



NOTICE AND AGENDA OF THE YAKIMA REGIONAL CLEAN AIR AGENCY BOARD OF DIRECTORS' REGULAR MEETING

NOTICE

NOTICE is hereby given that the Yakima Regional Clean Air Agency Board of Directors' Study Session will be held at the Yakima City Hall, City Council Chambers on Thursday, September 8, 2016 at 1:30pm to discuss consultants interested in aiding the Board in selecting a new Executive Director. The Regular Meeting will follow at 2:00pm to discuss the following Agenda.

STUDY SESSION @ 1:30 p.m.

Discuss consultants

Jon DeVaney

PUBLIC COMMENTS

This is a public meeting. If you wish to address the Board concerning any air quality matter, you may do so now. Please come forward to the podium, stating your name for the record. The Chair has the right to place a time limit on each person asking to be heard.

AGENDA

REGULAR MEETING @ 2:00 p.m.

1. 2:00 P.M. Call to Order
2. Roll Call
3. Additions or Deletions to Agenda

Board Chair
Quatandra Jarvis
Board Chair

CONSENT AGENDA

4. Consider Approving the Consent Agenda, Items for action 4.1 through 4.3. The Board may approve the Consent Agenda by single motion in whole or in part, with or without further discussion.
 - 4.1 By consent, approve August 11, 2016 Board Meeting Summary;
 - 4.2 By consent approve Emergency Board Meeting Summary; and
 - 4.3 By consent accept and file, YRCAA August, 2016 Monthly Activity Report;

Action Requested: Approve Consent Agenda Items 4.1 through 4.3.



REGULAR AGENDA

5. Receive YRCAA Director's Report. *Gary Pruitt*
Action Requested: Accept and file Director's Report - No Action Required.

ACTION ITEMS

6. Approve Selected Consultant *Jon DeVaney*
Action Requested: Approve Resolution 2016-08.
7. Accept Fiscal Reports. *Christa Owen*
 - Approve Fiscal Vouchers and Payroll Authorization Transfers;
 - BVA(s) – FYI;
 - Supplemental Income Status Report for CY 2015; and**Action Requested:** Approve Fiscal Vouchers, Payroll Authorization Transfers, Accept and File Fiscal Reports.

DIVISION REPORTS

8. Engineering and Planning Division *Hasan Tahat*
Accept Engineering and Planning Division Report
Action Requested: Accept and file Report – No action required
9. Compliance and Enforcement Division *Keith Hurley*
Accept Compliance and Air Monitoring Division Report
Action Requested: Accept and file Report - No Action Required
10. Executive Division Report *Mark Edler*
Accept Executive Division Report
Action Requested: Accept and file Report – No action required

OTHER BUSINESS

11. Other Business and Adjournment *Board Chair*

The Next Board of Directors Meeting is scheduled for Thursday, October 13, 2016 at the City of Yakima Council Chambers, 129 N Second Street, Yakima.



Summary of the Governing Board of Directors Meeting

Location, Date and Time:

Yakima City Hall Council Chambers,

August 11, 2016

Time: 1:30 p.m.

1. **Jon DeVaney, Board Chair**, called the Meeting to order at 1:30 p.m.
2. **Quatandra Jarvis, Clerk of the Board**, conducted roll call. There was a quorum

PRESENT WERE:

BOARD MEMBERS:

Jon DeVaney, Representative-At-Large
Norm Childress, Small Cities Representative
Steven Jones, Ph.D., County Representative
Bill Lover, Largest City Representative

LEGAL COUNSEL:

Gary Cuillier, Board Counsel

STAFF:

Gary Pruitt, Executive Director
Quatandra Jarvis, Clerk of the Board
Hasan Tahat, Engineering/Planning Division
Keith Hurley, Compliance/ Enforcement Division
Mark Edler, Executive Division
Christa Owen, Fiscal Manager

MEDIA:

Mike Brown, YPAC

Study Session: Process for hiring the next Executive Director (Director)

Board Chair, Jon DeVaney opened the Study Session by stating Gary Pruitt has turned in his letter of resignation effective December 1, 2016 and his last working day expected October 1, 2016. Mr. DeVaney outlined the different options available to the Board for the search. The Board could do an internal search with existing staff, conduct the search themselves, create a subcommittee or hire a consultant.

The Board went back and forth discussing their options and individual preferences. The Board is not obligated to do an external search, however, if that is what they decide, they will need to determine where to advertise, pros and cons of hiring a consultant and the type of consultant they would be interested in.

There will be a gap between Mr. Pruitt's last working day and the hire of a new Director. The Board discussed the value of having an interim Director and what that would look like.

It was decided to have an Emergency Board Meeting to discuss the issue further.

3. Additions and Deletions to Agenda –There were none

Public Comment

Jean Mendoza thanked Mr. Pruitt for his service and asked the Board to add a member from the public to the hiring committee. She volunteered Jim Dyjak. She also suggested the Board hire someone with public health experience.

Jim Dyjak questioned why the Agency did not have a 2nd in command for the Director and suggested the Agency draft a policy to change that. Mr. Dyjak also suggested the Board do an external search and hire an environmental attorney. He confirmed that he would like to be on the hiring committee.

Sandy Braden followed up with the same question as to whether or not the attorney general has responded. The answer was no. Mr. DeVaney advised Ms. Braden that he asked staff to get an interim opinion from Agency attorney. Ms. Braden stated that she's contacted the Attorney General twice and was advised by them that they never received the Agency's request.

Steve George requested that some of the regulated community be added to the hiring committee.

AGENDA ITEM NO. 4.1

Kathleen Rogers felt that there should be someone from the public on the hiring committee.

Regular Meeting:

4. The Consent Agenda was approved in its entirety by motion of Mayor Norm Childress and seconded by Steven Jones, Ph.D. Motion granted.

REGULAR AGENDA

5. **Director's Report**
No report this month.

ACTION ITEMS

6. **Accept Fiscal Reports**
Christa Owen reported that Payroll for July was \$61,808.76 and AP was \$8,505.36. Out of AP, Wood Stove Change-Out expenses were \$620 and Enterprise expenses were \$500.

Motion to approve by Steven Jones, Ph.D. and seconded by Bill Lover. Motion Passed.

DIVISION/PROGRAM REPORTS
(See written reports for complete details.)

7. **Engineering and Planning Division Report**
Hasan Tahat, Ph.D. reported that he is continuing his work on the Maintenance Plan for the SIP. There were no exceedances in July.

In response to Mr. DeVaney's request for information regarding analysis of permitting fees, Dr. Tahat created a graph that represents fees from 2011-2016. The graph showed the numbers stayed steady with a noticeable bump in 2013-2014 due to the addition of dairies.

8. **Compliance and Enforcement Division Report**
Keith Hurley's division issued zero violations in July.

Mr. Hurley went over the results of the continuous monitors, FRM and speciation monitors in the 1st Quarter DOE Quarter Assessment Report.

