



Yakima Regional Clean Air Agency

Yakima Regional Clean Air Agency
Agencia Regional de Aire Limpio de Yakima

Meeting of the Board of Directors September 2025

**Reunión de la Junta Directiva
Septiembre 2025**

September 11, 2025

10 de Septiembre de 2025

Notice of Language Services

The Yakima Regional Clean Air Agency (YRCAA) offers free interpretation of public meetings and translation of board documents. To request interpretation of this Board of Directors' Meeting, to obtain a translation of this document, or to provide public comment at this meeting in a language other than English, please call 509-834-2050 extension 100 or send electronic mail to admin@yrcaa.org at least 72 hours in advance of the meeting.

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Public Comments

Members of the public may submit comments to the Board by: a) speaking in person or remotely (see below) during the public comment period of any meeting; b) mailing them to 186 Iron Horse Ct. Ste. 101, Yakima, WA 98901; or c) sending them via electronic mail to admin@yrcaa.org.

Remote Access

Meetings are broadcast and rebroadcast on the Yakima Public Access Channel (Y-PAC). Visit www.yakimawa.gov/services/yctv. Public comment may be offered remotely via Zoom video or telephone conference call. See the agenda for the URL, meeting ID, and phone numbers (long-distance charges may apply). Please raise your virtual hand (*9 on a phone) to be recognized.

Aviso de Servicios Lingüísticos

La agencia Regional de Aire Limpio de Yakima (YRCAA) ofrece interpretación gratuita de reuniones públicas y traducción de documentos de la junta. Para solicitar la interpretación de esta reunión de la Junta Directiva, obtener una traducción de este documento o proporcionar comentarios públicos en esta reunión en un idioma que no sea inglés, llame al 509-834-2050 extensión 100 o envíe un correo electrónico a admin@yrcaa.org al menos 72 horas antes de la reunión.

Notificación de No Discriminación

La Agencia Regional de Aire Limpio de Yakima (YRCAA) no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades. La YRCAA no intimida ni toma represalias contra ningún individuo o grupo por haber ejercido sus derechos de participar u oponerse a acciones protegidas por 40 C.F.R. las Partes 5 y 7 o con el propósito de interferir con tales derechos en violación del Título VI de la Ley de Derechos Civiles de 1964; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, todas modificadas.

Comentarios Públicos

Los miembros del público pueden enviar comentarios a la Junta por: a) hablando en persona o de forma remota (ver a continuación) durante el período de comentarios públicos de cualquier reunión; b) enviándolos por correo a 186 Iron Horse Ct. Ste. 101, Yakima, WA 98901; o c) enviándolos por correo electrónico a admin@yrcaa.org.

Acceso remoto

Las reuniones se transmiten y retransmiten en el Canal de Acceso Público de Yakima (Y-PAC). Para ver un cronograma actual, visite www.yakimawa.gov/services/yctv. Los comentarios públicos se pueden ofrecer de forma remota a través de Zoom video o conferencia telefónica. Consulte la agenda para obtener la URL, el ID de la reunión y los números de teléfono (es posible que se apliquen cargos de larga distancia). Levante su mano virtual (*9 en un teléfono) para ser reconocido.

Regular Meeting of the Board of Directors

September 11, 2025 – 2:00 P.M.

Yakima City Hall; 129 N Second Street; Yakima, Wash.

Duration – 30 minutes (estimated)

AGENDA

- 1. Call to Order**
- 2. Roll Call**
- 3. Changes to the Agenda**
- 4. Public Comments**
The public may address any matter relevant to the business of the Board at this time. Please state your name and the item you wish to address. Comments are limited to three (3) minutes per person.
- 5. Board Meeting Minutes for July 10, 2025**
- 6. Payroll Authorization Transfer for May 2025**
- 7. Vouchers and Payroll Authorization Transfer for June 2025**
- 8. Vouchers and Payroll Authorization Transfer for July 2025**
- 9. Vouchers for August 2025**
- 10. Executive Director's Report**
- 11. Other Business**
- 12. Adjournment**

Zoom information

URL: <https://us06web.zoom.us/j/6058007569>

Meeting ID: 605 800 7569

Phone number: 253-215-8782 or 253-205-0468

If you wish to attend the YRCAA board meeting and require an accommodation due to a disability or need interpretation or translation services, call 509-834-2050 ext. 100 or send an email to admin@yrcaa.org.



Reunión Ordinaria de la Junta Directiva

11 de Septiembre de 2025 – 2:00 P.M.

Ayuntamiento de Yakima; 129 N Second Street; Yakima, Wash.

Duración – 30 minutos (estimativo)

ORDEN DEL DIA

- 1. Llamado a Orden**
- 2. Pase de Lista**
- 3. Cambios al Orden del Día**
- 4. Comentarios del Públicos**
El público puede abordar cualquier asunto relacionado con los asuntos de la Junta en este momento. Indique su nombre y el artículo que desea abordar. Los comentarios están limitados a tres (3) minutos por persona.
- 5. Acta de la Reunión de la Junta del 10 de Julio de 2025**
- 6. Autorización de Transferencia de Nómina para Mayo de 2025**
- 7. Vales y Autorización de Transferencia de Nómina para Junio de 2025**
- 8. Vales y Autorización de Transferencia de Nómina para Julio de 2025**
- 9. Vales para Agosto de 2025**
- 10. Informe del Director Ejecutivo**
- 11. Otros Asuntos**
- 12. Conclusión**

Zoom información

URL: <https://us06web.zoom.us/j/6058007569>

ID de reunión: 605 800 7569

Número de teléfono: 253-215-8782 or 253-205-0468

Si desea asistir a la reunión de la junta de YRCAA y requiere una adaptación debido a una discapacidad o necesita servicios de interpretación o traducción, llame al 509-834-2050 ext. 100 o envíe un correo electrónico admin@yrcaa.org.

1. Call to Order

Chairperson DeVaney called the meeting to order at 2:05 p.m. in the council chambers, Yakima City Hall; 129 N Second St.; Yakima, Washington.

2. Roll Call

Thornsbury conducted roll call and declared a quorum present.

