



January 30, 2019

Maia Bellon
Director WA State Dept. of Ecology
PO Box 47600
Olympia, WA 98504-7600

Dear Director Bellon,

On June 10, 2016 the Friends of Toppenish Creek asked the WA State Dept. of Ecology to undertake a formal review of the Yakima Regional Clean Air Agency (YRCAA) as authorized by RCW 70.94.405. On August 31, 2016 your office responded with reasons for not conducting a review at that time. This letter is a follow up to your response.

In 2016 Ecology stated:

Ecology and its partners welcome a dialogue about air quality in the Yakima Valley. As more information becomes available, we are willing to engage with you in the future to review your concerns.

We vigorously encourage the YRCAA to pursue steps to bring relief to impacted citizens in the Yakima Valley. We also encourage all residents who are impacted by dairy-related air pollution to remain engaged in improving air quality in the Yakima Valley.

The Friends of Toppenish Creek have done our best to stay engaged. This is a time consuming task with few successes. We have brought factual information to the table time and again. Our words have been dismissed without any acknowledgement of their validity.

Grandview resident Kathleen Rogers has decided to stop attending meetings of the YRCAA Board of Directors. In October, 2017 she informed the Board:

Dear Sirs,

Something is happening to YRCAA and I'm not sure you are aware of the impact.

Keith Hurley is becoming a dictator not a director. He is dictating who and what can come to you the board by eliminating public comment rights, and also suggesting he is the only one allowed to speak on any subject a citizen may have brought to his attention.

He is no longer allowing Hasan and others to attend or speak. The very science behind this whole organization! It's now being run by a "physical fitness", graduate!

We are better than this, the board is better than this. YRCAA has lost direction, and the reason for its existence.

A \$1,000,000.00 budget was granted for what?

I believe the board needs to take a deep long look at what is happening.

I'll never attend again until I know the citizens can be heard and can participate!

Thank you for your time,

Kathleen Rogers

Ecology listed three sound reasons for not investigating YRCAA in 2016, namely:

- A. The YRCAA has taken actions to address emissions from Yakima Valley dairies*
- B. Air monitoring efforts and scientific studies are underway*
- C. YRCAA has taken steps to address questions concerning possible conflict of interest with the YRCAA Board of Directors*

We will provide recent information on each of these reasons below. But first let us highlight the difference in expectations for the people we try to represent and for those who administer policy from the Cities of Yakima and Olympia.

Last fall there were weeks when the air in the Yakima Valley was not just unhealthy but hazardous to breathe. This was due to wildfires and occurred during harvest. Farmworkers continued to work 16 hour days seven days a week in order to bring in the crops. During

this time Yakima dairies continued to spray manure into the air. Those who “represent the public” sat in their air conditioned offices and suggested that maybe the workers should wear face masks. People with bureaucratic power made decisions that will, in the long run, shorten the lives of those they appear to consider insignificant. This is wrong.

Our technical concerns are outlined below.

Sincerely,

Jean Mendoza

Executive Director, Friends of Toppenish Creek

3142 Signal Peak Road
White Swan, WA 98952

Yakima County Air Quality Issues, the YRCAA and Ecology Response

A. The YRCAA has taken actions to address emissions from Yakima Valley dairies

In September, 2018 the YRCAA rescinded the Air Quality Management and Best Management Practices Policy for Dairies. The YRCAA has stopped addressing emissions from Yakima Valley dairies. Here is a timeline of related events:

2002: YRCAA approved Confined Beef Feeding Operations Dust Control Policy

2002: YRCAA approved Confined Heifer Operations Dust Control Policy

2010: YRCAA discussion re AQMP for Dairies begins

2011: YRCAA QMP Pilot project begins – Citizens were excluded from discussions

2013: AQMP for Dairies adopted by YRCAA Board – See citizen comments Attachment 30

2014: First AQMP for Dairies Report to YRCAA Board – only two members attended the presentation – See Attachment 31

2015: No Report

2016: No Report

2017: No Report - YRCAA did not follow the AQMP for Dairies Plan; did not inspect dairies as promised - See Attachment 11

2018: AQMP for Dairies rescinded.

See Attachment 32 for additional details.

In short, the YRCAA:

1. Created an AQMP for Dairies that had no air monitoring
2. Did not inspect dairies as promised
3. Did not report to the YRCAA Board of Directors as promised
4. Ignored input from citizens who donated their time on the YRCAA Ag Task Force
5. Provided false information to the YRCAA Board regarding Ag Task Force meeting discussions and citizen statements at those meetings.

Fourteen years ago Les Ornelas, YRCAA Executive Director, speaking to the WSU AD Workshop in Sunnyside, WA stated:

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.

Since Mr. Ornelas made this statement nothing has changed. YRCAA has never issued a citation against a dairy for odor or for emissions that endanger human health. The only citations have been for violation of burn permits.