Finally, Mr. Hurley went over the Compliance Enforcement Division work areas. He explained how the division worked within themselves and merged with the Engineering and Planning Division and Executive Division.

9. **Executive Division Report**
Mark Edler reported that the Wood Stove Change-Out program completed three (3) Low Income and two (2) Bounties for the month of July. The Executive Division also participated in their last Education Outreach event at the Yakima Arboretum.

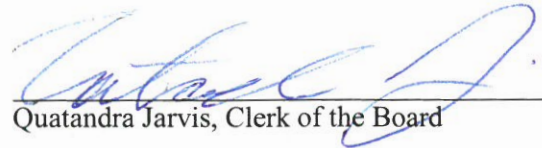
Northwest Opacity Training will be starting in September.

Mr. DeVaney requested an overview of the Executive Division. Mr. Edler replied that the Division is responsible for Human Resource issues, Fiscal issues, Northwest Opacity, Public Education and Outreach and IT.

10. **Other Business**
Next Meeting is scheduled for September 8, 2016 with an Emergency Meeting to be scheduled in the near future.

Motion to adjourn by Mayor Norm Childress and seconded by Steven Jones, Ph.D.

Jon DeVaney, Board Chair



Quatandra Jarvis, Clerk of the Board

Audio CD of this meeting is available at the YRCAA.
Meeting Summary submitted to Board for approval.



Summary of the Governing Board of Directors Meeting

Location, Date and Time:

Yakima Regional Clean Air Agency,

August 17, 2016

Time: 5:00 p.m.

1. **Jon DeVaney, Board Chair, called the Meeting to order at 5.00 p.m.**
2. **Quatandra Jarvis, Clerk of the Board, conducted roll call. There was a quorum**

PRESENT WERE:

BOARD MEMBERS:

Jon DeVaney, Representative-At-Large
Norm Childress, Small Cities Representative
Steven Jones, Ph.D., County Representative
Rand Elliot, Yakima County Commissioner

LEGAL COUNSEL:

Gary Cuillier, Board Counsel

STAFF:

Gary Pruitt, Executive Director
Quatandra Jarvis, Clerk of the Board
Hasan Tahat, Engineering/Planning Division
Keith Hurley, Compliance/ Enforcement Division
Mark Edler, Executive Division

3. **Additions and Deletions to Agenda –There were none**

Emergency Meeting

Time: 5:00 p.m.

Board Chair, Jon DeVaney advised the Emergency Board Meeting was called to determine the next steps in the recruitment of the next Director. It was determined to get proposals from private consultants as well as the City and County to assist the Board in making a selection. To begin this discussion, Mr. DeVaney asked if there were any potential changes to the Scope of Work document for the potential contractors. There were none.

There was discussion among the Board as to how to go about identifying and soliciting proposals and quotes from different contractors. A couple of the suggestions included empowering Staff to decide within specific parameters or creating a subcommittee. As a point of clarification, Mr. DeVaney advised that the Agency does not need three written quotes for prices under \$7,000. Rand Elliott's opinion was that this decision needs to be a Board decision. He did not think it would be possible to hire a consultant under \$7,000. He believed that advertising itself will probably be at least \$18,000. Mr. DeVaney advised that the Board Members were leaning towards a regional search which should cut down on advertising costs. Mr. Elliott also suggested contracting with either the City or the County as YVCOG had done. He discussed the pros and cons of hiring a private consultant or headhunter.

The Board decided to have Steven Jones, Ph.D. and Mayor Norm Childress head a sub-committee to select a consultant. The Motion was made by Rand Elliott and seconded by Mayor Childress. Staff will contact local private consultants, the County and City for proposals and turn into Mayor Childress and Dr. Jones within two weeks. The selection of the consultant will be decided at the September 8th Regular Board Meeting.

Mr. DeVaney asked Staff if they had any comments or questions. Gary Pruitt advised that he put together a memo that stated he would come into the office once a week and debrief with each supervisor during his leave in October and November. Dr. Jones questioned if the Board had the authority to request Mr. Pruitt to come back to the office during that time if needed. Mr. Pruitt indicated that they could if needed however, he does not anticipate there being a need as the three supervisors will be responsible for their respective divisions. The Board decided to defer selecting an acting Director for the Agency until December. Meeting was adjourned at 5:26 p.m.

Jon DeVaney, Board Chair

Quatandra Jarvis, Clerk of the Board

Meeting Summary submitted to Board for approval.

AGENDA ITEM NO. 4.2

Date of Release: September 1, 2015
Date of Consideration: September 8, 2015
To: Board of Directors
From: Office of the Executive Director
Subject: Monthly Activity Report

Activity	FY16	Jul16	Aug16	Sept16	FY to Date
Minor Source Inspections	107	17	17	0	34
Complaints Received	201	8	21	0	29
NOVs Issued	85	0	6	0	6
Warning Notices Issued	7	0	0	0	0
NOPs Issued	60	7	0	0	7
SEPA Reviews	245	18	25	0	43
AOP Applications Received	1	0	0	0	0
AOPs Issued or Renewed	3	1	1	0	2
Deviations/Upsets Reported	12	1	1	0	2
AOP Inspections	8	1	0	0	1
Public Workshops	0	0	0	0	0
Media Events	0	0	0	0	0
Media Contacts	19	2	0	0	2
Education Outreach Events	8	1	0	0	1
Sources Registered	381	3	3	0	6
NSR Applications Received	10	1	1	0	2
NSR Approvals Issued-Temporary	1	0	0	0	0
NSR Approvals Issued-Permanent	13	0	3	0	3
NODRs Received	189	11	14	0	25
Agricultural Burn Permits Issued	206	2	1	0	3
Conditional Use Permits Issued	11	0	0	0	0
Residential Burn Permits Issued	240	158	4	0	162
Burn Ban Days	90	0	0	0	0
Public Records Requests Fulfilled	26	8	4	0	12

Acronyms:

AOP-Air Operating Permit; **NODR**-
 Notification of Demolition and Renovation;
NOP-Notice of Penalty; **NOV**-Notice of
 Violation; **NSR**-New Source Review;
SEPA - State Environmental Policy Act

AGENDA ITEM NO. 4.3



Date of Release: September 1, 2016
Date of Consideration: September 8, 2016
To: Board of Directors
From: Office of the Executive Director
Subject: Director's Report

1. Cost of Public Records Requests

The following text is copied from the State Auditor's website - Effect of Public Records Requests on Washington's State and Local Governments, August 2016 Summary:

At the request of the Legislature, this performance audit examined the effect of public records requests on state and local governments. We found that a changing public records environment and a Public Records Act (PRA) that has not kept pace with present-day issues pose challenges that, if not addressed, may undermine the original intent of public records laws and hinder other essential government services.

The state and local governments that responded to our statewide survey reported spending more than \$60 million to fulfill more than 285,000 public records requests in the most recent year alone. Requesters pay only a small portion of the costs (less than 1 percent) involved in fulfilling public records requests.).