Board members: Amanda McKinney, County Representative, Absent
Steven Jones, Ph.D., County Representative, Present
Janice Deccio, Large City Representative, Absent
Hilda González, Ed.D., City Representative, Present
Jon DeVaney, Member-at-Large, Present

Staff present: Marc Thornsbury, Executive Director

3. Changes to the Agenda

DeVaney asked if there were any changes to the agenda. Jones requested the resolution adopting a cost of living adjustment be moved after the executive director's report. No objection was raised and the item was moved as requested.

4. Public Comment

DeVaney asked if there were any public comments.

Jean Mendoza noted the board packet did not include information on accounts payable or the activities of the Agency for the previous month, adding this made it difficult for members of the public to understand what is going on. She stated she had sent board members a request that the Board examine how well the Agency complies with YRCAA Administrative Code Part B and suggested the Agency could do better. . stated during the May 2025 meeting McKinney and Jones defended polluting dairies and ignored public interests, adding the YRCAA board meeting should not be a platform to support people that violate the law.

Mendoza noted the resolution appointing agency officials would appoint a new person to the position of investment officer for the Agency. She stated the Agency web site did not show the new person as an employee and expressed concern regarding the person to be appointed and whether the Board has oversight of them.

Nancy Lust, Friends of Rocky Top, stated she had sent a photograph to Thornsbury that appeared to show something having been added to the petroleum contaminated soil (PCS) piles located at the DTG landfill and expressed her understanding DTG did not have permission from the Agency to remediate the onsite PCS. She asked Thornsbury if he would address her concerns after the meeting.

5. Board Meeting Minutes for June 12, 2025

DeVaney asked if there were any changes to the minutes. González moved to adopt the minutes. Jones seconded. Motion passed 2-0.

6. Resolution 2025-03 – Appointing Agency Officials

DeVaney asked Thornsby to review the resolution. Thornsby explained the appointments must be done annually for the [Yakima County] Treasurer's Office and when there is a change in the personnel responsible for managing the finances for the Agency. He added a new hire has those responsibilities—in addition to himself—and the resolution satisfies a requirement of the Treasurer's Office so it can transact business on behalf of the Agency as it is the holder of the Agency's funds.

DeVaney asked Thornsby the name and start date of the new hire. Thornsby stated her name is Amanda Jean and the start date was July 2. Jones asked if there is a need to correct old resolutions when a staff member leaves. Thornsby explained only the most recent resolution and documents are in effect at any given time. Jones asked if the responsibilities fall to the executive director when the primary investment officer leaves. Thornsby confirmed his understanding. Jones asked for confirmation a new person would not have to be immediately appointed as primary investment officer when the prior person left. Thornsby confirmed, adding the purpose of having a secondary investment officer is to allow another to act when the primary is not available.

González asked if the applicable statute specify a specific person must be named in the resolution. Thornsby stated he did not know if it was a statutory requirement, but it was a requirement of the Treasurer's Office which has specific language it insists be used in the resolution. He speculated that might serve to fulfill a statutory obligation of the Treasurer, but could not confirm. González asked for confirmation the Treasurer's Office establishes the required format and language, not a statute. Thornsby stated that was his understanding, adding he had never asked the question directly. DeVaney remarked if the Treasurer requires it, we must do so regardless of whether the Treasurer created the requirement to meet its own statutory obligations.

González explained her question was to understand how frequently the resolution would need to be updated. Thornsby reiterated it must be done as subject staff change or annually [whichever occurs first]. He noted it was his understanding the Treasurer's Office instituted the annual requirement as a result of small districts and municipal subdivisions that were not reporting staff changes in a timely manner and this requirement ensured any changes would be apparent within a period no greater than a year. Jones moved to adopt Resolution 2025-03. González seconded. Motion passed 2-0.

7. Executive Director's Report

Thornsby reminded the Board a number of items were adopted at the last meeting for which documentation did not exist at the time. He added the agenda items were intended as an opportunity for the Board to review the documentation subsequently produced and ensure it accurately reflects what the Board intended to adopt in the prior meeting.

Thornsby noted his prior references to work being done to improve internal systems and explained he had invited DeVaney to spend a little time in the office to better understand the work being done and see it personally. He added his opinion DeVaney likely was able to understand in five minutes of viewing what Thornsby would have taken a half-hour to describe. DeVaney remarked that if any other board member has time to visit the office and get an overview of the electronic recordkeeping, it would be worth doing so and stated his belief Thornsby is implementing good changes.

8. Resolution 2025-04 – Adopting a Cost-of-Living Adjustment

DeVaney reminded the Board it had decided to include a cost-of-living adjustment (COLA) in the adopted budget and address discussion and authorization of the COLA at a later date. He added the resolution presented would authorize implantation of a COLA as provided for in the budget.

DeVaney asked if Thornsby had any comments.

Thornsby stated he had no remarks, but explained the document provided was based on information previously compiled and subsequently updated at the request of DeVaney. He stated the information was largely self-explanatory, adding he would be happy to answer any questions of the Board.

DeVaney noted staff turnover at the Agency serves as a strong indicator the Board needs to ensure wages remain competitive. He added the resolution authorizes a three percent (3%) increase in all wages except for the executive director which would receive a two and two-tenths percent (2.2%) increase. DeVaney expressed appreciation for Thornsby's desire to ensure adequate staff compensation while maintaining an conservative budget and concern regarding the adoption of different adjustments depending on the position.

Jones stated the difference between wages and salaries in the fiscal year (FY) 2025-26 proposed budget and the estimated expenditures on wages and salaries in fiscal year 2024-25 is \$332,000. He noted these are funds that were budgeted, but not spent. He added between FY 2021-22 and FY 2025-26 the Agency will have increased wages and salaries by sixty percent (60%). Jones stated the only thing the Board can do is approve a budget for wages, salaries, and benefits and this was done with the currently adopted budget. He added that, up to the present, the executive director has been granted substantial discretion in the distribution of those funds.

