



Friends of Toppenish Creek

August 8, 2021

Vincent McGowan
Water Quality Program Manager
WA State Dept. of Ecology

Dear Mr. McGowan:

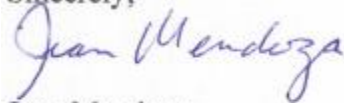
The citizens of Washington State depend on the WA State Dept. of Ecology (Ecology) to protect the air, water, soil – the environment in our beautiful state. The Friends of Toppenish Creek (FOTC) understand that Ecology cannot do this alone. We do our best to help. Please consider this wake-up call and appeal for Ecology leadership in that light.

Since July of 2019 there have been no substantive efforts to implement the Lower Yakima Valley Groundwater Management Area (LYV GWMA) Program. Taking samples from monitoring wells to establish baseline water quality (after a delay of 20 years) is not substantive because that action does nothing to stop pollution. Data gathering only documents decline.

After a decade of work by citizens and agencies and the expenditure of \$2.3 million, there is no relief in site for the thousands of people in the LYV whose drinking water is contaminated with nitrates and other pollutants. We ask whether Ecology will follow through with statements in your letter of certification. Will Ecology de-certify the LYV GWMA because the Implementation Team has not complied with the conditions for GWMA certification?

. Please take a hard look at how much time and effort are required to pretend that the LYV GWMA is working and balance that against other effective actions Ecology could take to improve groundwater.

Sincerely,



Jean Mendoza

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

Evidence that the LYV GWMA Implementation Team has not met Conditions of Certification

- The LYV GWMA Implementation Team has not met since 2019
- The LYV GWMA Implementation Team has not created a Scope of Work
- The LYV GWMA Implementation Team has not submitted a prioritized implementation schedule to Ecology
 - There are no deadlines for accomplishing the Program's recommended actions
 - There are no assigned responsibilities for seeking funding
 - The LYV GWMA has not studied water supply alternatives
 - The LYV GWMA has not provided safe drinking water to the people of the LYV
- Ecology mis-informed the WA State Pollution Control Hearings Board when their expert testified that the issues were being worked on
- The South Yakima Conservation District accepted the role of lead agency for GWMA implementation, but now states that Yakima County is the lead agency

A. On July 29, 2019, Ecology certified the Lower Yakima Valley Groundwater Management Area Program, stating:

Pursuant to Chapter 173-100 WAC, certification of the Ground Water Management Areas and the Program is conditioned to require that the Executive Committee:

1) Identify and name a lead entity and describe specific duties (Scope of Work) to implement the goals and recommendations of the Lower Yakima Valley Groundwater Management Area Program.

2) Submit a prioritized implementation schedule to Ecology on or before May 31, 2020, including but not limited to deadlines for accomplishment of the Program's recommended actions, responsibilities to seek funding, and recommended implementation priorities.

3) Seek funding, identify and support opportunities via a study of water supply alternatives, consistent with recommendations 33 and 44, to provide immediate assistance to residents within the Groundwater Management Area boundary whose drinking water nitrate levels are consistently above the EPA safe drinking water standard of 10 mg/L in their private domestic wells.

B. The Friends of Toppenish Creek appealed the certification of the LYV GWMA to the WA State Pollution Control Hearings Board. At the PCHN hearings Ecology told the PCHB that the GWMA Implementation Program was moving forward.

On August 26, 2020, Thomas Young from the WA State Attorney General's Office questioned David Bowen who was then the Water Quality Section Manager for Ecology's Central Offices.

Mr. Young asked about Ecology’s conditions for certification of the LYV GWMA. Mr. Bowen testified that the three conditions “are being worked on”; that the implementation schedule is “being worked on.”

Mr. Bowen testified that Yakima County realized they did not have the right resources to lead the GWMA implementation and rescinded their offer to head the Implementation Team. According to Mr. Bowen, the South Yakima Conservation District stepped up and assumed that role.

Regarding condition #3, providing safe drinking water to the residents of the LYV, Mr. Bowen testified, “that is on my plate” and he was “gathering data.” He testified that the Implementation Team had met twice in 2019. Mr. Bowen has since been promoted and no longer participates in the LYV GWMA Implementation.