Our research shows that a combination of statewide policy changes and better information management and disclosure practices is needed to keep pace with changing times. We identified policies the Legislature can consider to address public records issues. We also identified practical solutions that can help state and local governments continue to improve their records management and disclosure processes. The full report may be found at: http://www.sao.wa.gov/state/Pages/PA_RecordsStudy.aspx

2. Ecology Review of the YRCAA Air Program

RCW 70.94.405 states: "At any time after an authority has been activated for no less than one year, the department may, on its own motion, conduct a hearing held in accordance with chapters 42.30 and 34.05 RCW, to determine whether or not the air pollution prevention and control program of such authority is being carried out in good faith and is as effective as possible. If at such hearing the department finds that such authority is not carrying out its air pollution control or prevention program in good faith, is not doing all that is possible and reasonable to control and/or prevent air pollution within the geographical area over which it has jurisdiction, or is not carrying out the provisions of this chapter, it shall set forth in a report or order to the appropriate authority: (1) Its recommendations as to how air pollution prevention and/or control might be more effectively accomplished; and (2) guidelines which will assist the authority in carrying out the recommendations of the department."

Jean Mendoza, on behalf of Friends of Toppenish Creek, has requested that Ecology conduct a review and hold a hearing pursuant to the above statute. Ecology has conducted its review and determined that:

AGENDA ITEM NO. 5

Gary M. Cuillier

ATTORNEY AT LAW

314 N. SECOND STREET
YAKIMA, WASHINGTON 98901

(509) 575-1800
FAX: (509) 452-4601

September 6, 2016

Gary Pruitt
Yakima Regional Clean Air Agency
329 North 1st Street
Yakima, WA 98901

Dear Mr. Pruitt,

This is a response to your request for my opinion as legal counsel for the Yakima Regional Clean Air Agency (YRCAA) relative to your three questions which have also been asked of the Washington State Attorney General's Office by letter of Representative Norm Johnson dated June 13, 2016. I have also received a copy of the August 12, 2016, email from his Legislative Assistant Gale Sackman indicating that Legislative Affairs Director Mike Webb checked on the progress of that request and learned that the team is still working on it, actively engaged on it, but cannot say when it will be finished.

This response takes into account statements in a May 23, 2016, letter from The Friends of Toppenish Creek listed as Jan Whitefoot, Larry Fendell, Dean Effler, Wendell Hannigan, Marlene Simla, Jim Dyjak, Linda Dyjak, Lavina Wilkins, Sandra Braden and Jean Mendoza. Besides quoting RCW 70.94.100(6), WAC 173-400-220(2) and RCW 70.94.430(4), the letter states the following:

"Dr. Steven Jones is a dairy nutritionist with extensive financial ties to the dairy industry. The resume he submitted to the Yakima Regional Clean Air Agency describes his current employment as: 'October 2008 – Present – Dairy Nutrition Consultant, Owner, Northwest Research LLC, Yakima, WA. Private nutrition consultant for dairy commercial heifer replacement feedlots in Washington providing diet formulation and management services.'

Dr. Jones served on the work group that developed the 2013 YRCAA Air Quality Management Policy and Best Manage-

ment Practices for Dairy Operations. He participated in a meeting of that group that took place on a Yakima County dairy where No Trespassing signs were posted, thus preventing anyone from the public or the press from attending. Dr. Jones cited two prominent Yakima County dairymen as references in his application to serve on the YRCAA board of directors.

As the following three examples below show, Dr. Jones has not declared a conflict of interest during discussions of dairy related issues by the YRCAA board of directors. He has unfairly and inappropriately voted on motions regarding the YRCAA Air Quality Management Policy and Best Management Practices for Dairy Operations.

The three examples are:

1. On June 14, 2014, Dr. Jones voted on the YRCAA 2015 Budget that included revenue and expenditures related to dairies.
2. On November 13, 2014, Dr. Jones voted on permit fees for the coming year. Dr. Jones moved to accept the dairy policy implementation report and the board concurred.
3. On November 19, 2015, Dr. Jones voted on revisions to the 2016 YRCAA budget. That budget included items related to dairies.

RCW 70.94.011 Declaration of public policies and purpose states: 'It is the policy of the state that the costs of protecting the air resource and operating state and local air pollution control programs shall be shared as equitably as possible among all sources whose emissions cause air pollution.'

Major research tells us that the dairy industry is a significant source of air pollution in the Yakima Valley. The dairy industry does not share in the cost of controlling those unhealthy emissions. The only attempt to address this source

of air pollution is a feeble Air Quality Management Policy and an impotently enforced Best Management Practices for Dairy Operations that does nothing to protect the people who are forced to breathe the polluted air. Dr. Jones has actively assisted in this project and has voted multiple times on it in board meetings. Dr. Jones earns a significant percentage of his income from the dairy industry and should not vote on dairy related air issues according to RCW 70.94.100, RCW 70.94.430 and WAC 173-400-220.”

Since Board member Dr. Steve Jones was Yakima County’s appointment to the Board, I have also been attempting to allow the County’s Legal Department to weigh in on these questions, but have been unable to discuss the matter thus far with the County’s Chief Civil Deputy Don Anderson. Subject to possible changes in my opinion based on input from the State Attorney General’s Office and/or the County’s Legal Department, my personal opinion at this point is as follows:

(1) Whether either RCW 70.94.100(6) or WAC 173-400-220 prevents individuals who derive a significant portion of their income from persons subject to clean air act enforcement orders from holding a position on the YRCAA Board?

WAC 173-400-220(1) states that “A majority of the members of such boards, shall not derive any significant portion of their income from persons subject to enforcement orders pursuant to the state and federal clean air acts.” In the context of the YRCAA, this WAC provision allows two of the five Board members to derive a significant portion of their income from persons subject to such enforcement orders. If a majority of the Board members were to derive a significant portion of their income from such persons, one or more of them would have to resign so that less than a majority of the Board members were to derive a significant portion of their income from such persons. RCW 70.94.100(6) does not prohibit a majority of the members of the Board from deriving a significant portion of their income from persons subject to clean air act enforcement orders.

(2) Whether either RCW 70.94.100(6) or WAC 173-400-220(2) prevents the Board member from participating in discussion about the industrial sector?

Insofar as WAC 173-400-220(1) allows less than a majority of Board members to derive a significant portion of their income from persons subject to enforcement orders pursuant to the state and federal clean air acts, that fact alone cannot be intended to constitute a potential conflict of interest. WAC 173-400-220(2) requires Board members to adequately disclose a potential conflict of interest and to "remove themselves from participation as a board member in any action or voting on such matter." The WAC provision would require Board members who derive a significant portion of their income from persons subject to clean air act enforcement orders to remove themselves completely from participation as a Board member in all actions and all voting on all matters if that fact alone would constitute a potential conflict of interest, in which case they would be rendered completely ineffective as Board members.

