAA Board of Directors with a conflict of interest.

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<sup>42</sup> Letter to YRCAA re Open Public Meetings Act (OPMA) May 28, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.5.28%20Letter%20to%20YRCAA%20Board%20re%20APCO%20Selection.pdf>

<sup>43</sup> Letter to YRCAA from the WA Attorney General's Office re the OPMA, June 2, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.6.2%20Email%20from%20WA%20ATG.pdf>

<sup>44</sup> Letter from attorney Gary Cuillier, June 6, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.6.6%20YRCAA%20Letter%20from%20Gary%20Cullier.pdf>

<sup>45</sup> Letter to YRCAA Board of Directors re OPMA and APCO selection, June 8, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.6.8%20Letter%20to%20YRCAA%20Board%20OPMA.pdf>

<sup>46</sup> Letter to YRCAA re OPMA and APCO Selection, June 19, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.6.19%20Letter%20to%20YRCAA%20Board%20APCO.pdf>

<sup>47</sup> Email re Special Meeting.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.7.14%20Email%20special%20Meeting.pdf>

<sup>48</sup> YRCAA Response to FOTC Letters from July and August, in the October 2022 YRCAA Board Packet, page 50/58.

[http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20October\\_2022\\_Complete\\_Board\\_Packet.pdf](http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YRCAA%20October_2022_Complete_Board_Packet.pdf)

**On page 9/41 the YRCAA states:**

*Agendas and minutes/summaries for all Board of Directors meetings are also available in both English and Spanish on the agency website at <https://www.yakimacleanair.org>*

**FOTC Response:** Meeting summaries for YRCAA Board of Directors meetings are not available in Spanish on the agency website.

**On page 9/41 the YRCAA states:**

*The YRCAA regularly notifies the public, interested community groups and the local media when there are opportunities for public involvement. The method by which the Agency notifies the public includes email notifications, public announcements on the agency website, and announcements/ads in traditional media such as print, radio and television.*

**FOTC Response:** There is no evidence to support this statement. Simply posting information on a website is insufficient. A review of YRCAA Activities for the first three quarters of 2020, 2021, & 2022 finds that on average the agency completes 1 public workshop, 1 media event, 1 educational outreach, and 6 media contacts per year.<sup>49</sup>

**On page 9/41 the YRCAA states:**

*The dates for forum meetings are posted at the beginning of each calendar year on the agency website,*

**FOTC Response:** Not true at this time.

**On page 21/41, and page 35/41 the YRCAA agrees to:**

*translate into Spanish (and other languages as appropriate) and make publicly available any notice and/or documents provided to English-speaking residents both electronically and in hard copies, including any notices and/or documents regarding permitting activity, air quality, and/or other environmental issues (e.g. burn ban announcements).*

<sup>49</sup> YRCAA Activities Reports 2020 to 2022.

<http://www.friendsoftopenishcreek.org/cabinet/data/ECRCO%20YRCAA%20Activity%20Reports%202020%20to%202022.pdf>

**FOTC Response:** Burn ban announcements are posted in English and Spanish. Air quality charts and tables are currently only available in English. Permit forms are only available in English.<sup>50</sup>

**On page 25/41 the YRCAA states:**

*3. The YRCAA commits to conducting public meetings and/or outreach regarding its permitting, air quality, and/or other environmental programs, services, or activities in a way that endures meaningful participation for Spanish-speaking LEP residents (and other languages as appropriate: see section B.2). The YRCAA also commits to provide oral interpretation and to access and participation for Spanish-speaking LEP residents.*

**FOTC Response:** This is the EPA definition of meaningful public involvement, from <https://archive.epa.gov/publicinvolvement/web/html/definit.html#:~:text=%22Meaningful%20involvement%22%20means%20that%3A,influence%20the%20regulatory%20agency's%20decision>

*"Meaningful involvement" means that:*

- *potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health*
- *the public's contribution can influence the regulatory agency's decision*
- *the concerns of all participants involved will be considered in the decision-making process*
- *the decision makers seek out and facilitate the involvement of those potentially affected*

FOTC argues that these criteria are not met by the YRCAA. Por ejemplo, the LEP community has received no information about manure methane digesters. The YRCAA is currently the authorized source of air information for Yakima County sources. Nevertheless, permits are being submitted and contracts discussed without LEP knowledge. The impact of methane manure digesters may well be significant and might push Yakima County into non-attainment.<sup>51, 52, 53</sup>

