



April 23, 2021

Jacob Berkey
Washington Department of Ecology, Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Dear Mr. Berkey:

This document will serve as comments from the Friends of Toppenish Creek (FOTC) regarding Ecology's proposed Yakima Regional Clean Air Agency (YRCAA) Rule Change - State Implementation Plan (SIP).

FOTC asks the WA State Dept. of Ecology (Ecology) to reject the YRCAA request for a rule change because the YRCAA, in fact, enforces neither the Federal Clean Air Act nor the Washington State Clean Air Act as required by law. Approval of a SIP for Yakima County would inaccurately signify that YRCAA actually follows rules and regulations. It does not.

Sincerely,

Executive Director, Friends of Toppenish Creek

3142 Signal Peak Road
White Swan, WA 98952

Yakima Regional Clean Air Agency & the Clean Air Act

Yakima County is home to 1/3 of all Washington dairy cows, about 100,000 milkers, that are concentrated in an approximately 271 square mile area in the Lower Yakima Valley (LYV). According to the WA State Department of Ecology (Ecology)¹, livestock in Yakima County emitted 8,053.58 tons of ammonia into the ambient air in 2011. Ammonia is a toxic air pollutant under Washington law, WAC 173-460-150. Dairy animals also emit significant amounts of methane, hydrogen sulfide and volatile organic compounds (VOCs) which, among other adverse effects, contribute to odor.²

For over twenty years citizens in the Lower Yakima Valley (LYV) have complained to the Yakima Regional Clean Air Agency (YRCAA) about air pollution from concentrated animal feeding operation (CAFO) dairies in the area. For ten years the agency simply stonewalled.³

In 2010 the YRCAA initiated work on an Air Quality Management Policy (AQMP) for dairies. The YRCAA approved the policy in 2013 and rescinded the policy in 2018 due to concerns about use of the AQMP data to support litigation. There is no dairy policy in Yakima.³

Over the years the YRCAA has rejected three requests by citizens to ban spreading/spraying of manure during air inversions and burn bans.³ In 2016 the YRCAA Board of Directors rejected a modest proposal to study ammonia in the ambient air.³ YRCAA ignored research by the Friends of Toppenish Creek (FOTC) that documented high levels of ammonia at a home near LYV dairies.³ The YRCAA has ignored research by John Hopkins University and the University of Washington that documents adverse health effects from dairy emissions in Yakima County.³

The YRCAA has rejected efforts to incorporate environmental justice into agency planning.³ In 2017, at the request of the Yakima Dairy Federation YRCAA made changes to policy for public testimony before the board and essentially eliminated opportunities to educate the board about air emissions.³

1. WA State Dept of Ecology (2014) Washington State 2011 County Emissions Inventory. Available at <https://ecology.wa.gov/DOE/files/ca/ca462fc4-dee7-4435-a2a6-e69081c8b0fc.pdf>

2. Environmental Protection Agency (2001) Emissions from Animal Feeding Operations. Available at <https://www.epa.gov/sites/production/files/2020-10/documents/draftanimalfeed.pdf>

3. Yakima Regional Clean Air Agency – Citizen Testimony at Meetings of the YRCAA Board of Directors. Attachment B

In February 2005, then YRCAA Director Les Ornelas told a WA State University workshop of dairymen⁴:

Now, I receive the largest number of odor complaints currently for my jurisdiction against feedlots, dairies, other kinds of chicken farmers, and other sorts of activities like this. We have people in the field who have been trained to evaluate odors, to be able to discern from a level 1, 2, 3 or 4 (4 typically is the one that causes a gag reflex). We go out and respond to all these numerous complaints every year and we have not yet issued a citation to any of the dairy people on odors in Yakima County, even though we have hundreds and some years over a thousand complaints.

During the past 15 years nothing has changed. The YRCAA does not issue citations for odor and dust against Yakima County dairies.

How does the YRCAA manage to avoid this duty? The agency has a simple solution. When citizens complain they call us liars³. The reason no citations are issued to dairies is that all the complaints are considered frivolous.

A citizen tries to obtain relief from the YRCAA⁵:

July 19, 2019 (Friday) at 7.35 PM citizen left a voice mail message with YRCAA.

CP says there's "Ambient cow pen dirt from Hornby west to Waneta and further. Particle dirt filling the air around us can be seen on video with lights. It smells like urine but you don't care about that."

July 21, 2019 (Sunday) at 11:30 PM left a voice mail message with YRCAA.

CP says that "Foul cloud of ambient open pen dirt and lagoon storage. Strong smell of ammonia/urine permitting our property and home. Gagging, sinus headache and inability to breathe even with high power filtering system."

YRCAA recorded the calls the next Monday but did not investigate.

July 22, 2019 (Monday) at 11:15 PM left a voice mail message with YRCAA.

