

October 3, 2024

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Yakima Regional Clean Air Agency
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Yakima, Washington

Subject: YRCAA Order of Approval, Crushing and Screening of Reclaimed Asphalt, Concrete and Brick by DTG Enterprises Inc., Dba DTG Recycle, 41 Rocky Top Road, Yakima, WA 98908

The *Friends of Rocky Top* (FORT) is a grassroots organization opposed to further degradation of Rocky Top by DTG Enterprises, Inc., DTG Recycles, East Mountain Investments, and/or Macquarie Asset Management (see FORT website: <https://www.cascadianow.org/friends-of-rocky-top>). FORT members and supporters are concerned about the collective catastrophic environmental conditions and known threats to the Rocky Top ecosystem since DTG acquisition and management on October 31, 2019.

I submitted 13 reference documents with my comments at the YRCAA public hearing last night that provides the agency with an understanding of the existing DTG/Anderson permitted facilities and operations over the past 40 years, including:

- Surface mining (SPU 27-83); 10 acres with 24 conditions; expires Dec. 31 2003
- Inert demolition waste pits (SPU 21-87): included tire disposal and fires
- Sanitary waste/inert landfill ((SPU 41-91) & Petroleum Contaminated Soil Remediation Site that allowed the PCS to be disposed in demo pits & Sanitary landfill (Phase 1/Cell 1)
- Limited purpose landfill (2007) expands mining and landfill footprint to 64 acres
- Limited purpose landfill (2015) added 64-acre parcel (to the south) increasing landfill footprint to 125 acres
- Mobile Material Recovery Facility located at landfill working face (2021)
- Proposed Rock Crusher (2024)

1) Vegetative screening and Crusher location

In my hearing comments, I referred to reference documents 2, 3, 4 & 5 to demonstrate the proximity of the proposed crusher location to the nearest neighbor (DeGrave) that is specifically protected under Yakima County CUP 03-112, Final MDNS Condition of Approval #8 (see Tommy Carroll letter, July 16, 2023). As you can see in my letter to Tommy and highlighted in 2 & 3, no vegetative screening has been installed, yet the rock quarry/mining area continues to expand northward toward the DeGrave property and residence (compare 2 and 5). The screening is required to be installed five years prior to mining in this area. DTG maintains it may not be required to provide this mitigation and claims it is not mining in the area. Unfortunately, Yakima

County has not yet required DTG to install this required mitigation to specifically protect this residence.

It is relevant to acknowledge that DeGrave has been greatly impacted by DTG operations and has filed a significant number of complaints with Ecology, Yakima Health District and the YRCAA. She maintained a daily odor log for years (see my posted October 25, 2023 comments re DTG's NSR application, p. 11-13), and has reported suspect disposal in the mining area (April 15 & 16, 2020). She also reported DTG idling heavy equipment on her property border, shining their headlights into her home. DTG has not been a good neighbor, has not earned the respect or trust of its neighbors, and continues to engage in actions and proposals to increase the conflict with neighbors. This location will increase conflict.

During the presentation by Hasan Tahat last night, he provided slides of four potential crusher locations the YRCAA modeled expected air emissions. The location near DeGrave showed that there will be impacts on her and other nearby, downwind residential neighbors. However, one of the modeled locations showed no or little impact on surrounding neighbors. While imperfect (see public hearing and written comments from Brenda Blakk, Nancy Lust & Scott Cave) the modeling suggests the proposed location is the worst for neighbors.

I respectfully request the YRCAA consult with the County on the vegetative screening before considering approval of the crusher application and location.

2) SEPA again

This application, like the previous *DTG NSR application*, repeats the same SEPA error:

DTG Enterprises filed an after the fact application for *New Source Review* with the YRCAA (Agency). The *NSR Application* required certification from a government agency "... that the SEPA has been satisfied or this project is exempt:...". Applicant did not include the required governmental certification and simply inserted the name of Gary M. Cuillier, Hearing Examiner, Yakima County (File No. CUP 08-074) with a date April 29, 2009. The *NSR Application* was not certified by Yakima County's SEPA Responsible Official.

The Agency neither adopted nor incorporated any environmental threshold determination as a component of the environmental and application review process. Agencies sole reference to environmental review was the following:

Yakima County Planning Department issued a Determination of Non-Significance (DNS) for a new 64 acre expansion to the existing 61 acres LPL pursuant to State Environmental Policy Act (SEPA) with SEPA No. SEP 2015-00024 and signed by the County on September 9, 2015. After the Public Hearing held by YRCAA on September 26th, 2023, YRCAA reached out to Yakima County and it was concluded that the SEPA of 2015 determination is still valid for this project and satisfies SEPA's requirements. In addition, a Conditional Use Permit (CUP) was issued by Yakima County on November 27, 2015; CUP 2015-00051.