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<sup>50</sup> Examen del YRCAA Website.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Analysis%20of%20the%20YRCAA%20Website.pdf>

<sup>51</sup> Email re Renewable Natural Gas, October 6, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.10.6%20Message%20to%20YRCAA%20Board%20re%20RNG.pdf>

<sup>52</sup> Email re Renewable Natural Gas, November 4, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.11.4%20Email%20RNG.pdf>

<sup>53</sup> RNG Permit Application, April 27, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.4.27%20SS%20RNG%20Construction%20Application.pdf>

**On page 27/41 the YRCAA agrees to:**

**5. Training**

*a. Within 120 days after finalizing the documents identified in Section III of this agreement, the YRCAA will ensure that all appropriate staff has been trained on the plans, processes and procedures of this Agreement.*

*b. Within 120 days after signing of the Agreement, the YRCAA will have a plan in place to ensure that such training is a routine part of the on-boarding process for new employees and is given annually as refresher training to all employees.*

**FOTC Response:** FOTC submitted a public records request for the content of the YRCAA civil rights training. YRCAA sent us certificates of training for ten YRCAA employees in 2020.<sup>54</sup> There was no description of content, length of training, or name of the trainer. Three of the ten staff members have since left the agency. There is no documentation for subsequent training in 2021 or 2022. There is no documentation of on-boarding training for three new YRCAA employees, including the current executive director.

**Why do the Friends of Toppenish Creek complain now?**

There are many reasons why FOTC did not ask to re-open this case sooner. It takes hundreds of hours of work to gather the necessary data, evaluate and summarize that data.

1. FOTC has made a good faith effort to discuss these issues with the YRCAA, in hopes of resolving problems at the local level. In November 2022 we requested a meeting with the YRCAA Director to discuss civil rights.<sup>55, 56, 57</sup> In January 2023, he informed us that he does not have time to meet. Director Thornsbury stated:

*While I can't speak to the details of any "agreement" of the Agency (due primarily to the limited free time I have had available to me), I **can** say from direct experience Agency staff work to accommodate anyone who needs assistance, including those for whom English may be a (distant) second language. For example, within the first week or so I*

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<sup>54</sup> YRCAA Staff Training – Non-Discrimination.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202020.8.24%20PRR%20YRCAA%20Staff%20Training.pdf>

<sup>55</sup> Civil Rights Email, November 29, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.11.29%20Civil%20Rights%20Email.pdf>

<sup>56</sup> Civil Rights Email, December 13, 2022.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202022.12.13%20Civil%20Rights%20Emails%20II.pdf>

<sup>57</sup> Civil Rights Email, January 15, 2023.

<http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%202023.1.15%20Civil%20Rights%20Emails%20III.pdf>

*was here, I happened to overhear a meeting with a person who—based on their statements and a conversation they had in Spanish over a cell phone—might have had difficulty understanding what was being said and this person was promptly given the opportunity to have a translator present (which they politely declined). I have also overheard a number of conversations in Spanish (largely with respect to various Agency programs such as the woodstove bounty and low-income woodstove replacement programs) and the offering of Spanish-language forms/documents or the translation of them if desired (though I don't believe we've had any takers on the latter to date). Again, I can't speak to the letter of any agreement, but from what I have seen I can't find a factual basis for concluding the Agency is failing to meet the demand for effective communication as expressed by the community—including those with limited English comprehension—in a reasonable and timely fashion (taking into account the size and budget of the Agency).*

2. Discrimination is currently so obvious that FOTC feels compelled to speak out. Although the YRCAA complains of insufficient resources to address emissions in South Yakima County, the YRCAA promptly coordinates with other agencies and addresses air pollution problems in the more affluent parts of Yakima County. Consider recent actions to address air pollution from landfills:<sup>58, 59, 60, 61</sup>

*For immediate release: December 30, 2022*

*Contact: Lilian Bravo, Director of Public Health Partnerships 509-930-4787*

*Second Update on Caton Limited Purpose Landfill*

*Yakima, WA- The Yakima Health District continues to work in partnership with Washington State Department of Ecology Central Region Office, Washington State Department of Ecology Spill Prevention, Preparedness and Response Program, federal Environmental Protection Agency, and Yakima Regional Clean Air Authority to conduct air sampling tests and remedy fires at Caton Limited Purpose Landfill.*