CP says that "The ambient pen dirt air was sucked into her home and her sons through open windows around 11:00 PM when she was cooling her house down with the evening air. Horrible dirty feeling ambient pen dirt willed with horrid ammonia and manure AND

No investigation.

4. WSU AD Workshop; Sunnyside, WA; 2/25/05 – Transcripts. Attachment A.

5. Friends of Toppenish Creek. Dec. 2019. Descriptive Analysis of YRCAA Complaint Reports for Odor and Dust. Attachment C

July 24, 2019 at 9:35 AM left a voice mail message with YRCAA.

After wonderful rain and thunder showers last night no smells! Wonderful sweet clean air! But tonight, Wednesday, 7/24/2019 9:25, windows open screen doors letting in fresh air until this very moment! Boom ! Ambient pen ammonia stench coming in.

No investigation.

July 25, 2019 at 8:00 AM left a voice mail message with YRCAA.

"Awoke to horrid smell of dead cow composting. Velduis Klompe CAFOs is composting turning dead cow compost and it's gross. The ambient air is bringing this cloud of stench to my property this morning! Go to sleep with smells of urine wake up to manure

No investigation.

July 25, 2019 at 8:27 AM left a voice mail message with YRCAA.

"Kelsey this has to stop! More and more ambient air full of CAFOs stench. I've written several complaints and no response from yrcaa! Come on you guys! Do your job. Kathy Rogers"

No investigation.

July 25, 2019 at 11:15 PM left a voice mail message with YRCAA.

CP says "Cool nights are once more and very appreciated. However, opening our windows and screened doors is a negative. The ambient pen dirt full of odor from the cafo open pens surrounding our home and the neighbors is restricting the enjoyment of fresh

No investigation.

July 26, 2019 at 1:20 AM left a voice mail message with YRCAA.

CP says "Awakened by stench from ambient open pen dirt infiltrating our home! Cool night, windows open, sleeping well, then BOOM, I can't sleep because I'm breathing in this heavy dirt, band like dust in my house. Our large Austin Air filters is always

No investigation.

July 29, 2019, no time recorded, left a voice mail message with YRCAA.

CP says "Kelsey, once more Klompe CAFO is composting and the ambient dirt from that is just nasty at my home. The wind was blowing from the east as well. I believe they've been told not to compost in the wind. Kelsey I have photos! This needs to be handled

The YRCAA initiated an “investigation” on **July 30, 2019** at 1 PM. This was their investigation:

Dairies and CAFOs in the vicinity of Hornby, Stove, Braden and Tear Roads were contacted and made aware of the complaints

Reasons to Reject SIP Update for the YRCAA

The Friends of Toppenish Creek ask Ecology to reject the State Implementation Plan for Yakima County because the YRCAA does not follow the laws of the state, or even the agency’s own rules and regulations.⁶ Specifically, YRCAA unfairly favors the dairy industry over all other industries in Yakima County and over the people of Yakima County. The YRCAA:

1. Ignores citizen complaints regarding odor, dust, and air pollution that threaten public health.⁷
2. Refuses to do the research that would clarify the impact of dairy operations on the health of citizens in the Lower Yakima Valley.⁸
3. Accepted false testimony from an “expert in manure management” who egregiously misinformed the YRCAA regarding health impacts of manure spreading during air inversions as they rejected a citizen petition to band this practice.⁹
4. Hired an agency director who lacks qualifications and fails to lead the agency.¹⁰
5. Allowed and continues to allow board members to vote on issues in which they have financial interests.¹¹
6. Knowingly fails to regulate emissions from the 100,000 cows that are housed in a 271 square mile area in Yakima County.

Regarding Reason 1, please review the voluminous summaries of YRCAA Board meetings in which citizens explained to the YRCAA and the YRCAA Board of Directors how air emissions from dairies impact their health and quality of life.

Regarding Reason 2, please see statements from citizens¹² who offered their own research using an EPA approved monitor, the “Hound”, as well as an FOTC conducted study of ammonia levels near LYV dairies. Please see statements from the YRCAA Board of Directors when they rejected a proposed \$14,000 study of ammonia levels in the LYV.⁸

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6. Misinterpreted Rules & Regulations Attachment K
 7. Yakima Regional Clean Air Agency – Citizen Testimony at Meetings of the YRCAA Board of Directors. Attachment B. Public testimony regarding an AQMP for dairies. Attachment D. Pages 24 – 69.
 8. Attachment B. pages 44, 45, 46, 47, 48, 49, 50, 52, 53. FOTC Ammonia Study. Attachment E.
 9. WA Dairy Commission Literature Review. Attachment F. FOTC Response to Literature Review. Attachment G. Citizen Testimony at Meetings of the YRCAA Board of Directors. Attachment B. Page 27.
 10. FOTC Letters to Ecology. Attachments H & I
 11. Attachment B. Pages 27, 43, 44, 46, 48, 51, 52, & 54
 12. Attachment B. Page 17

