

April 1, 2025

Dear Yakima Regional Clean Air Agency,

This is a request for clarification regarding responsibilities and authorities for the Yakima Regional Clean Air Agency Board of Directors and for the YRCAA Executive Director/Air Pollution Control Officer (APCO) with respect to legal actions. The public needs this clarification because the YRCAA is currently engaged in litigation that will impact us – litigation that will impact air quality west of the City of Yakima, will impact implementation of the WA State Environmental Policy Act (SEPA) in Yakima County, and will impose costs on taxpayers.

Specifically, we ask who has responsibility and authority for oversight of YRCAA General Counsel – the YRCAA Board of Directors, or the YRCAA Executive Director/APCO.

### **Past responsibilities and authorities**

On November 9, 2023, the YRCAA board approved renewal of a Resolution Delegating Authority to (YRCAA) Officials. That resolution delineated responsibilities and authorities for the YRCAA Executive Director, Public Records Officer, Auditing and Investment Officers, and for the YRCAA Board of Directors. (See Attachment 1)

Responsibility and authority for the board included, “oversee(ing) the work of the Executive Director and General Counsel.”

Due to a change in staff, the YRCAA Executive Director submitted a newer version of this resolution to the board on January 11, 2024. (See Attachment 2) This new version omitted responsibilities and authorities. According to minutes for that January 2024 board meeting, the ED stated, “prior delegations included roles and responsibilities for board members, but these have been removed and are expected to reappear in a future board conduct document that will be presented at a later date.”

On November 14, 2024, the YRCAA board approved another similar update that likewise omitted roles and responsibilities for staff or the board. (See Attachment 3)

A board conduct document has apparently been forgotten. There is currently no enumeration of the responsibilities and authorities for either the YRCAA Board or for YRCAA staff.

### **Other Rules & Regulations that address oversight of General Counsel**

The YRCAA Administrative Code Part A does not address overseeing the work of the Executive Director or of General Counsel in section 1.1 Powers and Duties of the Board of Directors.

The YRCAA Administrative Code Part A states in sections 3.4 and 3.5:

*The Board shall appoint an Executive Director (Director) who shall have the primary duty and responsibility for the day-to-day operations of the agency, including but not limited to, fiscal responsibilities, administrative oversight, and employee appointment and termination.*

*Pursuant to RCW 70.94.170 the Board shall appoint an Air Pollution Control Officer to implement and enforce the Federal and State Clean Air Acts (statutes) and the rules, regulations and policies pursuant to the statutes. This position and that of the Executive Director are usually occupied by the same person.*

YRCAA Regulation 1, under Section 1.05 Roles and Responsibilities, states that the YRCAA Board has power to “Approve legal action.”

YRCAA Regulation 1 does not authorize the Air Pollution Control Officer/Executive Director to hire General Counsel, to oversee the work of General Counsel, or to approve legal action.

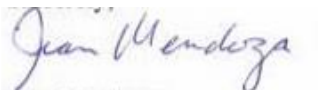
### **Request**

And so, we ask: Who has responsibility for oversight of YRCAA General Counsel? Who has the authority to approve legal action? Who is answerable to the citizens for YRCAA legal action?

We need to know because legal errors have repercussions. For example, in the current filings before the WA State Pollution Control Hearings Board, the YRCAA told the PCHB that public hearings were held concerning the DTG Limited Purpose Landfill. This was incorrect. This was an untrue statement in a legal document. Who bears responsibilities when mistakes such as this are made?

Who should citizens contact with this information and what sort of response can we expect when we bring similar concerns to the table?

Sincerely,

A handwritten signature in blue ink that reads "Jean Mendoza". The signature is written in a cursive, flowing style.