Jones noted that, notwithstanding the Board's involvement in selecting the median wage for each position [based on the information provided in the 2022 compensation survey], the only salary it sets is for the executive director. He added the executive director has the discretion to use previously unspent funds to address wage and benefit increases. Jones stated his belief the executive director should award wage increases based on the qualifications and experience of the individual and the Board should not make recommendations for across-the-board wage increases.

Thornsby largely concurred while withholding comment as to what the Board should or should not do, but objected to the suggestion the unspent funds were for wage increases. He explained the unspent wages were the result of open positions (some of which were well-paid) and that all adopted wage increases had been implemented. Thornsby stated once all the open positions are filled, any savings will cease, noting the funds already saved would remain but have been reallocated for other purposes. Thornsby cautioned against any suggestion the Agency was budgeting excessively to ensure the availability of additional funds and explained the purpose was to provide adequate funds so the Agency can afford to fill its positions.

Jones remarked the previously budgeted funds were obtained through increased fees and supplemental income and the unexpended monies have been placed in the Agency's reserves. He added the next person hired for a position might not have the skills or qualifications of the prior person and, as a result, might not be hired at the same rate.

González stated she faces similar circumstances in her role as a mayor and understands when there is turnover a surplus is the common result—despite how the funds were originally allocated. She noted the purpose of the allocation is to ensure the Agency will be able to offer a competitive, market wage to an individual qualified for the position. González expressed her understanding once funds are allocated to wages and benefits, they cannot be reallocated elsewhere. Thornsburg stated he would be reluctant to reallocate funds earmarked for future wages and benefits as it could result in inadequate funding—forcing the Agency to delay hiring or reduce staff.

Jones noted the surplus \$332,000 in unspent wages and benefits remains and questioned the need for another increase in wages and salaries for staff. Thornsburg stated how the matter is addressed is at the discretion of the Board and described two alternatives: It could elect to adopt an increase and fund the Agency at a fully staffed level with surplus funds reallocated to other projects—as the current budget does; or It can elect to adopt a wage increase alone without increased funding and use monies from the reserves to provide the latter until the reserve funds have been sufficiently drained and an increase must be adopted. He noted there is no right or wrong answer...just a choice.

Thornsburg warned of the operational risks of ceasing to do something with the knowledge it will have to be reinstated later. He explained it takes about two years for people to conclude the current conditions are how things have always been and how they will always be. Thornsburg noted if the Agency wants to do some of the special projects anticipated and the surplus monies have been used to cover wage increases, at some point additional monies will have to be secured from somewhere to fund them.

Thornsburg explained if the Agency is fully funded and, due to vacancies or other reasons, surplus monies result, these provide the ability to fund special projects at no additional cost to anyone as those monies would have been required had the Agency been fully staffed. He added delaying an increase in revenue by using reserves serves to build in a shortfall for which an accounting will eventually be required.

Jones stated he is “opposed to the Board voting for three percent increases in salaries for staff because I don’t want that to be a regular, normal [occurrence]—time to give everyone a three percent raise for a participation trophy.”

Thornsburg stated the three percent figure was not a random or consistent amount and was based on an estimate of the increase in the consumer price index (CPI) which is often used to help keep wages competitive with the market. He noted it can change, and has changed, from year to year, offering the example of a potentially low inflation rate next year that might result in an adjustment of one-half of one percent (0.5%). Thornsburg explained the increase in any given year is calculated by looking at the difference between the September 2022 CPI and the current CPI at the time and then reducing the difference by all increases adopted during the same period. He noted in this way the Agency is less likely to slip ahead or fall behind over time.

DeVaney noted the topics of cash management, surplus funds, and reserve funding are important and suggested these might be appropriate to discuss in greater depth at a future time. He noted Jones statements concerning the discretion of the executive director, but cautioned the Agency previously fell behind with wages, in part, because the Board relied too heavily on that discretion. DeVaney expressed his belief the matter is less one of authorization than it is direction to the executive director

so the Agency does not fall further behind and the Board is then forced to make an adjustment that covers multiple years and pass on a much larger inflationary increase to the municipalities and permittees. He also express support for having it on record this is what the Board is doing concerning staff wages and that it is intended to ensure employees are not losing money in real terms and, as a result, tempted to leave the Agency for employment elsewhere.

González noted a salary schedule was not provided and suggested one might be helpful in the future so the Board can review the rate of pay for positions and the number of people holding a position. She asked Thornsby how many positions were currently vacant. Thornsby stated there were two vacancies and expressed hope one would be filled shortly. González asked if any of the open positions were executive leadership. Thornsby stated there were none. González asked if any of the open positions were management. Thornsby stated one position will likely be permitting or compliance staff and the other administrative staff. He cautioned a retirement may be coming up that could alter the answer. González asked if recruitment efforts were in place for any of the open positions. Thornsby stated recruiting is taking place for one open position and once a firm retirement date is set, recruiting will begin for that position as well.

González moved to adopt resolution 2025-04 adopting a cost-of-living adjustment. Jones seconded. Motion passed 2-1.

9. Executive Session

The Board entered into executive session at 2:43 p.m. for thirty minutes pursuant to RCW 42.30.110(1)(g) for the purpose of conducting a performance evaluation of the Executive Director.

The Board reconvened in regular session at 3:13 p.m. DeVaney stated he would transcribe his notes for the record and schedule a meeting with Thornsby to review the Board's feedback.

10. Other Business

DeVaney noted he would be unable to attend the August meeting and, with the executive director performance evaluation complete and the cost-of-living adjustment adopted, suggested the August meeting be canceled. Jones moved to cancel the August board meeting. González seconded. Motion passed 3-0. DeVaney asked Thornsby to post notice the meeting had been canceled.

DeVaney remarked there have been questions about the Administrative Code and it is an "extra" that takes considerable effort to maintain and suggested a review to determine if it is a help or a hindrance may be in order. He asked Thornsby to conduct an assessment and report to the Board at a future meeting.

11. Adjournment

Jones moved to adjourn. González seconded. Motion passed 2-0. DeVaney adjourned the meeting at 3:16 p.m.