WAC 173-400-220(1) does, however, require that such Board members "delegate sole responsibility for administration of any part of the program which involves these persons to an assistant." In the case of the YRCAA, the Board does not administer the programs it adopts. The Board delegates administration of YRCAA programs to the agency's Executive Director and staff. This is true of the YRCAA "Air Quality Management Policy and Best Management Practices for Dairy Operations" adopted by the YRCAA Board that were effective on July 1, 2013. Dr. Steve Jones did not become a Board member until January, 2014, and has left administration of the program to the YRCAA agency personnel. RCW 70.94.100(6) does not contain any requirement for Board members to delegate the administration of any ecology or clean air authority programs.

As noted above, WAC 173-400-220(2) requires all Board members to adequately disclose a potential conflict of interest prior to any action or consideration thereon and to remove themselves from participation as a Board member in any action or voting on such matter. Many potential conflicts of interest are obvious such as when a person works against the interest of his or her clients for personal gain or works for different clients whose interests are adverse to each other. For a conflict to exist, some sort of adversity, opposition, incompatibility or antagonism between competing interests is by definition involved. For example, a Board member would have a potential conflict of interest to disclose prior to participating in a quasi-judicial appeal of an enforcement action by the agency against one of the Board member's clients because adverse interests would be involved. But the voting on budgets, on permit fees that are the same as the previous year and on accepting an agency staff report regarding dairy policy implementation

would in my view be legislative matters that lack any apparent element of adversity, opposition, incompatibility or antagonism between competing interests of the agency and the Board member's clients. The exercise of legislative authority is not subject to appearance of fairness requirements applicable to quasi-judicial matters and will be overturned only for manifest abuse of discretion, such as arbitrary or capricious conduct. (*Harris v. Hornbaker*, 98 Wn.2d 650, 658 P.2d 1219 (1983)). Even in quasi-judicial matters where the appearance of fairness doctrine does apply, a remote, tenuous, contingent possibility of conflicting interests will not constitute a potential conflict of interest in violation of the appearance of fairness doctrine. (*West Slope Community Council v. City of Tacoma*, 18 Wn. App. 328, 335-336, 569 P.2d 1183 (1977)). The fact that some may believe that the Board members' or the agency's interests should change so as to be in conflict with interests of persons subject to enforcement orders does not mean that the interests are currently in conflict or that the public interest would be served by having the interests be in conflict. WAC 173-400-220(1) states that "An elected public official and the board shall be presumed to represent the public interest."

(3) Whether either RCW 70.94.100(6) or WAC 173-400-220(2) prevents the Board member from voting if, in the opinion of a majority of the Board, the member can vote objectively on a matter involving the industrial sector?

The Board member is not prevented from voting if a court were to hold that WAC 173-400-220(2) modifies or amends RCW 70.94.100(6) in that regard. WAC 173-400-220(2) provides that following a Board member's disclosure of a potential conflict of interest, "the member shall remove themselves from participation as a board member in any action or voting on such matter." However, RCW 70.94.100(6) provides that the Board member shall be removed from participation in an action only if in the judgment of a majority of the Board, the potential conflict of interest "may prevent the member from a fair and objective review of the case." The general rule is that an administrative regulation cannot be in conflict with a statute and will be invalid to the extent that it is in conflict. An administrative agency may not, by means of an interpretation or clarifying regulation, actually modify or amend the legislative enactment or write into the statute something that the legislature did not put there. (*Fisher Flouring Mills Co. v. State*, 35 Wn.2d 482, 492, 213 P.2d 938 (1950); *Northern Pacific Railway Co. v. Henneford*, 9 Wn.2d 18, 21, 113 P.2d 545 (1941)).

Gary Pruitt
September 6, 2016
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CONCLUSION

Unless the opinions of the Attorney General's Office and/or of the County's Legal Department bring to light reasoning or legal authorities that cause me to change my opinion, please accept this letter as my response to your questions.

Yours very truly,



GARY CUILIER

GMC: krr

RECEIVED
SEP 06 2016
YRCAA



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

August 31, 2016

Ms. Jean Mendoza, Executive Director
The Friends of Toppenish Creek
3142 Signal Peak Road
White Swan, WA 98952

Re: Request for Formal Review of the YRCAA under RCW 70.94.405

Dear Ms. Mendoza:

Ecology has reviewed your June 10, 2016 letter and attachments asking Ecology to undertake a formal review of the Yakima Regional Clean Air Agency (YRCAA) as authorized by RCW 70.94.405. Ecology appreciates and shares the Friends of Toppenish Creek's concerns about clean, healthy air for citizens in the Yakima Valley. Your letter provides several bases for your requests. We respect the seriousness of your request for evaluation of the YRCAA. However, for the reasons outlined below, we have determined that it would not be appropriate to initiate a formal review of the YRCAA at this time.

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

As your letter acknowledges, the YRCAA has designed and is implementing a program aimed at addressing airborne pollution from dairy operations. On July 1, 2013, the YRCAA adopted its *Air Quality Management Policy and Best Management Practices for Dairy Operations* (Dairy BMPs) to manage air pollution from dairies where cows are confined for feeding and milking. A copy of the Dairy BMPs is provided as **Attachment 1** to this letter. The Dairy BMPs were developed after public notice and comment, and with broad participation from dairies in the Yakima Valley over the course of a pilot research project and a one year implementation trial period.

The Dairy BMPs require dairies to submit annual air quality management plans outlining best management practices (BMPs) and operational procedures that will be used to reduce air emissions. BMPs must address emissions from specific areas at dairies, including milking parlors, sorting alleys, feed alleys, dry lots and free stalls, lands where nutrients are applied, storage lagoons, compost areas, feed storage areas, unpaved roadways and any other area or process where emissions may occur. Plans must describe how and when each BMP is to be implemented and the criteria for selecting BMPs, as well as a description of which pollutant will be reduced as a result of each BMP. Dairies must also pay a registration fee to the YRCAA, and undergo site visits and full compliance evaluations to determine their compliance.

This program is the only one of its kind in our state. The YRCAA has committed to evaluating the policy every two years, assessing its effectiveness, and making modifications to improve the program. The first program review was conducted in 2014. A copy of the report on the 2014 program review is provided as **Attachment 2** to this letter. As part of this review, YRCAA staff visited 41 dairy operations consisting of 59 facilities and gave each dairy a grade from "A" (best) to "D" (worst) on implementation of the management system and BMPs. Each inspection team included 2 engineers and 2 compliance inspectors. Each inspection evaluated the implementation of BMPs in seven dairy operation systems: Nutrition; Feed Management; Housing - Freestall Barns; Housing - Drylot Pens; Grazing; Manure Management; and Land Application (Fertilizer and Manure). The inspections targeted BMPs designed to reduce eight air pollutants: ammonia, nitrous oxide, hydrogen sulfide, volatile organic compounds, particulate matter, methane and oxides of nitrogen, as well as odors.

Inspectors gave 21% of the operations an "A", 30% a "B", 37% a "C" and 12% a "D". According to these evaluations, 51% of the facilities, housing about 74% of the dairy cow population in the Yakima Valley scored A or B grades. YRCAA intends to use this dairy-by-dairy, BMP-by-BMP evaluation as a base line for further evaluations.