Subsequent to November 27, 2015, substantial changes were made to the Facility and new information was discovered indicating the proposal's probable significant adverse environmental impacts. Despite such facts, the Agency failed to withdraw prior SEPA determinations or otherwise ~~or business~~ conduct any environmental review of the project, operations and permit requirements. Since the date of the referenced threshold determinations, Benzene and Naphthalene were detected in ambient air concentrations exceeding outdoor air quality standards under the Model Toxics Control Act (MTCA) and State of Washington, Department of Ecology listed the site under MTCA authority, and the property owner and Ecology entered into an Agreed Order for cleanup work at the site. Further information confirmed that 743 cubic yards of PFAS contaminated soil was delivered to the landfill.

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I respectfully request the Agency consider the above SEPA argument and deny the Order of Approval in order to conduct an appropriate, complete and further environmental review.

3) Enforcement and Oversight

I believe 3.11 & 3.19 are in conflict and require reconsideration. Either no soil or dusts from the crushing operation shall be allowed beyond the crushing site location, or dust is allowed to go beyond the property boundary where it can impact neighbors, as long as it's not *"in a quantity that interferes unreasonably with the use and enjoyment of the property owner which the material deposited, or is detrimental to the health, safety or welfare of any person, or causes damage to any property or business"*.

How does the Agency plan to enforce this requirement? How will you measure the impact to determine if the threshold of "interferes unreasonably" is breached at a residence or by an individual? Will you develop a scale of particulate matter deposition level that triggers enforcement of off-site emission impacts? What would be the penalty for emission violations? Would you use a scale based on severity? How would neighbors seek compensation for determined impacts?

The level of facility oversight varies across jurisdictions based on county, facility operator, and the resources of jurisdictional permit authorities. The current level of commitment and resources dedicated for agency oversight and regulation of mining and solid waste facilities places the public at greater risk. Please consider increasing staff dedicated to this purpose.

4) Operational History Matters

DTG's Sustainability Park, 41 Rocky Top Road, Yakima Washington, has been a Model Toxic Control Act hazardous cleanup site under investigation since September 2022 that has a serious landfill fire (see document 13). Here's why:

The company ramped up annual waste disposal. Prior to DTG, disposal on Rocky Top was between 151,000 and 172,000 cubic yards. Under DTG, the annual volume rose to over 700,000 in 2022. With loose compaction, plenty of green waste (some from Yakima County Cleanup) and steep slopes, the landfill was primed for fire. Because DTG was in negotiations with Macquarie

Asset Management (MAM), it an halted efforts to secure its LPL permit renewal (due June 2023). After drilling one new monitoring well, the company stopped further field investigation work due to budget constraints. The new wells were required to characterize site hydrogeology, necessary to develop a State compliant groundwater monitoring system, which was a primary condition for permit renewal. DTG stopped this work because of budget impacts that would raise red flags during the acquisition, which relied on DTG 3rd qtr financial reports.

Rocky Top is the hilly shrub steppe habitat that overlooks and drains in Cowiche Canyon to the north. For decades it has been a trailhead for three local recreation based organizations; the *Cowiche Canyon Conservancy* (CCC), the *William O. Douglas Trail Foundation* (WODTF), and the *Single-Track Alliance of Yakima* (STAY).

In describing the threat posed by DTG's Rocky Top operations on September 14, 2022, the *Yakima Republic Herald* (Attachment 2) editorialized:

The canyon is one of the best things about Yakima — it's our Central Park. A place where we can experience the peace and healing of nature for an afternoon without packing up a bunch of gear and driving for two hours.

If anyplace around here should be sacred, it's that canyon.

So while we commend DTG personnel for all they're doing on behalf of recycling and trash disposal, we'd strongly urge local officials to take a hard look at what's going on up at Rocky Top.

Expanding a landfill that probably shouldn't ever have been approved in the first place could ruin something that can't be fixed.

This editorial makes multiple important points that in the two years since have become more apparent – Rocky Top and Cowiche Canyon is Yakima's "Central Park" and it was a place where people could enjoy the natural ecosystem's peace and quiet. For many it was an inviting and sacred place, that should be respected, and protected.

County code recognizes and values these areas. The County Comprehensive Plan designates these lands as *Upland Wildlife Habitat Area* and includes protection strategies for these critical areas, that *Promote an environment free from excessive noise that jeopardizes the public health, safety and welfare.*

As the editorial summarizes - "Expanding a landfill here that probably shouldn't ever have been approved in the first place could ruin something that can't be fixed."

In five years, DTG has dramatically changed the Rocky Top ecosystem and its value as a community recreational resource. The 40 years of operating multiple disposal facilities will continue to threaten local air and water quality. The Agency should consider the cumulative impacts from DTG operations on Rocky Top and how this new proposal will further impact its closest neighbors.