Jean Mendoza

3142 Signal Peak Road  
White Swan, WA 98952

Yakima Regional Clean Air Agency  
**RESOLUTION NO. 2023-08**

A Resolution of the Board of Directors  
**Delegating Authority to Agency Officials**

**WHEREAS**, the Board of Directors is required to appoint an Auditing Officer for the Agency pursuant to Revised Code of Washington (RCW) 42.24.080; and

**WHEREAS**, the Board of Directors is required to appoint a Public Records Officer for the Agency whose responsibility is to oversee the Agency's compliance with public records disclosure requirements pursuant to RCW 42.56.580; and

**WHEREAS**, the Board of Directors may appoint an Air Pollution Control Officer and any other personnel pursuant to RCW 70A.15.2030; and

**WHEREAS**, the Board of Directors is required to designate the treasurer of a county as treasurer of the Agency pursuant to RCW 70A.15.2610 and has so designated the Yakima County Treasurer; and

**WHEREAS**, the Yakima County Treasurer requires the Agency to designate a Primary and Alternate Auditing and Investing Officer;

**NOW THEREFORE, BE IT RESOLVED**, that the Board does hereby designate Jocelyn Roberson as Primary Auditing and Investing Officer, Pamela Herman as Public Records Officer, and Marc Thornsby as Executive Director, Air Pollution Control Officer, and Secondary Auditing and Investing Officer subject to the following provisions:

1. The individuals named above shall be held harmless, to the fullest extent allowed by law, for actions taken, or for failure to take actions, that are required by virtue of their designated offices;
2. The Agency shall acquire and maintain, through its insurance provider, indemnification (aka "directors and officers") insurance to defray the cost of any action against the individuals named above;
3. The Primary and Secondary Auditing and Investing Officers shall be responsible for:
  - a. Ensuring all Agency financial transactions are executed in accordance with state law and consistent with commonly accepted accounting practices;
  - b. Identifying internal control deficiencies and recommending corrective action;
  - c. Reporting fraud, misconduct, malfeasance, or other wrongdoing to the Board of Directors; and
  - d. Monitoring grants to ensure contract and budget compliance.
4. The Primary and Secondary Auditing and Investing Officers shall have the authority to:
  - a. Receive monies and make deposits into Agency accounts;
  - b. Transfer funds between and within Agency accounts;
  - c. Audit claims against the Agency;
  - d. Issue checks, make electronic or other external fund transfers, and submit warrants for lawful Agency expenditures in advance of approval by the Board of Directors and act as signatories on all such documents; and
  - e. Sign warrant registers and void warrant agreements.
5. The Public Records Officer shall be responsible for:
  - a. Making all public records available for public inspection and copying, unless the record falls within the specific exemptions permitted by state law;
  - b. Protecting public records from damage or disorganization;