The report recommended that dairies be required to increase their recordkeeping and improve BMP effectiveness each year. It recommended the addition of a new, highly effective BMP consisting of installing a completely enclosed structure for the feed preparation area. It also recommended follow-up visits for some operations within a short period of time to verify the operations had followed agreed-upon recommendations to correct potential violations identified by the inspection team. Finally, the report recommended issuing compliance schedules for dairy operations that did not substantially implement reasonable recommendations and a site inspection schedule based on the overall grade each dairy received.

The second review is scheduled to begin this fall. According to YRCAA, for this review the YRCAA will conduct inspections of the dairies, and will reconvene the Dairy Workgroup to conduct the program evaluation and develop recommendations. The results of the review will be presented in a report that the YRCAA estimates will be delivered to the YRCAA Board of Directors in the spring of 2017.

We recognize the YRCAA's efforts to reduce pollutants from dairies. Because the Dairy BMP program is relatively new and still being honed, we believe it would not be appropriate for Ecology to conduct a formal RCW 70.94.405 review of the YRCAA's efforts at reducing emissions from dairies at this time. We encourage the Friends of Toppenish Creek to participate in improving the Dairy BMPs and the upcoming program evaluation and to vigorously pursue relief to address your concerns that YRCAA's program is not adequate.

2. Air monitoring efforts and scientific studies are underway

Your letter raises concerns regarding air monitoring data near dairies. Ecology supports and works with our air quality partners to promote clean healthy air throughout the state. As part of this effort, Ecology, the YRCAA, the U.S. Environmental Protection Agency, and the Yakama Nation conduct ambient air monitoring at four locations in the Yakima Valley (Sunnyside, Toppenish, White Swan, and Yakima). We review and evaluate the data collected at these sites regularly and use it to ensure that the area is meeting (in attainment of) the health-based national ambient air quality standards set by EPA. Like all the monitors in the state monitoring network, these monitors are designed to monitor ambient concentrations of pollution, and are not designed to measure impacts directly from individual sources.

From time to time, however, Ecology and local air agencies do conduct special monitoring studies in areas with specific air pollution and health concerns. In one such effort, Ecology worked with the YRCAA, the Yakama Nation, and researchers at Washington State University and Central Washington University to conduct the Yakima Air Winter Nitrate Study (YAWNS) completed in 2014. A copy of the report issued on that study is provided as **Attachment 3** to this letter. In this study, researchers studied Yakima's air to better understand why the air in the Yakima Valley has higher than usual levels of fine particles containing nitrates.

Researchers found that ammonia from agricultural activities interacts with oxides of nitrogen from motor vehicles during the right weather conditions to form aerosol nitrate, a component of fine particulate matter (PM_{2.5}). Aerosol nitrate builds in the air during cold, stagnant periods when pollution does not disperse easily. One gap in the study was that researchers did not collect data in the Lower Yakima Valley, the area where the dairies are located. This data gap was corrected last winter, when researchers measured levels of aerosol nitrate in the lower Yakima Valley. The data from these measurements have not yet been analyzed. "Ecology anticipates completing that analysis by the end of October 2016, and will share the results of that analysis with the YRCAA, and it will be available to the public."

Your letter also raises concerns regarding the availability of information on health impacts to citizens living near dairies. 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. To address this question, at the request of EPA Region 10, the Agency for Toxic Substances and Disease Registry (ATSDR), part of the Centers for Disease Control (CDC), conducted a study to measure exposure to air pollution at properties near dairies in the lower Yakima Valley. An email from ATSDR giving a short description of that study is provided as **Attachment 4** to this letter. According to ATSDR, ATSDR took samples for 8 weeks during the fall/winter of 2014 and 8 weeks during the summer/fall of 2015, to measure exposure to ammonia, hydrogen sulfide, and particulates near concentrated animal feeding operations (CAFOs) on the Yakama reservation. ATSDR anticipates releasing their results in the spring of 2017. The results of this study will help provide additional information to better understand and manage more localized air pollution levels and health risks for citizens living near dairies.

Ecology believes it would be inappropriate to conduct a formal review of the YRCAA before the results of these studies have been finalized and both Ecology and the YRCAA have had an opportunity to review and evaluate them.

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

Your letter raises concerns regarding the integrity of the YRCAA Board of Directors and possible conflicts of interest. To address these concerns, in June, 2016, the YRCAA Executive Director and Board of Directors requested an opinion from the Attorney General's Office (AGO) on board member participation and potential conflicts of interest. A copy of that request is provided with this letter as **Attachment 5**. It is our understanding that the AGO has accepted the YRCAA's request and is currently working on the opinion.

In light of YRCAA's request and the pending AGO opinion, we again believe it would be premature for Ecology to further investigate this claim at this time.

Conclusions

Ecology shares your interests in clean, healthy air for citizens in the Yakima Valley. We understand that you believe that the YRCAA is not implementing its programs in good faith or as effectively as possible. We have thoroughly reviewed your June 10, 2016 letter and the materials you have submitted to us. We have also considered the steps the YRCAA is taking to manage air pollution from dairies in the Yakima Valley, as well as the steps YRCAA is taking to address your concerns about potential board member conflicts of interest. Finally, we looked at ongoing efforts to understand air pollution from dairies in the Yakima Valley as well as the pending AGO opinion concerning conflicts of interest.

After that evaluation, we have determined not to initiate a formal review of the YRCAA at this time. We expect to have more information about the results of YRCAA's efforts to reduce emissions from dairies, as well as the outcome of the ATSDR study, over the course of the next year. We will also have the AGO opinion concerning potential conflicts of interest on the YRCAA Board. These results will provide all stakeholders with important information to better understand the issues.

It is important to note that the Legislature has provided independent authority to local air agencies, delegated them responsibility for carrying out state air quality laws and regulations and authorized them to take delegation of federal requirements from EPA. Local air agencies are also provided authority to adopt local regulations that are equally or more stringent than state regulations. Ecology respects the broad discretion provided by the Legislature to local air agencies in establishing local priorities and programs to manage air pollution.

Even though Ecology is not granting your request at this time, we want to assure you that we respect the seriousness of the concerns you have raised. 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 further review your concerns.

Ms. Jean Mendoza
August 31, 2016
Page 5

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.

If you wish to discuss this further or if you have any questions, please do not hesitate to contact Chris Hanlon-Meyer at (360) 407-6115 or Chris.Hanlon-Meyer@ecy.wa.gov, or Sue Billings at (509) 575-2486 or Susan.Billings@ecy.wa.gov.