Regarding Reason 3, Dr. Nicole Embertson, hired consultant to the YRCAA, incorrectly:

- Concluded that there was no adverse impact on public health from manure spraying and spreading, in spite of contrary evidence in 12 out of 13 her cited references.
- Stated that the Dairy Nutrient Management Act addresses air emissions. It does not.
- Stated that dairies in the LYV do not spread manure during winter months. They do.
- Mis-stated statistics on the contribution of ammonia to PM 2.5.
- Mis-stated conclusions from research by John Hopkins University in Yakima County.
- Mis-stated national research on the adverse health impacts from CAFOs.

Regarding Reason 4, the YRCAA Board of Directors hired Keith Hurley to serve as YRCAA Air Pollution Control Officer (APCO) in 2017. While other WA Clean Air Agencies employ attorneys and scientists for this position, Mr. Hurley holds a bachelor's degree in physical fitness. The YRCAA Board rejected candidates with advanced degrees in engineering and environmental science.

Regarding Reasons 5, citizens have protested the presence of Dick Camp and Dr. Steven Jones on the YRCAA Board of Directors to no avail. Mr. Camp operated a facility that was classified as a category 5 hazardous waste site. Dr. Jones receives a significant portion of his annual income from the dairy industry. Dr. Jones votes on issues that economically impact his clients.

Regarding Reason 6:

- The WA State Department of Agriculture (WSDA) has determined that about 35% of nitrogen excreted on dairy production areas is emitted into the ambient air.¹³
- The WA State Department of Ecology (Ecology) estimated that animal agriculture in Yakima County emitted over 8,000 tons of ammonia into the ambient air in 2011.¹⁴
- Ecology conducted a study in 2013 that examined high levels of fine particulate matter in Yakima County. The study found, "Yakima is unusual within Washington in that a significant fraction of the PM_{2.5} during winter is comprised of particulate nitrate, usually in the chemical form of ammonium nitrate (NH₄NO₃)".¹⁵
- YRCAA enacted policies to address emissions from beef operations in 1997 and from heifer operations in 2002.

13. Lower Yakima Valley Groundwater Management Area Program. Vol. I, page 25. Available at <https://www.yakimacounty.us/DocumentCenter/View/22177/GWMA-VolumeI-July2019>

14. WA State Dept of Ecology (2014) Washington State 2011 County Emissions Inventory. Available at <https://ecology.wa.gov/DOE/files/ca/ca462fc4-dee7-4435-a2a6-e69081c8b0fc.pdf>

15. WA State Dept. of Ecology (2015) Yakima Air Winter Nitrate Study. Available at <https://ecology.wa.gov/DOE/files/a6/a67789dd-aed4-461e-b138-e77537dd1952.pdf>

- YRCAA enacted a controversial policy to address emissions from dairy operations in 2013 and rescinded that policy in 2018 because data might be used in litigation.

Fine particulate matter and ammonia negatively impact human health. People in Yakima County suffer from higher-than-average rates of heart disease, lung disease and adverse perinatal problems.¹⁶ Most recently, Yakima recorded the highest rates of infection and rates of death due to COVID 19 in Washington State. There is a relationship between air quality and COVID 19 morbidity and mortality.¹⁷

Please, do not validate the ineffective YRCAA by approving the proposed WA State Implementation Plan for Yakima County.

Sincerely,

Jean Mendoza

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16. WA State Department of Health. WA Health Tracking Network. Available at <https://fortress.wa.gov/doh/wtn/WTNPortal/>

17. Wu, X., Nethery, R. C., Sabath, B. M., Braun, D., & Dominici, F. (2020). Exposure to air pollution and COVID-19 mortality in the United States. *MedRxiv*. Available at <https://www.medrxiv.org/content/medrxiv/early/2020/04/27/2020.04.05.20054502.full.pdf>

Attachments

Attachment A: WSU Dairy Workshop 2005

Attachment B: Citizen Testimony at YRCAA Board Meetings

Attachment C: Descriptive Analysis of YRCAA Complaint Reports for Odor and Dust.

Attachment D: Public Testimony on the Draft YRCAA AQMP for Dairies

Attachment E: FOTC Ammonia Study

Attachment F: WA Dairy Commission Literature Review

Attachment G: Response to WA Dairy Commission Literature Review

Attachment H: Letter to Ecology Director Maia Bellon January 2019

Attachment I: Letter to Ecology Director Maia Bellon March 2019

Attachment J: Timeline

Attachment K: Misinterpreted Rules and Regulations