B. Air monitoring efforts and scientific studies are underway

Ecology cited two pending studies in your letter.

1. A study of air winter nitrates in the Lower Yakima Valley using a monitor in Sunnyside has been completed. The Main Findings in the five page report, *Analysis of Aerosol Nitrate in the Yakima Valley in the Winter of 2015/2016*, are:
 - a. *Average aerosol nitrate levels were lowest in Yakima and highest in Toppenish, with Sunnyside in between*
 - b. *On average, nitrate accounted for about one quarter of the PM 2.5 mass at Yakima and Toppenish, and a third at Sunnyside*
 - c. *Elevated nitrate levels occurred in both valleys simultaneously, on days with high relative humidity, low temperatures and low winds. This suggests common sources of aerosol nitrate precursors in both valleys.*
 - d. *Nitrate levels in the upper valley were slightly higher than the average of the previous 5 winters.*
 - e. *While Yakima experienced slightly lower PM 2.5 than recent years, Toppenish had more PM 2.5.*

Please note that the YRCAA has failed to post either the original YAWN Study or the second study from the LYV on the YRCAA web site. See Attachment 20. FOTC considers this a deliberate attempt to hide important information from the public.

2. In the Fall/Winter of 2014 and the Summer/Fall of 2015 the Agency for Toxic Substances and Disease Registry conducted air sampling at homes on the Yakama Reservation near concentrated animal feeding operations. Your letter stated that the results of this study were expected in the spring of 2017. It is now near the spring of 2019 and the people of the Lower Yakima Valley are still waiting. FOTC believes that powerful interests have succeeded in preventing the publication of this study. We have submitted a request for information under the Freedom of Information Act. By

the time the data is released it will be nearly five years after the testing and critics will be able to say the data is no longer valid.

Ecology stated in your letter, “While there are numerous studies concerning impacts to farm workers and people who live on farms, there is a lack of data specifically concerning impacts to citizens living near dairies.” This is not entirely correct:

1. Williams et al (2011) measured bovine allergens in homes near Yakima County dairies. They found:

These findings demonstrate that dairy operations increase community exposures to agents with known human health effects. This study also provides evidence that airborne biological contaminants (i.e. cow allergen) associated with airborne particulate matter are statistically elevated at distances up to three miles (4.8 km) from dairy operations.

2. Loftus et al (2015a) studied children with asthma in the Lower Yakima Valley. They found:

This study provides evidence that PM2.5 in an agricultural setting contributes to elevated asthma morbidity. Further work on identifying and mitigating sources of PM2.5 in the area is warranted.

3. Loftus et al (2015b) studied children with asthma in the Lower Yakima Valley. They found:

Ammonia concentrations were elevated in this community and strongly predicted by proximity to animal feeding operations. Ammonia's association with acute lung function decrements in children with asthma in the surrounding community may be causal or, alternatively, ammonia may be a marker for other pollutants from animal feeding operations associated with respiratory effects.

4. Joo et al (2015) measured emission of air contaminants from two large dairy barns in the Lower Yakima Valley. The found:

The overall average daily NH₃ emissions ranged from 15.1 to 36.7 g d⁻¹ AU⁻¹ (20.3 to 49.5 g d⁻¹ cow⁻¹) with a mean of 21.6 g d⁻¹ AU⁻¹ (29.0 g d⁻¹ cow⁻¹). Emissions of H₂S, on the other hand, ranged from 0.0 to 1.5 g d⁻¹ AU⁻¹ (0.0 and 2.0 g d⁻¹ cow⁻¹) with a mean of 0.51 g d⁻¹ AU⁻¹ (0.69 g d⁻¹ cow⁻¹).

5. There is abundant research regarding the impact of concentrated animal feeding operations on human respiratory health. See Attachment 32

6. The Friends of Toppenish Creek are currently in the last stages of collecting ammonia samples from a site in the Lower Yakima Valley. We will share the results with Ecology when that study is complete.

In March of 2017 the YRCAA staff presented the YRCAA Board with a \$14,404 proposal to study ammonia levels at four sites in the county. In spite of the fact that five citizens spoke in favor of the project and only the dairy federation spoke against it the project was rejected by the YRCAA Board. One member of the Board, Norm Childress who is now a county commissioner, argued that 'If we find a problem, then we have to do something about it.' Dr. Steven Jones, who earns a significant amount of his income from the dairy industry participated in the discussions and complained that the citizens had made personal attacks against him. See YRCAA Board Meeting Summaries for March & April, 2017.