Jon DeVaney, Chairperson

Marc Thornsby, Executive Director



**Payroll Reimbursement
May 2025**

Paid 6/5/2025 For 5/1/2025 Through 5/31/2025

Gross Wages		\$	40,683.35
ER Taxes Paid	\$	578.97	
ER Medical Paid		8,240.91	
Pers 1 ER Paid		-	
Pers 2 ER Paid		3,234.91	
Pers 3 ER Paid		403.09	
SUTA		107.65	
L & I		1,227.33	
Benefits		\$	13,792.86
Bank Charges	\$	-	
Other		-	
Miscellaneous		\$	-
Total Payroll		\$	54,476.21

Amanda Jean (DATE)
Primary Auditing Officer

Marc Thornsby (DATE)
Secondary Auditing Officer

Jon DeVaney (DATE)
Board Chairperson

06/11/2025

Accounts Payable

YRCAA Fund: 614-6140

Enterprise Fund: 614-1410

<u>Name</u>	<u>Warrant No.</u>	<u>GL No.</u>	<u>Amount</u>	<u>Date</u>
Abadan Reprographics	36242	3101	232.55	06/13/2025
Alliant Communications	36243	4201	433.35	06/13/2025
Amazon Capital Services	36244	3101	156.39	06/13/2025
Wayne Brooks	36245	4105	700.00	06/13/2025
Cascade Natural Gas	36246	4701	287.92	06/13/2025
Charter Communications	36247	4201	372.38	06/13/2025
Coleman Oil Company	36248	3201	347.87	06/13/2025
Mark Edler	36249	3501	638.95	06/13/2025
Intermountain Cleaning Service	36250	4802	425.00	06/13/2025
Iron Horse Real Estate	36251	4501	4,992.53	06/13/2025
KeyBank	36252	4901	83.51	06/13/2025
Law, Lyman, Daniel	36253	4101	12,067.50	06/13/2025
Menke Jackson Law Firm	36254	4101	3,755.50	06/13/2025
Pacific Power	36255	4701	239.43	06/13/2025
StorageMax	36256	4506	75.00	06/13/2025
Sunnyside Sun	36257	4401	121.00	06/13/2025
Terrace Heights Sewer District	36258	4701	125.00	06/13/2025
Valley Publishing Co	36259	4401	124.50	06/13/2025
Roberto Tadeo Vidales Zuniga	36260	4101	1,566.86	06/13/2025
Yakima County Public Services- Utility	36261	4701	23.50	06/13/2025
Yakima Herald Republic	36262	4401	404.20	06/13/2025

Total
\$27,172.94

* Grant Reimbursement

** NOC/Enterprise

I hereby certify the invoices and warrants described above for the Yakima Regional Clean Air Agency have been examined, audited, and approved for payment.

Amanda Jean (DATE)
Primary Auditing Officer

Marc Thornsby (DATE)
Secondary Auditing Officer

Jon DeVaney (DATE)
Board Chairperson



**Payroll Reimbursement
June 2025**

Paid 7/3/2025 For 6/1/2025 Through 6/30/2025

Gross Wages		\$	48,517.23
ER Taxes Paid	\$	683.16	
ER Medical Paid		8,540.06	
Pers 1 ER Paid		-	
Pers 2 ER Paid		2,418.68	
Pers 3 ER Paid		397.26	
SUTA		134.42	
L & I		1,161.66	
Benefits		\$	13,335.24
Bank Charges	\$	-	
Other		-	
Miscellaneous		\$	-
Total Payroll		\$	61,852.47

Amanda Jean (DATE)
Primary Auditing Officer

Marc Thornsby (DATE)
Secondary Auditing Officer

Jon DeVaney (DATE)
Board Chairperson



Yakima Regional Clean Air Agency

186 Iron Horse Court, Suite 101
Yakima, WA 98901-1468
509-834-2050
www.yakimacleanair.org

07/16/2025

Accounts Payable

YRCAA Fund: 614-6140
Enterprise Fund: 614-1410

<u>Name</u>	<u>Warrant No.</u>	<u>GL No.</u>	<u>Amount</u>	<u>Issue Date</u>
Abadan Reprographics	36263	3101	105.18	07/18/2025
Alliant Communications	36264	4201	866.70	07/18/2025
Charter Communications	36265	4201	774.52	07/18/2025
Coleman Oil Company	36266	3201	183.82	07/18/2025
Intermountain Cleaning Service, Inc.	36267	4802	850.00	07/18/2025
Invisible Ink	36268	4201	360.00	07/18/2025
Iron Horse Real Estate & Property Mgt	36269	4501	4,992.53	07/18/2025
KeyBank	36270	Various	2,294.87	07/18/2025
Menke Jackson Law Firm	36271	4101	1,092.50	07/18/2025
Pacific Power	36272	4701	555.61	07/18/2025
Sinclair Broadcast Group*	36273	4139	750.00	07/18/2025
Storage Max	36274	4506	75.00	07/18/2025
Yakima County Public Services-Utility Di	36275	4701	23.15	07/18/2025
Total			\$12,923.88	

* Grant Reimbursement

** NOC/Enterprise

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Amanda Jean (DATE)
Primary Auditing Officer

Marc Thornsby (DATE)
Secondary Auditing Officer

Jon DeVaney (DATE)
Board Chairperson



Payroll Reimbursement July 2025

Paid 8/5/2025 For 7/1/2025 Through 7/31/2025

Gross Wages		\$	48,572.56
ER Taxes Paid	\$	682.78	
ER Medical Paid		10,123.44	
Pers 1 ER Paid		-	
Pers 2 ER Paid		2,418.68	
Pers 3 ER Paid		243.33	
SUTA		104.50	
L & I		1,290.26	
Benefits		\$	14,862.99
Bank Charges	\$	-	
Other		-	
Miscellaneous		\$	-
Total Payroll		\$	63,435.55