- c. Ensuring public records are retained in accordance with the retention schedules set forth in Washington Administrative Code; and
  - d. Otherwise implementing all provisions of the Public Records Act (Chapter 42.56 RCW).
6. The Executive Director shall be responsible for:
- a. Providing management and supervision of all other employees;
  - b. Preparing and proposing annual budgets and amendments thereto;
  - c. Informing employees of Agency policy and their rights as set forth in the same or by statute or regulation;
  - d. Providing facts, figures, and other pertinent information, advice, and guidance to the Board of Directors in support of its governance and policy-making responsibilities;
  - e. Ensuring employees are not subjected to discrimination, unsafe or unhealthy working conditions, or harassment;
  - f. Implementing and directing the activities and expenditures of the Agency consistent with Agency policy, its duly adopted budget, and the direction of the Board; and
  - g. Ensuring no practice, activity, or decision of Agency personnel is in violation of state law, Agency policy, or commonly accepted standards of ethical conduct.
7. The Executive Director shall have the authority to:
- a. Delegate and re-delegate his/her authority to other employees with any degree of formality consistent with state law;
  - b. Expend funds, without restriction as to individual expenditure amounts or line items, up to the aggregate amount approved by the Board of Directors in the Agency's most recent adopted budget, as may be amended;
  - c. Schedule or reschedule work periods for all employees;
  - d. Enter into contracts on behalf of the Agency with his/her signature being sufficient to bind the Agency in all such matters;
  - e. Hire, review, promote, discipline, and terminate all Agency employees consistent with Agency policy;
  - f. Seek grant funds from other federal, state, and local agencies or other organizations;
  - g. Adjust wages and salaries consistent with Agency policies and duly adopted budgets;
  - h. Evaluate, select, direct, and execute and terminate professional services contracts as necessary to perform his/her assigned duties and to do so without conducting a competitive solicitation process for emergency projects pursuant to RCW 39.80.060; and
  - i. Represent the Agency to the public, other agencies, and the media in a manner consistent with Agency policy and the direction of the Board.
8. The Board of Directors shall retain the authority and responsibility to:
- a. Establish the Agency's mission, goals, and objectives and ensure these are met and accomplished;
  - b. Govern the Agency through the establishment, by resolution, of written policies reflecting the values and objectives of the Board of Directors consistent with the requirements of state law;
  - c. Approve the borrowing of funds;
  - d. Exercise discipline in governing including adequately preparing for and regularly attending board meetings, respecting the roles of others, orienting new board members in the governance process, engaging in constructive debate, deliberating individually while acting in unison, exercising proper decorum, and ensuring the expertise of individual members is not a substitute for the Board's collective judgment;
  - e. Oversee the work of the Executive Director and General Counsel;
  - f. Approve minutes, resolutions, vouchers, budgets, and amendments thereto;
  - g. Review the performance of, and establish and adjust compensation for, the Executive Director; and
  - h. Alter the authorities and responsibilities of the Executive Director by specific action of the Board, including the adoption of a new resolution delegating authority to agency officials.

9. The direction or instruction of any individual board member is not binding upon the Agency officials set forth herein except as they are authorized by resolution or majority vote of the Board of Directors and no individual board member shall be deemed to carry instructive authority in the absence of action by the Board.
10. All resolutions delegating authority to Agency personnel adopted before the date set forth below are hereby rescinded and the authorities assigned to the persons named therein are null and void.

**ADOPTED IN OPEN SESSION** this 9th day of November, 2023.

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Jon DeVaney, Chairperson

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Janice Deccio, Director

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Amanda McKinney, Director

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Jose A. Trevino, Director

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Steven Jones, Ph.D., Director

ATTEST:

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Pamela Herman, Clerk of the Board

From the November 2023 YRCAA Board Minutes [Board of Directors' Packet](#)

**13. Resolution 2023-08 – Delegating Authority to Agency Officials**

Thornsbury explained due to staff changes there is a need to adjust financial authorities for the Agency. He added the resolution identifies the new staff member and grants them authority to act on behalf of the Agency. Thornsbury noted the resolution is required by the county Treasurer's Office to ensure persons are authorized to transfer funds and make payments and is largely a housekeeping duty.

November 9, 2023

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Yakima Regional Clean Air Agency  
**RESOLUTION NO. 2024-02**

A Resolution of the Board of Directors  
**Appointing Agency Officials**

**WHEREAS**, the Board of Directors is required to appoint an Auditing Officer for the Agency pursuant to Revised Code of Washington (RCW) 42.24.080; and

**WHEREAS**, the Board of Directors is required to appoint a Public Records Officer for the Agency whose responsibility is to oversee the Agency's compliance with public records disclosure requirements pursuant to RCW 42.56.580; and

**WHEREAS**, the Board of Directors may appoint an Air Pollution Control Officer and any other personnel pursuant to RCW 70A.15.2030; and

**WHEREAS**, the Board of Directors is required to designate the treasurer of a county as treasurer of the Agency pursuant to RCW 70A.15.2610 and has so designated the Yakima County Treasurer; and

**WHEREAS**, the Yakima County Treasurer requires the Agency to designate a Primary and Alternate Auditing and Investing Officer; and

**WHEREAS**, the Yakima County Treasurer requires a date upon which the designation of a Primary and Alternate Auditing and Investing Officer expires;