Sincerely,

Maia Bellon by Polly Zehn

Maia D. Bellon
Director

Attachments (5):

1. Air Quality Management Policy and Best Management Practices for Dairy Operations (effective July 1, 2013)
2. Air Quality Management Policy for Dairy Operations: Report to the YRCAA Board of Directors of the July, 2013 to October, 2014 Policy Implementation Period (dated November 13, 2014)
3. Yakima Air Winter Nitrate Study
4. August 30, 2016 email from Debra Gable, Subject: RE: ATSDR
5. June 2016 request for AGO opinion

cc: Gary Pruitt, YRCAA
Sage Park, Ecology Central Region
Grant Pfeiffer, Ecology Eastern Region
Stu Clark, AQ Program Manager
Chris Hanlon-Meyer, Ecology AQ Program
Sue Billings, Ecology AQ Central Region
John Wiesman, Department of Health
Phil Rigdon, Yakama Nation
Debra Suzuki, EPA
Lucy Edmondson, EPA
Debra Gable, EPA
Derek Sandison, Department of Agriculture



Executive Memorandum

Date of Release: September 1, 2016
Date of Consideration: September 8, 2016
To: YRCAA Board of Directors
From: Quatandra Jarvis, Clerk of the Board
Subject: Hiring Consultant

ISSUE

Approve selected consultant in aiding the Yakima Regional Clean Air Board of Directors with hiring a new Executive Director.

RECOMMENDATION

Approve Resolution 2016-08 approving selected consultant in aiding the YRCAA Board of Directors in hiring a new Executive Director.

DISCUSSION

At the Emergency Board Meeting on August 17, 2016, the YRCAA Board of Directors decided to use a consultant to aid the Board in hiring a new Executive Director. The interested consultants have submitted their proposals and quotes for review.

Attachment: Resolution 2016-08

AGENDA ITEM NO. 6

RESOLUTION NO: 2016-08
BEFORE THE GOVERNING BOARD OF THE
YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA)

Approving selected consultant to aide Yakima Regional Clean Air Board of Directors in hiring a new Executive Director.....

WHEREAS, the Board of Directors of the YRCAA, has the authority to approve the selected consultant in aiding the Board in selecting a new Executive Director,

AND WHEREAS, the YRCAA Board of Directors has reviewed and approves the interested consultants,

BE IT THEREFORE RESOLVED, the YRCAA Board of Directors hereby approves the selected consultant.

On motion of _____, seconded by _____, the foregoing resolution is hereby PASSED AND ADOPTED by the Yakima Regional Clean Air Agency Board of Directors on this 8th day of September, 2016.

Jon DeVaney, Chair

Rand Elliott, Director

Steven Jones, Director

Bill Lover, Director

Norm Childress, Director

Quatandra Jarvis, Clerk of the Board



Executive Memorandum

Date of Release: September 1, 2016

Date of Consideration: September 8, 2016

To: YRCAA Board of Directors

From: Office of the Director

Christa Owen

Subject: Fiscal Program Report

Issue: Consider Fiscal Reports, forms, and vouchers.

Recommendation(s): Accept, and approve by minute action, August 2016 AP Fiscal Vouchers (34,035.22), and August Payroll Authorization (\$62,838.03). Out of A/P, \$12,499.90 was for Wood Stove Change-out, Expenses, and \$0.00 was for Enterprise expenses.

Discussion: August Accounts Payable and Payroll Authorizations are enclosed for your approval. BVA and Supplemental Income are included as informational items.

Enclosures

AGENDA ITEM NO. 7



August 11, 2016

Fund 614-614 YRCAA

Fund 614-141 Enterprise

<u>Name</u>	<u>Warrant/MICR #</u>	<u>GL #</u>	<u>Amount</u>	<u>Date</u>
Charter Communications	32855	4201	\$ 727.09	8/12/2016
Coleman Oil Company	32856	3201	\$ 102.47	8/12/2016
Crystal Springs	32857	3101	\$ 21.44	8/12/2016
Cuillier Law Office	32858	4101	\$ 462.00	8/12/2016
Enduris of Washington	32859	4601	\$12,662.00	8/12/2016
Five K Technologies	32860	3502	\$ 25.00	8/12/2016
Inland Awning of Yakima*	32861	4101	\$ 9,668.16	8/12/2016
Inland Contracting*	32862	4101	\$ 2,831.74	8/12/2016
Leaf	32863	4501	\$ 186.07	8/12/2016
Menke Jackson Law Firm	32864	4101	\$ 150.00	8/12/2016
Simmons & Son Hauling	32865	4901	\$ 453.00	8/12/2016
Skaggs Carpet & Furniture Cleaners	32866	4802	\$ 241.00	8/12/2016
Splash Express	32867	4801	\$ 10.15	8/12/2016
Verizon Wireless	32868	4201	\$ 329.04	8/12/2016
YRCAA	32869	4901	\$ 209.47	8/12/2016

Total:

\$ 28,078.63

***Reimbursement from Grant**

****NOC/Enterprise**

This is to certify that the invoices and warrants above for the Yakima Regional Clean Air Agency have been examined, audited and approved by the Alternate Auditing Officer for payment.

Total Amount: **\$ 28,078.63**

Jon DeVaney, Board Chairman

9/8/2016

Gary W. Pruitt, Executive Director

8/12/2016



August 26, 2016

Fund 614-614 YRCAA

Fund 614-141 Enterprise

<u>Name</u>	<u>Warrant/MICR #</u>	<u>GL #</u>	<u>Amount</u>	<u>Date</u>
Abadan Reprographics	32870	4801	\$ 121.51	8/29/2016
Bradley A. Mellotte	32871	4501	\$ 3,480.00	8/29/2016
Crystal Springs	32872	3101	\$ 21.50	8/29/2016
Five K Technologies	32873	4801	\$ 357.06	8/29/2016
KeyBank	32874	Various	\$ 1,476.52	8/29/2016
Pitney Bowes Reserve Account	32875	4202	\$ 500.00	8/29/2016

Total:

\$ 5,956.59

***Reimbursement from Grant**

****NOC/Enterprise**

This is to certify that the invoices and warrants above for the Yakima Regional Clean Air Agency have been examined, audited and approved by the Alternate Auditing Officer for payment.

Total Amount: **\$ 5,956.59**

Jon DeVaney, Board Chairman

9/8/2016

8/29/2016

Gary W. Pruitt, Executive Director

AUTHORIZATION FOR ELECTRONIC FUNDS TRANSFER

Direct Deposit Payroll & Payroll Taxes

Date: 8/30/2016

District: Yakima Regional Clean Air Agency

Contact Person: Christa Owen

Address: 329 North First Street, Yakima, WA 98901

Telephone No. 834-2050 ext 104 **Telefax No.** 834-2060

Authorization is given for the Yakima County Treasurer to electronically transfer the amounts listed below:

Name of Bank: Key Bank of Washington

ABA Routing Number: XXXXXXXXXX

Bank Account Number: XXXXXXXXXX

Payroll Date: September 1, 2016

Transfer Amount(s): \$ 62,838.03

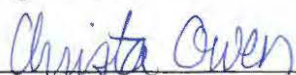
Total Amount of Electronic Transfer: \$ 62,838.03

Authorizing Signatures (No facsimile signatures accepted.):