Amanda Jean (DATE)
Primary Auditing Officer

Marc Thornsby (DATE)
Secondary Auditing Officer

Jon DeVaney (DATE)
Board Chairperson



Yakima Regional Clean Air Agency

186 Iron Horse Court, Suite 101
Yakima, WA 98901-1468
509-834-2050
www.yakimacleanair.org

08/11/2025

Accounts Payable

YRCAA Fund: 614-6140
Enterprise Fund: 614-1410

<u>Name</u>	<u>Warrant No.</u>	<u>GL No.</u>	<u>Amount</u>	<u>Issue Date</u>
Amazon Capital Services	36276	3101	334.37	08/13/2025
Coleman Oil Company	36277	3201	210.27	08/13/2025
Kyle Dorais*	36278	4105	700.00	08/13/2025
Enduris of Washington	36279	4601	14,272.00	08/13/2025
Iron Horse Real Estate & Property Mgt	36280	4501	4,992.53	08/13/2025
KeyBank	36281	4901	68.45	08/13/2025
Storage Max	36282	4506	75.00	08/13/2025
Roberto Tadeo Vidales Zuniga	36283	4906	4,860.98	08/13/2025
Teresa D Johnson CPA Inc	36284	4101	1,798.54	08/13/2025
Terrace Heights Sewer District	36285	4701	125.00	08/13/2025
Yakima County Public Services-Utility Di	36286	4701	23.18	08/13/2025
Yakima Valley Conference of Governments	36287	4901	500.00	08/13/2025
Total			\$27,960.32	

* Grant Reimbursement

** NOC/Enterprise

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Marc Thornsby (DATE)
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08/20/2025

Accounts Payable

YRCAA Fund: 614-6140
Enterprise Fund: 614-1410

<u>Name</u>	<u>Warrant No.</u>	<u>GL No.</u>	<u>Amount</u>	<u>Issue Date</u>
Abadan Reprographics	36288	3101	207.30	08/25/2025
Alliant Communications	36289	4201	459.81	08/25/2025
FP Mailing Solutions	36290	4202	194.24	08/25/2025
Intermountain Cleaning Service, Inc.	36291	4802	425.00	08/25/2025
KeyBank	36292	4901	14.68	08/25/2025
Menke Jackson Law Firm	36293	4101	1,885.00	08/25/2025
Pacific Power	36294	4701	339.11	08/25/2025
Total			\$3,525.14	

* Grant Reimbursement

** NOC/Enterprise

I hereby certify the invoices and warrants described above for the Yakima Regional Clean Air Agency have been examined, audited, and approved for payment.

Amanda Jean (DATE)
Primary Auditing Officer

Marc Thornsbury (DATE)
Secondary Auditing Officer

Jon DeVaney (DATE)
Board Chairperson

YAKIMA REGIONAL CLEAN AIR AGENCY
SUPPLEMENTAL INCOME STATUS for CY 2025

AS OF:
August 31, 2025

CY 2025 \$.48 PER CAPITA (Rounded Amounts)

City/Town	Assessment	1st Quarter Payment		2nd Quarter Payment		3rd Quarter Payment		4th Quarter Payment		Balance	Note
	Amount	Date Received	Amount	Date Received	Amount	Date Received	Amount	Date Received	Amount	Remaining	
Grandview	5,951.00	03/03/25	1,487.75	06/02/25	1,487.75					2,975.50	
Granger	2,020.00	03/04/25	505.00	06/02/25	505.00					1,010.00	
Harrah	313.00	01/21/25	313.00							-	Paid in Full
Mabton	1,067.00	03/19/25	266.75	06/03/25	266.75					533.50	
Moxee	2,519.00	02/19/25	629.75	05/23/25	629.75					1,259.50	
Naches	608.00	03/03/25	152.00	06/02/25	152.00					304.00	
Selah	4,517.00	03/04/25	1,129.25	06/02/25	1,129.25					2,258.50	
Sunnyside	8,910.00	03/20/25	2,227.50	05/27/25	2,227.50					4,455.00	
Tieton	813.00	03/03/25	203.25	06/02/25	203.25					406.50	
Toppenish	4,790.00	03/03/25	1,197.50	06/02/25	1,197.50					2,395.00	
Union Gap	3,586.00	03/03/25	896.50	06/13/25	896.50					1,793.00	
Wapato	2,492.00	08/07/25	623.00	08/07/25	623.00					1,246.00	
Yakima (city)	53,028.00	03/04/25	13,257.00	06/02/25	13,257.00					26,514.00	
Zillah	1,725.00	03/10/25	431.25	05/23/25	431.25					862.50	
Yakima (county)	48,036.00	03/11/25	12,009.00	06/03/25	12,009.00					24,018.00	
Totals:	140,375.00		35,328.50		33,022.75		-		-	70,031.00	

**POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON**

FRIENDS OF ROCKY TOP (FORT);
NANCY LUST and CAROLE DeGRAVE,

Appellants,

v.

YAKIMA REGIONAL CLEAN AIR
AGENCY and DTG ENTERPRISES, INC.,
dba DTG RECYCLE – YAKIMA,

Respondents.

PCHB No. 24-021

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER

1. INTRODUCTION

Friends of Rocky Top (FORT), Nancy Lust, and Carole DeGrave (collectively, Appellants), filed an appeal with the Pollution Control Hearings Board (Board) on April 11, 2024, challenging the Order of Approval Permit No. NSRP-03-DTGEI-22 issued by Yakima Regional Clean Air Authority (YRCAA) to DTG Enterprises, Inc., Dba DTG Recycle (DTG) (collectively, Respondents).

On September 20, 2024, DTG filed a motion to dismiss arguing that FORT failed to timely appeal the Order of Approval Permit issued by YRCAA. *Resp't Joint Mot. to Dismiss, pp. 2-5*. FORT, DTG, and YRCAA filed motions for summary judgment on November 21, 2024. On April 18, 2025, the Board issued an Order on Motion to Dismiss and Order on Summary Judgment concluding FORT's appeal was timely, the Board had jurisdiction to review an agency's compliance with its State Environmental Policy Act (SEPA) obligations (including whether a non-

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER
PCHB No. 24-021

1 lead agency's reliance on a lead agency's SEPA threshold determination is appropriate), FORT
2 had standing to pursue its appeal, Yakima County was not a necessary and indispensable party,
3 and FORT properly appealed the air permit. *Ord. on Mot. to Dismiss and Ord. on Summ. J.*
4 *pp. 8-14*. The Board denied DTG's motion to dismiss and motion for summary judgment, denied
5 FORT's motion for partial summary judgment, and granted in part and denied in part YRCAA's
6 motion for summary judgment. *Id.*, p. 21. The remaining issue in this appeal was whether YRCAA
7 complied with SEPA, specifically WAC 197-11-600(3). The Board conducted a three-day hearing
8 on this matter on May 15, 16, and 19.