**NOW THEREFORE, BE IT RESOLVED**, that the Board does hereby designate Jocelyn Roberson as Primary Auditing and Investing Officer, Pamela Herman as Public Records Officer, and Marc Thornsby as Executive Director, Air Pollution Control Officer, Secondary Auditing and Investing Officer, and agent to receive claims for damages with said designation superseding all previous designations and effective until superseded or through January 31, 2025, whichever shall occur first, subject to the authorities and responsibilities for said positions as set forth in Resolution 2024-01 adopted January 11, 2024, and the provisions set forth below:

1. The named individuals shall be held harmless, to the fullest extent allowed by law, for actions taken, or for failure to take actions, that are required by virtue of their designated offices;
2. The Agency shall acquire and maintain, through its insurance provider, indemnification (aka "directors and officers") insurance to defray the cost of any action against the named individuals.

**ADOPTED IN OPEN SESSION** this 11th day of January, 2024.

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Jon DeVaney, Chairperson

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Janice Deccio, Director

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Amanda McKinney, Director

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Jose A. Trevino, Director

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Steven Jones, Ph.D., Director

ATTEST:

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Pamela Herman, Clerk of the Board



**7. Resolution 2024-01 Delegating Authority to Agency Officials**

Thornsbury explained the Yakima County Treasurer requires a delegation of authority regarding financial transactions and the delegation must expire and be subsequently renewed each year. He noted that, having recognized renewal would be a more frequent occurrence, the elements previously comprising a single delegation have been split with the assignment of authorities by position appearing in the proposed resolution, to be adopted as needed, and the assignment of staff to those positions appearing in a second, more succinct, resolution to

be adopted on an annual basis. Thornsbury added prior delegations included roles and responsibilities for board members, but these have been removed and are expected to reappear in a future board conduct document that will be presented at a later date.

Yakima Regional Clean Air Agency  
**RESOLUTION NO. 2024-07**

A Resolution of the Board of Directors  
**Appointing Agency Officials**

**WHEREAS**, the Board of Directors is required to appoint an Auditing Officer for the Agency pursuant to Revised Code of Washington (RCW) 42.24.080; and

**WHEREAS**, the Board of Directors is required to appoint a Public Records Officer for the Agency whose responsibility is to oversee the Agency's compliance with public records disclosure requirements pursuant to RCW 42.56.580; and

**WHEREAS**, the Board of Directors may appoint an Air Pollution Control Officer and any other personnel pursuant to RCW 70A.15.2030; and

**WHEREAS**, the Board of Directors is required to designate the treasurer of a county as treasurer of the Agency pursuant to RCW 70A.15.2610 and has so designated the Yakima County Treasurer; and

**WHEREAS**, the Yakima County Treasurer requires the Agency to designate a Primary and Alternate Auditing and Investing Officer; and

**WHEREAS**, the Yakima County Treasurer requires a date upon which the designation of a Primary and Alternate Auditing and Investing Officer expires;

**NOW THEREFORE, BE IT RESOLVED**, that the Board does hereby designate Sherrie Springer as Primary Auditing and Investing Officer and Marc Thornsby as Executive Director, Air Pollution Control Officer, Public Records Officer, Secondary Auditing and Investing Officer, and agent to receive claims for damages with said designation superseding all previous designations and effective until superseded or through January 31, 2026, whichever shall occur first, subject to the authorities and responsibilities for said positions as set forth in Resolution 2024-01 adopted January 11, 2024, and the provisions set forth below:

1. The named individuals shall be held harmless, to the fullest extent allowed by law, for actions taken, or for failure to take actions, that are required by virtue of their designated offices;
2. The Agency shall acquire and maintain, through its insurance provider, indemnification (aka "directors and officers") insurance to defray the cost of any action against the named individuals.

**ADOPTED IN OPEN SESSION** this 14th day of November, 2024.

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Jon DeVaney, Chairperson

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Janice Deccio, Director

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Amanda McKinney, Director

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Jose A. Trevino, Director

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Steven Jones, Ph.D., Director

ATTEST:

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Jacqueline Meza, Clerk of the Board