C. In March 2021, FOTC submitted a public records request in order to learn about the LYV GWMA Implementation Team’s activities. FOTC stated:

Pursuant to the state Public Records Act RCW §§ 42.56.001 to 42.56.904, I write to request access to, and copies of:

- 1. The identity of the current lead agency for the LYV GWMA Executive Team*
- 2. The names of the current members of the LYV GWMA Executive Team*
- 3. Agendas and summaries for meetings of the LYV GWMA Executive Team from June 30, 2020 to June 30, 2021*
- 4. Specific duties (Scope of Work) for the LYV GWMA Executive Team*
- 5. A prioritized implementation schedule for the LYV GWMA Executive Team*
- 6. Deadlines for accomplishing the Program’s recommended actions*
- 7. A listing of responsibilities for seeking funding for the LYV GWMA Program*
- 8. Implementation priorities for the LYV GWMA Program*
- 9. Studies of water supply alternatives conducted by the LYV GWMA Executive Team*
- 10. Descriptions of programs to provide immediate assistance to residents within the GWMA boundaries whose drinking water exceeds 10 mg/L*
- 11. Periodic reviews of the LYV GWMA Program implementation since creation of the LYV GWMA Executive Team in July 2019.*
- 12. Hypotheses, goals, objectives, and limitations for the LYV GWMA well monitoring plan.*

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address.

D. Ecology responded with the documents below (attached):

1. A May 2020 email from David Bowen to Vincent McGowan
2. A copy of the Recommended Actions from the LYV GWMA Program
3. A May 2020 memo from David Bowen to Vincent McGowan
4. A list of the members of the LYV GWMA Implementation Team
5. A copy of Ecology's certification letter to Yakima County Commissioner Norm Childress
6. A funding proposal for the 2022 Supplemental Budget
7. Talking points for the 2022 Supplemental Budget Briefing
8. The 2020 Supplemental Budget Decision Package
9. A QAPP for groundwater monitoring in the GWMA target area
10. Copies of Volumes I, II, & III for the LYV GWMA Program (not attached, available at <https://www.yakimacounty.us/541/Groundwater-Management>)

It appears that the GWMA Implementation Team has not met since 2019 and that actions to address LYV groundwater pollution have come to a halt. In response to our public records request there were no agendas or summaries for Implementation Team meetings, no Scope of Work, no prioritized schedule, no listing of responsibilities for seeking funding, no implementation priorities, no studies of water supply alternatives, no programs to provide immediate access to safe drinking water, and no periodic reviews of the Program.

E. The South Yakima Conservation District assumed the role of lead agency for the GWMA Implementation Team, according to Ecology testimony before the WA State Pollution Control Hearings Board, internal Ecology conversations and other sources.

The South Yakima Conservation District (SYCD) has a staff of two, District Manager Rodney Heit and Administrative Assistant Shirley St. John. The SYCD Board of Directors does not discuss activities of the LYV GWMA Implementation Team at their meetings. In fact, Mr. Heit has stated that he knows little about the GWMA Implementation Team.

This is what the SYCD says about the LYV GWMA on their website at <https://www.sycd.us/education-outreach>

Groundwater Management Area

What is the Groundwater Advisory Committee (GWAC) and Groundwater Management Area (GWMA)?

What is the Lower Yakima Valley Groundwater Advisory Committee? The Groundwater Advisory Committee (GWAC) is a multi-agency and citizen-based group that is

coordinating the effort to reduce nitrate contamination in the groundwater within the lower Yakima Valley. The GWAC is responsible for developing the Groundwater Management Area Program.

<https://ecology.wa.gov/Water-Shorelines/Water-quality/Groundwater/Protecting-aquifers/Lower-Yakima-Valley-groundwater>

When was the Groundwater Management Area formed?

In 2011 the Washington Department of Ecology granted a request by Yakima County to create a special study area and establish an advisory committee to find solutions to prevent contamination and protect residents who might be exposed to high levels of nitrate in their drinking water. The area is known as the Lower Yakima Valley Groundwater Management Area.

In the short-term, the goal is to educate people about the problem and provide information on how they can protect themselves. The long-term goal is to reduce nitrate concentrations in groundwater to below state drinking water standards. This will be accomplished by using available and new scientific data collected in the valley to prevent continued groundwater pollution and make sure residents have clean and safe drinking water.

What is the goal of the Groundwater Management Area?

The goal of the Lower Yakima Valley Groundwater Management Area is to reduce nitrate contamination concentrations in groundwater below state drinking water standards of (10 ppm). The target area extends from Union Gap to County Line Road in Yakima County, Washington, minus the Yakama Nation.

The Link below is to the Lead Agency (Yakima County) where you will find more information pertaining to the Ground Water Management Area (GWMA) reports, outcomes, current and future program plans etc.

In other words, the lead agency for the LYV GWMA Implementation Program, does not acknowledge that they are the lead agency.

The Friends of Toppenish Creek believe that the LYV GWMA Implementation Team has not complied with the three conditions of GWMA certification, and that Ecology should address this problem. We further observe that forces committed to maintaining the status quo will try to manipulate Ecology for their own purposes. This will drain Ecology's limited resources. Please take a hard look at how much time and effort are required to pretend that the LYV GWMA is working and balance that against other effective actions Ecology could take to improve groundwater.

cc.

Heather Bartlett

Sage Park

Yakima County Commissioners

WA Legislators from the 14th and 15th Districts

Yakima Herald Republic

Northwest Public Radio