9 Based on the Board's review of the evidence under a clearly erroneous standard, the Board
10 concludes that Appellants failed to meet their burden to establish that YRCAA failed to comply
11 with WAC 197-11-600(3). The Board affirms YRCAA's issuance of Order of Approval Permit
12 No. NSRP-03-DTGEI-22 to DTG.

13 The Board deciding this matter was comprised of Board Chair Michelle Gonzalez and
14 Board Members Gabriel E. Verdugo and Christopher G. Swanson. Board Member Swanson
15 presided for the Board. Attorney James C. Carmody represented Appellants. Attorney Jeffrey S.
16 Myers represented YRCAA. Attorneys Michael L. Dunning and Rebecca Human represented
17 DTG. Andi Clevenger with Buell Realtime Reporting provided court reporting services.

18 The Board received the sworn testimony of witnesses, admitted exhibits, and heard
19 argument on behalf of the parties. Based upon the evidence and arguments presented, the Board
20 enters the following findings of facts, conclusions of law, and order.

1 proposal so that the proposal is likely to have significant adverse
2 environmental impacts (or lack of significant adverse impacts, if a DS
3 [(Determination of Significance)] is being withdrawn); or (ii) New
4 information indicating a proposal's probable significant adverse
5 environmental impacts. (This includes discovery of misrepresentation or
6 lack of material disclosure.)

7 WAC 197-11-600(3)(a)-(b).

8 The Washington Supreme Court has addressed what constitutes significant new
9 information and substantial changes for purposes of revisiting an existing SEPA document. In a
10 case involving a challenge to a lead agency's decision not to supplement an EIS, the court held
11 that when making a determination about significant new information, "it is not enough simply to
12 claim the existence of 'new information.' The lead agency must determine whether the 'new
13 information' is 'significant.'" *Barrie v. Kitsap Cnty. Boundary Rev. Bd.*, 97 Wn.2d 232, 235-36,
14 643 P.2d 433 (1982) (citations omitted). In another case involving a challenge to a lead agency's
15 decision not to require a supplemental EIS, the court held that the agency's decision to change the
16 location of a project to a different site not contemplated in the original EIS did not constitute a
17 substantial change requiring the agency to supplement the EIS. *Citizens for Clean Air v. Spokane*,
18 114 Wn.2d 20, 25-26, 785 P.2d 447 (1990). In both cases, the court held that a SEPA lead agency's
19 determination was afforded substantial weight. *Id.*; *Barrie*, 97 Wn.2d at 236; *see also*
20 RCW 43.21C.090.

21 The Board has authority to review the issue of whether an agency complied with its SEPA
obligations separate and apart from the lead agency's SEPA decision. *Friends of Grays Harbor v.*
Olympic Region Clean Air Agency, PCHB No. 24-037, p. 28 (May 22, 2025, Order on Summ. J.);

1 *see also City of Bellingham v. Dep't of Nat. Res.*, PCHB No. 11-125c, p. 8 (Apr. 9, 2012, Order
2 on Summ. J.); *Cascade Gateway Found. v. Dep't of Ecology*, PCHB No. 02-095, pp. 8-9 (Feb. 24,
3 2003, Order Denying Mot. on Partial Summ. J.).

4 **4. FINDINGS OF FACT**

5 **1.**

6 **A. 2015 SEPA Permitting Process**

7 Prior to DTG's acquisition of the limited purpose landfill (LPL) in Yakima, Washington,
8 the LPL was owned by Ron Anderson and operated as the Anderson Rock and Demolition Pits
9 (the "Anderson Facility"). *Ex. R-4, pp. 1-2*. An LPL "is not an inert waste landfill and receives or
10 has received only solid wastes designated as nonhazardous and are not municipal solid wastes."
11 WAC 173-350-100. Municipal solid waste includes unsegregated garbage, refuse, and similar
12 waste material discarded from residential, commercial, and industrial sources. *Id.*

13 **2.**

14 The Anderson Facility operated under a solid waste permit issued by the Yakima Health
15 District (YHD). *Ex. R-5, p. 2*. In 2015, the Anderson Facility applied for a Conditional Use Permit
16 (CUP) from Yakima County and a solid waste permit from YHD to expand the LPL onto an
17 adjacent parcel located immediately south of the existing LPL. *Ex. R-4, pp. 2, 14*. The 2015
18
19
20
21

1 application proposed expanding the existing 64-acre LPL to a total approximate area of 125 acres.

2 *Tahat Testimony; Ex. R-3, p. 2.*

3 3.

4 In 2015, the Anderson Facility prepared a SEPA checklist for the proposed LPL expansion.
5 *Ex. A-18; Sutton Testimony.* The SEPA checklist identified permits and approvals necessary for
6 the proposed expansion, including a “SEPA Environmental Review for the proposed project (lead
7 agency YPD).” *Ex. A-18, p. 2.* YPD is the Yakima County Planning Division. *Id., p. 1; Sutton*
8 *Testimony.* The SEPA checklist covered the entire 125-acre proposed landfill, including the
9 previous 64-acre facility. *Ex. A-18, p. 3; Sutton Testimony.*

10 4.

11 On July 10, 2015, Yakima County issued a Notice of Application, Notice of Completeness,
12 Notice of Environmental Review, and Notice of Future Public Hearing. *Ex. R-4, p. 5.* A public
13 hearing was held on November 5, 2015. *Id.* Following the public hearing process, the Yakima
14 County Hearing Examiner found that Yakima County was the lead agency for purposes of SEPA.
15 *Id., p. 6.* Yakima County issued a DNS on September 9, 2015. *Ex. R-5, p. 4.* The hearing
16 examiner’s decision concluded that the DNS covered the entire LPL—including the original 61-
17 acre facility and the proposed 64-acre expansion for a total area of 125 acres—and the “application
18 material addresse[d] the entire expanded LPL as one operating unit.” *Ex. R-3, p. 1; Ex. R-4, p. 4;*
19 *Sutton Testimony.* The hearing examiner’s decision also concluded that “Anderson is not proposing
20 any changes to current LPL operating practices.” *Ex. R-4, p. 2.* Yakima County issued a CUP for
21 the expansion project on November 27, 2015. *Ex. R-4, pp. 13-14.*

1 5.