Auditing Officer

Chairman Board of Directors



Alternate Auditing Officer

Date August 30, 2016

Note: The Yakima County Treasurer's Office must receive the completed authorization by 12:00 noon, two (2) business days prior to payroll date. An original must be provided to the County Treasurer's Office if a telefax is sent. *Do not consider a telefax delivered until you have verified with the Treasurer's Office that it has been received.*

Contact Persons at County Treasurer's Office: **Cindy**

Telephone Number: 509-574-2780

Telefax Number: 509-574-2801

(01-2008)

YAKIMA REGIONAL CLEAN AIR AGENCY
SUPPLEMENTAL INCOME STATUS for 2016 on August 31, 2016
CY 2016 \$.40 PER CAPITA (Rounded Amounts)

City/Town	Past Due	Assessment Amount	Total Amt Due	Date Received	Amount Received	Balance Due	Responses
Grandview	\$ -	\$ 4,468	\$ 4,468	2/1/2016	\$ 4,468	\$ -	Paid in full
Granger	\$ -	\$ 1,398	\$ 1,398	2/1/2016; 4/19/2016	\$ 699	\$ 699	1/2 paid
Harrah	\$ -	\$ 258	\$ 258	2/1/2016	\$ 258	\$ -	Paid in full
Mabton	\$ -	\$ 924	\$ 924	1/19/2016	\$ 924	\$ -	Paid in full
Moxee	\$ -	\$ 1,488	\$ 1,488	1/19/2016	\$ 1,488	\$ -	Paid in full
Naches	\$ -	\$ 326	\$ 326	1/14/2016	\$ 326	\$ -	Paid in full
Selah	\$ -	\$ 2,958	\$ 2,958	1/20/2016	\$ 2,958	\$ -	Paid in full
Sunnyside	\$ -	\$ 6,492	\$ 6,492	1/25/2016; 4/12/2016; 7/11/16	\$ 4,869	\$ 1,623	3/4 paid
Tieton	\$ -	\$ 502	\$ 502	2/1/2016	\$ 502	\$ -	Paid in full
Toppenish	\$ -	\$ 3,582	\$ 3,582	2/1/2016	\$ 3,582	\$ -	Paid in full
Union Gap	\$ -	\$ 2,456	\$ 2,456	2/1/2016	\$ 2,456	\$ -	Paid in full
Wapato	\$ -	\$ 2,016	\$ 2,016	1/11/2016	\$ 2,016	\$ -	Paid in full
City of Yakima	\$ -	\$ 37,232	\$ 37,232	1/20/2016; 4/12/2016; 7/11/16	\$ 27,924	\$ 9,308	3/4 paid
Zillah	\$ -	\$ 1,256	\$ 1,256	1/22/2016	\$ 1,256	\$ -	Paid in full
Yakima Co.	\$ -	\$ 34,164	\$ 34,164	1/1/2016; 4/1/2016; 7/1/16	\$ 25,623	\$ 8,541	3/4 paid
Totals:	\$ -	\$ 99,520	\$ 99,520		\$ 79,349	\$ 20,171	



Executive Memorandum

Date of Release: September 1, 2016
Date of Consideration: September 8, 2016
To: Board of Directors
From: Office of the Engineering and Planning Division
Subject: August Engineering and Planning Division Report

Issue:
Monthly activities report to the Board of Directors of YRCAA.

Recommendation(s):
Accept and File.

Discussion:
The following summarizes some of the activities for the month of August including some additional related information:

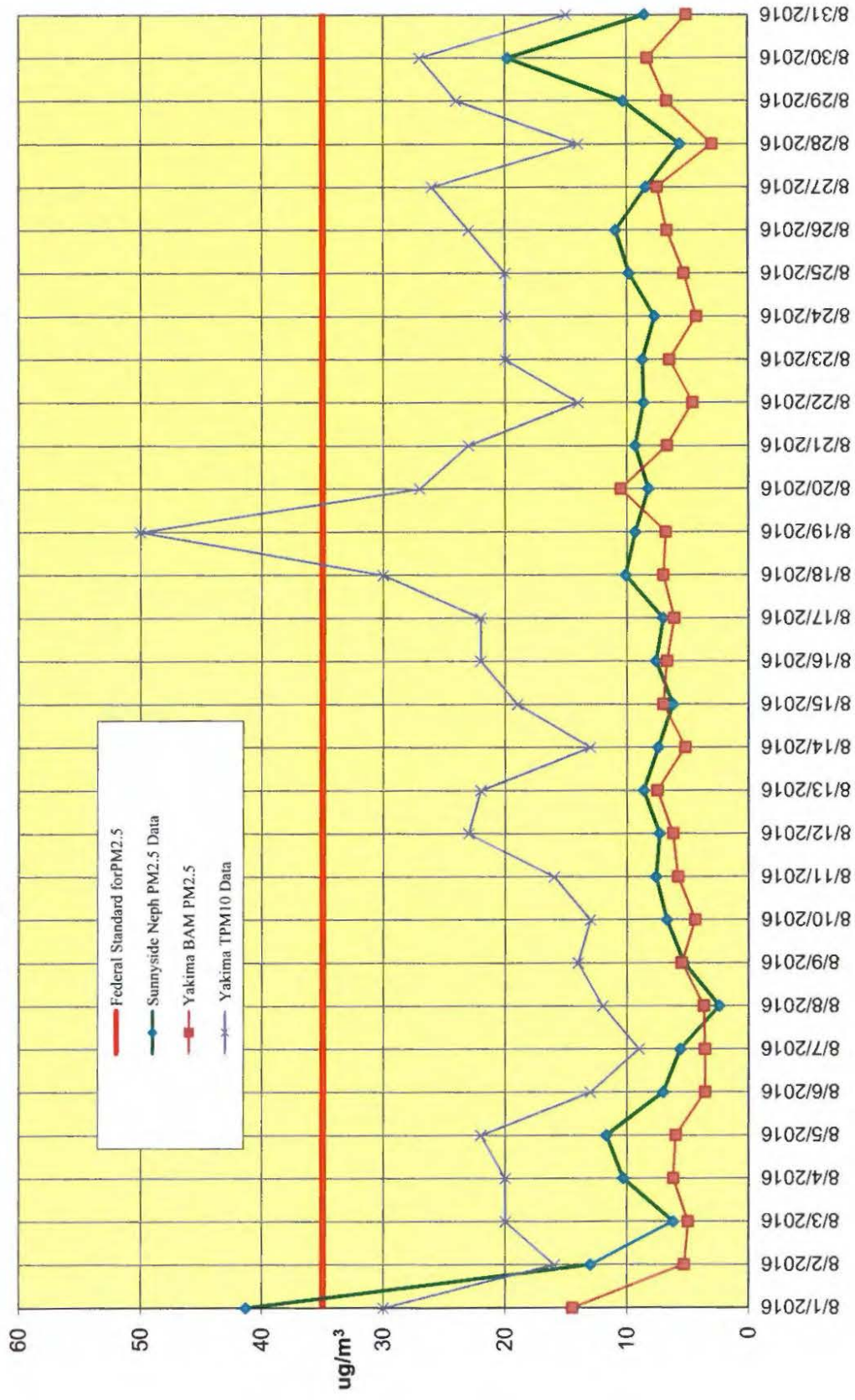
- Worked on Title V Air Operating Permit (AOP) renewal.
- Had a meeting with EPA.
- Conference calls with Department of Ecology for exceptional events and Maintenance Plans.
- Working on the 2nd 10 years Maintenance Plans.
- Issued 3 New Source Reviews (NSR) Order of Approvals.
- Registered 3 sources.
- Issued 13 residential burn permits.
- Reviewed/responded to 25 SEPA projects.
- Issued one agricultural burn permits.
- Had several technical assistance meetings with industry.
- Worked on the daily weather forecasts for the burn status and agricultural allocation.
- No burn ban was called during the month of August.
- No exceedance is expected for the month of August for Yakima (see attached graph)
- One exceedance at the Sunnyside monitor, due to wildfire (see attached graph).

