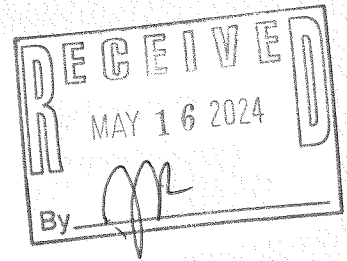


To: Brian Russell, Deputy Prosecuting Attorney  
Yakima County Prosecuting Attorney's Office  
128 N 2nd Street, Room 211  
Yakima County Courthouse  
Yakima, WA 98901



From: Marc Thornsby, Executive Director, YRCAA  
Wade Porter, Engineer, YRCAA *Wade Porter*  
Subject: Whistle blower complaint against the Yakima Regional Clean Air  
Agency  
Date: May 10, 2024

I am currently employed at the Yakima Regional Clean Air Agency (YRCAA). I recently completed the "Alleged Safety or Health Hazards" (F418-052-000). This is the form that was on the website that was on a flyer posted in the breakroom of the YRCAA office, 186 Iron Horse Court, Suite 101, Yakima, Washington. This complaint went to the Washinton State Department of Labor & Industries office. Their return correspondence informed me that I was not a state employee and thus my complaint was/is not applicable to them or at least not their responsibility. For this reason, I am submitting my concerns today to the Yakima County Prosecutor's Office, the Washington State Attorney General's Office, the Washinton State Auditor's Office, the Air Pollution Control Board, the Executive Director for YRCAA, and the YRCAA Board members.

This form (attached) was referred to me by the Occupational Safety and Health Administration to fill out and document my actions by and under the protection of the "Whistle Blowers Protection Act". I have requested protection under this act from my employer: YRCAA. For lack of action to protect the public from this landfill's harmful emissions and noxious odors and threat to groundwater resources, including nearby Cowiche Creek.

My complaint originates from my concerns about and opposition to the permitting activities, specifically the actions/inactions of my direct supervisor, regarding the permitting requirements of the facility located at 41 Rocky Top, Yakima County. This landfill facility was the Anderson landfill, owned and operated by DTG Enterprises since November 1, 2019. This concern extends to the Executive Director, who is the community Air Pollution Control Officer, regarding these same permitting activities, and the possibility of political influence from YRCAA board members that allowed this facility and the PCS Remediation Site to operate and continues to operate, without ever applying for and receiving all applicable air emission permits? This 'political influence' is what needs to be investigated; who, why, and any unethical transactions. DTG is a money-making business; landfills have historically been a business that

makes money by cutting corners - compromising the environment and the public of those who live nearby. This is the situation at this landfill as has been reported in the Yakima Herald and Northwest News Network (NPR).

These concerns originated from a meeting I had with the Executive Director for YRCAA; Marc Thornsberry. We had a conversation regarding the operation of this landfill, and why the facility was allowed to operate for so long without the Agency's air permit; 'Order of Approval', (to ensure the safety of those near the facility) from the YRCAA. Marc informed me that he did not know how the previous APCOs of YRCAA felt about permitting this site, but acknowledged he was aware that a previous board member did not want this site to go through YRCAA permitting. He also let me know that he was hired to provide 'adequate' administration to the YRCAA and that the APCO's duties would be left to the Engineering Supervisor; Hasan Tahat. This raises concern that the APCO duties at this Agency are not being fulfilled.

This landfill Facility has been allowed to operate without an agency Order of Approval as required to ensure the safety of the public from air emissions it produces. Why this facility has been allowed to operate without ever getting a Notice of Violation for operating without a valid Order of Approval air permit needs to be investigated. As odor complaint records and independent ambient air and soil gas sampling attest, there is a definite odor problem at this facility that has interfered with the enjoyment of those living near this facility or recreating on Rocky Top. Regulatory facility air quality investigations and compliance actions (NOV) have been ignored by this Clean Air Agency in violation of the law and to the detriment of neighbors, recreationalists, and the Rocky Top ecosystem.

Recently, YRCAA completed the permitting process for this landfill, now operated by DTG Enterprises and issued Order of Approval # NSRP-08-DTG-22 for operation of Cell 2 and Cell 1, excluding the Model Toxic Control Act (MTCA) site within the landfill from this agency's failure to provide permitting oversight for air quality. This is what my supervisor has been waiting for: to permit the facility with the MTCA area established by the Department of Ecology so that any compliance issues regarding the area (the toxic emissions and noxious odors that go beyond the property boundaries violating WAC 173-350-400 (4)(j)(i) Setback requirements to be increased if necessary to control nuisance odors) will not be the responsibility of this Clean Air Agency. They will not be held accountable for the years of complaints regarding the smell that comes from the MTCA area – located in the northwestern portion of Cell #1 that is now under an Agreed Order from the Department of Ecology per the MTC A Facility Site ID: 79747294 Cleanup Site ID: 11537.

This area has a fracture in the soil of the sidehill that encompasses the lower portion of the NW sidehill that emits toxic emissions that have a noxious odor. Recently the actual toxic substance was leaching up in gaseous form through the

soil at these fractures. I believe a large quantity of a toxic substance was placed in this location in 1997 as reported by the nearest neighbor who observed suspect barrels of waste being placed and buried in this location. Prohibited waste accepted and unapproved construction practices have continued at this facility even though DTG engineering consultants and staff that have been part of the application process for this landfill since the original LPL application and are fully aware of their permit requirements that they continue to violate. These violations may be on purpose to continue waste and revenue flow at this facility.