2 **B. LPL Operations Under DTG's Ownership**

3 On November 1, 2019, DTG acquired the LPL from the Anderson Facility. *Ex. R-5, p. 2.*
4 East Mountain Investments, Inc., is the owner of the property on which the LPL is located (Parcel
5 Nos. 17131023003 and 17131031003). *Id., p. 3.* The LPL is permitted and operated by DTG. *Id.*
6 Following DTG's acquisition of the LPL, DTG had the Anderson Facility's operational permits
7 transferred to itself. *Sutton Testimony; Id.*

8 6.

9 The LPL has various operational permits to cover multiple LPL operations, including a
10 landfill, material recovery facility, crushed rock exportation, and a woodchipper/grinder. *Id., p. 2.*

11 7.

12 DTG assumed there was a previously issued Order of Approval issued for the Anderson
13 Facility. *Sutton Testimony.* When DTG sought to transfer that permit, it was informed that the
14 Anderson Facility did not have an Order of Approval and DTG would need to complete its own
15 New Source Review (NSR) process. *Sutton Testimony.* DTG hired Parametrix to assist in the NSR
16 application process. *Sutton Testimony; Ex. R-1.* DTG submitted its NSR application in December
17 2020 and the application was deemed complete on June 29, 2023. *Sutton Testimony; Ex. R-1; Ex.*
18 *R-5, p. 2.* YRCAA issued an after-the-fact Order of Approval for the LPL on March 8, 2024.
19 *Ex. R-5, p. 1.*

1 8.

2 The LPL is divided into two cells. *Sutton Testimony*; *Ex. R-5, p. 24*. Cell #1 of the Facility
3 was partially filled while it was under the Anderson Facility's ownership. *Ex. R-5, p. 2*. Under
4 DTG's ownership, Cell #1 was completely filled and closed around December 2022. *Id.*

5 9.

6 Currently, Cell #1 is covered under the facility's Solid Waste Permit issued by YHD and
7 by the Order of Approval for potential hydrogen sulfide emissions issued by YRCAA. *Sutton*
8 *Testimony*. Cell #2 of the LPL is actively receiving waste as permitted under the Solid Waste
9 Permit and the Order of Approval. *Sutton Testimony*. Quarrying activity at the facility is covered
10 under a Sand and Gravel Permit issued by the Department of Ecology (Ecology) and the Order of
11 Approval. *Sutton Testimony*. The material recovery facility is permitted through a Solid Waste
12 Permit issued by YHD in conjunction with Ecology. *Sutton Testimony*. The material recovery
13 facility and the woodchipper/grinder operation are also included in YRCAA's Order of Approval.
14 *Sutton Testimony*. The Petroleum Contaminated Soils (PCS) area is permitted under a separate
15 solid waste permit issued by YHD in conjunction with Ecology. *Sutton Testimony*.

16 10.

17 Following the closure of Cell #1, a subsurface fire occurred in part of the cell. *Ex. R-5,*
18 *p. 2*; *Sutton Testimony*. DTG hired Landfill Fire Control, Inc., as a consultant to assist in
19 extinguishing and monitoring the subsurface fire. *Ex. R-5, p. 2*; *Sutton Testimony*. As a result of
20 landfill gas emissions caused by the subsurface fire in Cell #1, DTG entered into an Agreed Order
21 (Number DE 21624) with Ecology under the Model Toxic Control Act (MTCA), chapter 70A.305

1 RCW, and MTCA's cleanup regulations, chapter 173-340 WAC. *Ex. R-5, p. 2; Ex. R-10.* Pursuant
2 to the Agreed Order and MTCA, the portion of Cell #1 affected by the subsurface fire was not
3 included or considered in the NSR permitting process because the site is under Ecology's
4 jurisdiction. *Ex. R-5, p. 2; Ex. R-10; Sutton Testimony.*

5 11.

6 The Agreed Order required East Mountain Investments and DTG to "provide for remedial
7 action at a facility where there has been a release or threatened release of hazardous substances
8 . . . [and] to complete a limited Remedial Investigation and Interim Actions as necessary"
9 *Ex. R-5, p. 2.*

10 12.

11 Cell #2 has a Geosynthetic Clay Liner in addition to a 60-mil High-Density Polyethylene
12 welded geomembrane liner. *Id., p. 3.* The material recycling facility is located on an area with an
13 impervious floor as required by YHD. *Id.* Both Cell # 2 and the material recycling facility have
14 leachate collection systems that run off to a lined leachate pond. *Id.*

15 13.

16 DTG is actively monitoring the LPL for different contaminants through the use of the liner
17 system and groundwater monitoring systems in accordance with the Solid Waste Permit issued by
18 YHD and the Agreed Order issued by Ecology. *Sutton Testimony.* The liner system and
19 groundwater monitoring system allow the LPL to manage contaminants like polyfluoroalkyl
20 substances (PFAS). *Sutton Testimony.* PFAS and other contaminants of concern are regulated

1 according to DTG's solid waste permit issued by YHD in conjunction with Ecology. *Sutton*
2 *Testimony*.

3 14.

4 In response to emissions resulting from the subsurface fire in Cell #1, YRCAA and Ecology
5 performed a series of emissions monitoring tasks to ensure that substantial hazardous emissions
6 were not migrating to neighboring properties. *Thornsberry Testimony*; *Sutton Testimony*. Ecology
7 required DTG to place air sampling canisters (or SUMMA canisters) at the property boundary to
8 collect ambient air samples. *Thornsberry Testimony*. YRCAA concurred with Ecology's
9 requirement. *Thornsberry Testimony*. DTG monitors the ambient air samples collected from the
10 SUMMA canisters and provides that data to Ecology, YHD, and YRCAA to ensure there are no
11 emissions-related health risks to surrounding properties. *Thornsberry Testimony*; *Sutton*
12 *Testimony*.