Attachments:
✓ *PM_{2.5} Monitor Data for the month of August, 2016 and the annual graphs.*

AGENDA ITEM NO. 8

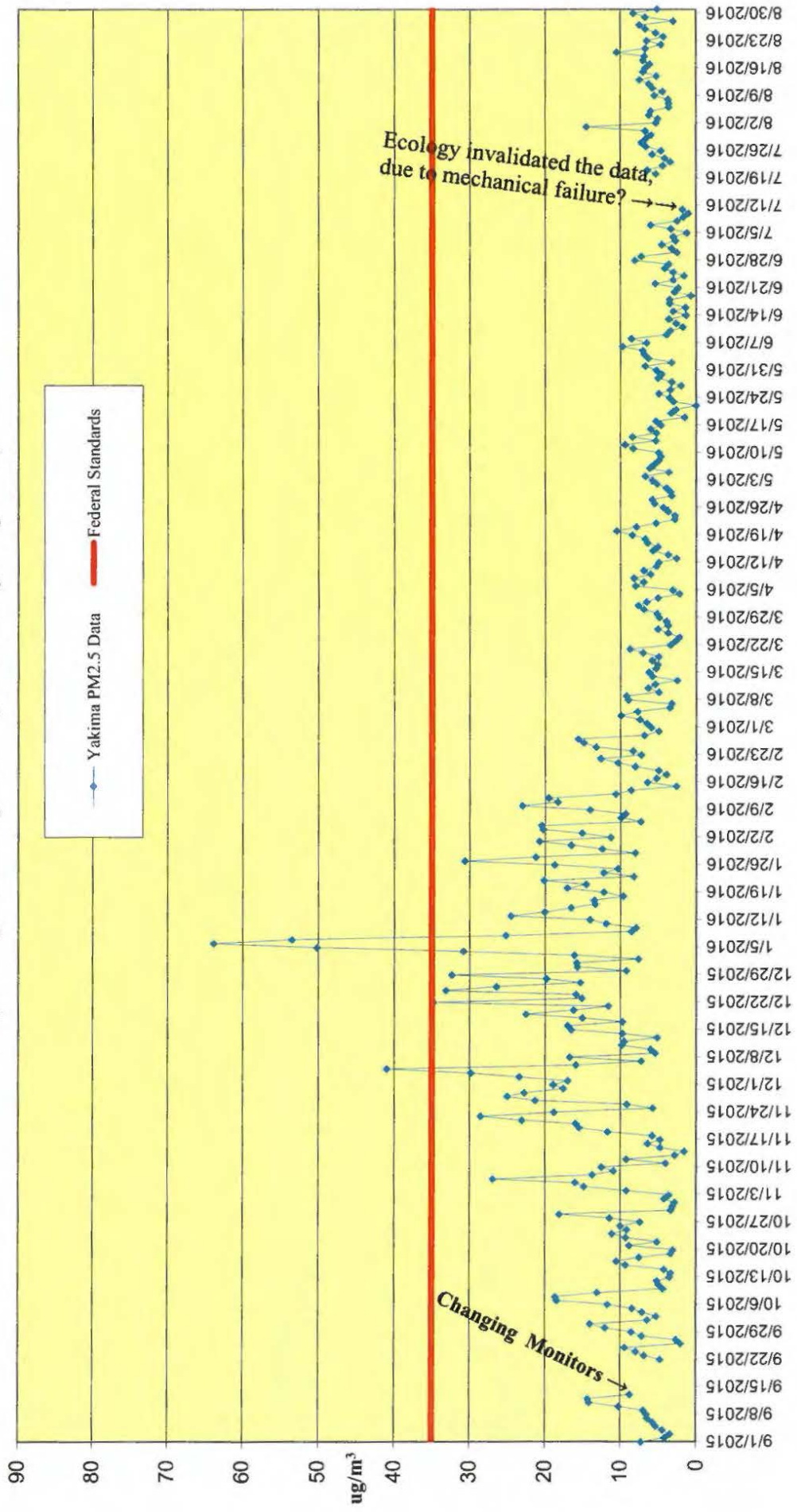
PM_{2.5} BAM_{2.5} Data and TPM₁₀ for Yakima; Neph PM_{2.5} Data for Sunnyside

Daily Averages Value from August 1, 2016 through August 31, 2016



PM_{2.5} FEM/BAM_{2.5}(starting September 15, 2015) Annual Air Monitoring Data, City of Yakima

Daily Averages from September 1, 2015 through August 31, 2016





Executive Memorandum

Date of Release: September 1, 2016
Date of Consideration: September 8, 2016
To: YRCAA Board of Directors
From: Office of the Compliance & Enforcement Division Supervisor
Subject: August 2016 Compliance & Enforcement Division Report *K. Hurley*

Issue: N/A

Recommendation(s): Accept and File

Discussion: During the month of August the Division setup, collected and shipped for analysis approximately 20 Air Monitoring Samples and completed 5 Quality Control checks on 5 Air Monitors. The division also investigated 18 Complaints, issued 5 Notices of Violation (NOV) and 5 Notices of Penalty (NOP) for previously issued NOVs. In addition, the Division reviewed and processed 14 Notifications of Demolition / Renovation (NODR), 4 Dust Control Plans, and completed 16 Air Pollution Source Site Visits.

The following table itemizes, by type, the complaints received and the number of NOVs issued for the month of August 2016:

<u>Type of Complaint</u>	<u>Number of Complaints</u>	<u>Number of NOVs</u>
Residential Burning	6	2
Agricultural Burning	1	1
Other Burning	0	0
Fugitive Dust	4	0
Agricultural Dust	3	1
Agricultural Odor	4	0
Surface Coating	0	0
Odor	0	0
Asbestos	0	0
Other	0	1-NSR*
<u>TOTALS</u>	<u>18</u>	<u>5</u>

- NSR = New Source Review
- PM2.5 FRM removed from Harrison Middle School on August 31, 2016

AGENDA ITEM NO. 9