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<sup>58</sup> Yakima Herald Republic – Landfills. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Landfills%20YHR.pdf>

<sup>59</sup> Rocky Top Ecology Tech Memo. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20Ecology%20Tech%20Memo%20re%20DTG%20Site%20visit,%20Jan%202020,%202023.pdf>

<sup>60</sup> Rocky Top Ecology Letter to Yakima Health District. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20ECY%20to%20YHD%20re%20Anderson%20DTG%20Cracks%20and%20Emissions,%20Jan%202020,%202023.pdf>

<sup>61</sup> Rocky Top Yakima Health District Letter. <http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCO%20YHD%20letter%20to%20DTG%20re%20Air%20Monitoring,%20Feb%202022,%202023.pdf>

*Last week, air sampling sensors were placed throughout the Caton Limited Purpose Landfill and towards the outskirts of the landfill near residential and business areas to gather data on what is being released from the smoke and fires and the distance it is traveling. The air quality readings recorded have not shown that there is currently any air quality concerns for the public. However, given the ongoing presence of fires at the landfill, air quality monitoring will continue. The Yakima Health District will inform the public if there are any changes to the air quality that are concerning to the public's health.*

*Additionally, landfill fire consultants were on site last week at the Caton Limited Purpose Landfill. A fire management plan will be submitted next week that will provide information on how to remedy the fires and prevent this from occurring in the future at the facility. Landfill fire consultants will also develop an ongoing air quality monitoring plan to monitor for potential harmful emissions leaving the landfill site. Once the workplan has been submitted by the fire consultants, the Yakima Health District, Department of Ecology and Yakima Regional Clean Air Agency will review it.*

*At this point in time, there is no established timeline for the landfill to reopen.*

Meanwhile, there are 210 acres of manure lagoons in South Yakima County that store millions of gallons of raw manure, open to the air.<sup>62</sup> The 90,000 dairy cows in Southern Yakima County produce as much waste as a city of over 2 million people.<sup>63</sup> No one measures emissions on these operations. At the January 12, 2023, YRCAA Board meeting, FOTC asked the YRCAA Board to determine which source emits more air pollution – a limited use landfill or a million gallon manure lagoon.<sup>64, 65</sup> The board ignored our question.

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<sup>62</sup> Lower Yakima Valley Groundwater Management Area, Nitrogen Availability assessment, page 3. Available at <https://www.yakimacounty.us/DocumentCenter/View/17514/June-2018-Final-Nitrogen-Availability-Assessment->

<sup>63</sup> U.S. Environmental Protection Agency. Relation Between Nitrate in Water Wells and Potential Sources in the Lower Yakima Valley, Washington. Available at <https://www.epa.gov/sites/default/files/2017-12/documents/lower-yakima-valley-groundwater-report-2013.pdf>

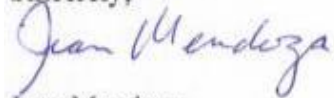
<sup>64</sup> YPAC recording of the January 2023 YRCAA Board Meeting. Available at <https://videos.yakimawa.gov/CablecastPublicSite/?channel=2>

<sup>65</sup> February 2023 Complete Board Packet, page 4/51. [http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCA%20YRCAA%20February\\_2023\\_Complete\\_Board\\_Packet\\_complete.pdf](http://www.friendsoftoppenishcreek.org/cabinet/data/ECRCA%20YRCAA%20February_2023_Complete_Board_Packet_complete.pdf)

## Conclusion

The YRCAA has not complied with the terms of agreement in EPA Complaint No. 34RNO-16-R10, and the ECRCO should re-open the case. FOTC thanks EPA ECRCO for your anticipated help in delivering equal treatment for environmental justice communities in Yakima County. We would welcome an investigation of the merits.

Sincerely,



Jean Mendoza

Executive Director, Friends of Toppenish Creek  
3142 Signal Peak Road  
White Swan, WA 98952

cc.

Yakima Regional Clean Air Agency

WA State Dept of Ecology

WA Environmental Justice Council

U.S. EPA Region X

Yakama Nation

Yakima Herald Republic

Environmental NGO's