C. YRCAA has taken steps to address questions concerning possible conflict of interest with the YRCAA Board of Directors

In 2016 the Friends of Toppenish Creek complained to the YRCAA Board of Directors that Board Member Steven Jones has a conflict of interest and should not be allowed to serve on the board or vote on issues related to the dairy industry because he derives a significant portion of his income from dairy. See Attachments 8 & 10

The question was presented to the WA State Attorney General's Office. That office stated that

RCW 70.94.100(6) and WAC 173-400-220(2) do not prevent a board member of an air pollution control authority from holding a position on the board if he/she earns a portion of his/her income from an industrial sector that the board regulates. However, a majority of the members of the board must represent the public interest, and must not earn a significant portion of their income from the industries subject to regulation.

However,

If a board member has a potential conflict of interest, the member may not participate in the matter in which the conflict exists.

And

If a board member has a potential conflict of interest, the member may not vote on an action involving the conflict.

Please know:

1. Dr. Jones was one of two YRCAA board members on the selection committee for a new YRCAA Executive Director in 2016. See Attachment 34
2. As noted above, Dr. Jones participated in the 2017 discussions regarding testing of the ambient air for ammonia, a known emission from dairy operations
3. Dr. Jones recused himself from discussion of the AQMP for Dairy Operations at the August, 2018 YRCAA Board meeting. But he seconded the board motion to rescind the policy at the October meeting and voted on the measure.

FOTC states here that the YRCAA Directors have placed themselves above the law by permitting these actions. It is extremely difficult to stay engaged with an agency that acts as though they are supreme rulers and have the authority to override federal and state regulations while ignoring the wishes of the people.

In addition to Ecology's three 2016 responses:

D. The Yakima Regional Clean Air Agency has misinterpreted the role of public participation in the Federal and State Clean Air Acts (CAA).

The U.S. Environmental Protection Agency (2018) states:

For regulatory programs, EPA often has discussions early in the rulemaking process with government partners (federal, state, local and tribal) and with interested parties such as affected industries, environmental groups, and communities. After a rule is complete, EPA works with government partners and stakeholders to achieve effective implementation.

But the YRCAA has attempted to prevent Yakima County Citizens from engaging in policy making and CAA implementation.

1. The YRCAA ignored citizen request to join the selection committee for a new YRCAA Director. See Meeting Summary for the YRCAA Board Meeting Aug. 11, 2016
2. The YRCAA ignored citizen concerns about the make-up of a selection committee for the YRCAA Executive Director See Meeting Summary for the YRCAA Board Meeting September 8, 2016 and Attachment 34.
3. The YRCAA has not responded to clearly described concerns and messages from citizens. See Attachments 1 through 20.
4. The YRCAA has placed barriers in the path of citizens who wish to dialogue with the agency. See Attachment 16.
5. The YRCAA staff has given the YRCAA Board incorrect information. See Attachments 11 & 20.
6. In 2014 the YRCAA invited citizens to participate in an advisory group to guide formation of a plan to address high levels of fine particulate matter in Yakima

County – the *PM Advance Program Path Forward*. The EPA looks for citizen advisory groups when they approve such plans. In the 2015 the plan YRCAA stated:

A stakeholder group has been assembled to participate in a “Clean Air Task Force.” Interests represented include: Industrial Sources; General Public; Construction; Citizen Environmental Groups; Municipalities; Academia; Agriculture; Economic Development; Hearth Products; Forestry; Transportation; Adjoining Air Jurisdictions; Public Health; and more. The list of persons participating is shown in Appendix E.

The group has met routinely since August of 2014 and has participated in the control strategy development and selection of additional reduction measures and programs. Additional reduction measures and programs to be implemented immediately are detailed in Appendix F. The group will remain active and will meet no less frequently than semi-annually. (Emphasis added)

Contrary to the YRCAA promises, the advisory group has not met since 2015. The same advisory group is listed in every annual report, in spite of the fact that several members have retired and no longer live in the area. See Attachments 35 – 38.

7. The YRCAA has stated that citizens will not be allowed to attend meetings in which the agency discusses revisions and updates to the WA State Implementation Plan (SIP) for Yakima County. This effectively eliminates citizen input. It is nearly impossible for lay people to participate in discussions that are 18 months in the making when they only receive a summary overview of the content and have 30 days to study the material.

EPA's *The Plain English Guide to the Clean Air Act* states:

Often, when EPA is working on a major rule, the Agency will hold hearings in various cities across the country, at which the public can comment. You can also submit written comments directly to EPA for inclusion in the public record associated with that rule. Or, for instance, you can participate in development of a state or tribal implementation plan. Commenting on a state or tribal plan could be worthwhile since approaches for cleaning up pollution could have direct effects on the way you and your family live. (Emphasis added)

To summarize, the YRCAA no longer addresses emissions from CAFO dairies, ignores and hides valuable research, presents erroneous information as fact, flaunts the law regarding conflict of interest and makes it very difficult for citizens to engage in air policy for Yakima

County. The Friends of Toppenish Creek ask Ecology to consider opening an investigation into the YRCAA as authorized by RCW 70.94.405.

Sincerely,

The Friends of Toppenish Creek

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