A primary person of concern is the facility's long-time Professional Engineer, Ian Sutton, who worked on the 2007 & 2015 LPL permit applications and engineering tasks while employed at multiple consulting firms: R.W. Beck, Brown & Caldwell, and Parametrix, until DTG hired him as Director of Engineering in 2022. Mr. Sutton was also the Engineer when the company excavated the Vantage Interbed for the approved temporary fill area, a violation of the agency approval. He also advocated and oversaw landfill implementation of agency approval to increase landfill side slopes. The approval led to ramped up disposal and excessive side slopes that YHD reported out of compliance on all quarterly inspections in 2023. The allowed steep slopes and poor compaction and inadequate cover during filling, added to the underground landfill fire that remains uncontrolled a year later.

These two engineering tasks were approved by DTG even through their staff knew it was a violation of their operating permit conditions, which combined present an additional threat to air and groundwater quality at this unlined facility.

My belief is that the YRCAA did not issue an Order of Approval air emissions permit to Anderson's LPL in 2007 or 2015 as required to avoid going through the statutory oversight process and taking responsibility for future air emission monitoring, compliance, and enforcement.

The State Environmental Policy Act (SEPA) and the Conditional Use Permit issued to Anderson for this landfill; CUP2009-00024 and CUP2015-00051, contained the same language requiring the facility to obtain an Order of Approval air permit from the YRCAA. Both permits also contain the following language;

- Contaminant levels in the waste and leachate are unlikely to pose an adverse impact to the environment.
- Natural soils have the ability to provide a barrier or reduce the concentration of contamination to meet the performance standard of WAC 173-350-040.

The DTG landfill Facility is supposed to be an inert landfill, but due to the lack of adequate agency oversight and monitoring this facility has been considered a suspected or contaminated site by the state, with concern the facility has accumulated large amounts of prohibited waste including toxics wastes.

I contend that this SEPA review is now outdated and I support the appeal filed by FORT to reverse the Order of Approval for Permit No. NSRP-03-DTGEI-2022 and remand the matter back to the YRCAA for appropriate processing in accordance with applicable law, including conducting a thorough, complete SEPA review process. This is particularly important due to the amount of unknown material, including suspected toxic waste received, dumped and buried within the facility.

Also, a new SEPA process is warranted because both Conditional Use Permits utilized a Geotechnical and Hydrogeological Investigative Report (HWA GeoSciences Inc. HWA Project No. 2005-120-22. Prepared for R. W. Beck, October 5, 2007) that has been deemed inadequate by the Department of Ecology's Central Region Office Engineer and Hydrogeologist (see Letter from Megan Rounds and Luke LeMond, dated September 2, 2022). The letter mandates a liner for the expansion of the landfill, and refutes the original permit contention that the thick sequence of basalt layers and the Vantage Interbed provide an impermeable layer to protect the local aquifer, finding that claim was irrevocably violated by facility operations.

The existing permits issued were based on this study that stated; **a continuous impermeable layer** of basalt would provide the liner as required by WAC 173-350-040. This assumption has been shown to be **incorrect**. The current toxic waste disposed at the facility is an immediate public health hazard and threat to the local aquifer.

The Yakima County Planning Division, and the YRCAA have accepted the 2015 CUP as valid for DTG's NSR permit application; The YRCAA Executive Director informed me that he received verbal confirmation from Tommy Carroll (Yakima County Planning Official) that the 2015 CUP and SEPA by Yakima County for Anderson's 2015 LPL expansion was still valid, ignoring my concerns regarding the protection of the aquifer and the surrounding public. My concerns continue, demonstrated by the high turnover rate at this agency, and the fact that the Records Retention Officer was recently given notice by Executive Director Marc Thornsberry, who assumed responsibility for this position. This maneuver stems directly from the numerous records requests filed with this agency in recent years and the Executive Director's effort to control the information provided to the public in the agency response to these agency requests.

The situation on Rocky Top, including neighbor complaints, formation of Friends of Rocky Top, and local opposition to DTG stems from the permitting agencies / regulators; Yakima County Planning Department, Yakima Health District, Department of Ecology Central Region Office, and my employer – the Yakima Regional Clean Air Agency, not fulfilling their duties to protect the public, and this landfill facility's desire to operate in violation of state regulations and permit conditions to make large profits.

I have no problem with this or any landfill if it is operated in compliance, but when

a facility like this one continues to violate its permit conditions it needs to be held accountable by regulators, including the YRCAA. I think a more suitable location for this kind of landfill is readily available in our local area. The Yakima Army Training Center, which is very close, and has contributed to the prohibited waste at this landfill, would be a much better location for a lined, well monitored landfill.

My employer, YRCAA, has not adequately performed its responsibilities per WAC 173-400-040 to regulate the violations of this facilities' operations. I cannot work for YRCAA at this time knowing that there may be some type of collusion taking place that has kept this agency from regulating this facility. Working on this permit for this agency has created a toxic work environment. I do not like "rocking the boat", and I do not like any undue attention. I am a very solitude person that spends most of my free time exploring and enjoying the outdoors. That being said, there comes a time when a person has to stand up for the community and the environment, and call out the YRCAA suspect history and current permitting on Rocky Top.