13 15.

14 Under Ecology's oversight, DTG installed gas probes in both the MTCA area and
15 throughout the LPL's property line to perform sampling tests that measured temperature and gas
16 contaminants. *Sutton Testimony*; *Ex. R-13, p. 1*. DTG placed a suppressive soil cover over the
17 entirety of the subsurface fire area to extinguish it. *Sutton Testimony*. Following DTG's placement
18 of suppressive soil cover, Ecology did not find any hazardous emissions in the ambient air at the
19 LPL's property line. *Sutton Testimony*. As discussed above, DTG continues to monitor ambient
20 air quality every other week and provides the results of that data to YHD, Ecology, and YRCAA.
21 *Sutton Testimony*. DTG is also monitoring its existing groundwater monitoring wells and installing

1 two new groundwater monitoring wells in the MTCA area to monitor potential contaminants to
2 groundwater caused by gas contaminants from the subsurface fire. *Sutton Testimony*. DTG reports
3 on the data from these wells to Ecology every month. *Sutton Testimony*.

4 16.

5 As a part of the solid waste permitting process, DTG developed an operations plan to
6 address issues with litter and odor. *Sutton Testimony*. DTG's operations plan has been updated to
7 conform with the conditions YRCAA imposed on the facility in its Order of Approval. *Sutton*
8 *Testimony*. Specifically, YRCAA requires DTG to monitor and manage odors from the facility and
9 places response requirements on DTG if odors from the facility are detected. *Sutton Testimony*.

10 17.

11 YHD regulates the type of waste that the LPL can accept. *Sutton Testimony*. DTG accepts
12 gypsum in Cell #2, which is an approved material under its Solid Waste Permit issued by YHD.
13 *Sutton Testimony*; *Ex. R-12, p. 9*. When gypsum gets wet, it has the potential to generate hydrogen
14 sulfide. *Sutton Testimony*. YRCAA included hydrogen sulfide monitoring in its Order of Approval.
15 *Sutton Testimony*. DTG is within the regulatory thresholds for hydrogen sulfide at the LPL's
16 property line. *Sutton Testimony*.

17 18.

18 **C. YRCAA NSR Permitting Process**

19 In 2020, DTG filed an NSR application with YRCAA to expand the LPL to Cell #2.
20 *Ex. R-5, p. 2*. YRCAA deemed the application complete on June 29, 2023. *Id.* DTG's NSR
21 application included LPL operations for the material recovery facility, woodchipper/grinder, and

1 crushed rock exportation. *Id.* On August 9, 2023, DTG submitted additional information about
2 Cell #1, which YRCAA used to include relevant information about hydrogen sulfide emissions in
3 its Order of Approval. *Id.*

4 19.

5 Yakima County’s 2015 SEPA DNS was included in DTG’s NSR application and was
6 reviewed by YRCAA during the permitting process. *Tahat Testimony; Ex. R-5, p. 4.*

7 20.

8 YRCAA held a public comment period for DTG’s NSR application from September 26,
9 2023, through October 25, 2023. *Ex. R-2, p. 1.* Hasan Tahat, Ph.D., YRCAA’s Engineering and
10 Planning Division Supervisor, reviewed the public comments. *Tahat Testimony.* Dr. Tahat testified
11 that during this comment period, YRCAA received comments inquiring about the adequacy of the
12 Facility’s 2015 SEPA DNS. *Tahat Testimony; Ex. R-2, pp. 31-34; Ex. R-6, p. 3.*

13 21.

14 On September 25, 2023, YRCAA received a comment from FORT questioning the
15 sufficiency of the SEPA review. *Ex. R-2, pp. 31-34.* In response, YRCAA explained that the “NSR
16 application stated ‘. . . that the SEPA has been satisfied or this project is exempt’” and that
17 the Yakima County Planning Division was the SEPA lead agency for the 2015 SEPA DNS, which
18 was valid for Cell #2. *Ex. R-2, p. 31.*

19 22.

20 In its comment, FORT also asserted that new information regarding air emissions related
21 to the LPL’s MTCA site, landfill fires, and PCBs required withdrawal of the existing SEPA

1 determination and reinstitution of the environmental review process under WAC 173-11-600(3).

2 *Ex. R-2, pp. 32-33.* In response to FORT's comment, YRCAA stated that:

3 'A new threshold determination or SEIS is not required if probable significant
4 adverse environmental impacts are covered by the range of alternatives and impacts
5 analyzed in the existing environmental documents.' [T]he purpose of the NSR is to
6 analyze the air impacts of the project. If the data shows that the source/facility will
7 not meet the applicable standards within the regulation, a permit will not be issued.
The MTCA is under the Department of Ecology's (Ecology) jurisdiction, as stated
above, an AO was signed by the facility and Ecology which shall meet the
substantive requirement of air, water etc.

8 *Id., p. 33.*

9 23.

10 FORT further commented that YRCAA was the lead agency for the NSR application and
11 was required to prepare its own SEPA threshold determination. *Id.* YRCAA responded to FORT's
12 comment stating that "YRCAA is not the lead agency for the SEPA process, but the lead agency
13 for the NSR. The NSR process analyzes the air emissions impacts. YRCAA consulted with the
14 lead agency for the SEPA as indicated above and maintained the old SEPA still stand[s]." *Id.,*
15 *p. 34.*

16 24.

17 Additionally, YRCAA responded to comments raising concerns about hydrogen sulfide
18 levels at the LPL by stating that "YRCAA's permit is requiring DTG to do [hydrogen sulfide]
19
20
21

1 monitoring at the property boundary to ensure [the LPL] won't exceed the thresholds determined
2 by federal, state and local rules and regulations." *Ex. A-5, p. 27.*

3 25.

4 During the permitting process, Dr. Tahat inquired about the sufficiency of the 2015 SEPA
5 determination. *Tahat Testimony.* On September 26, 2023, Dr. Tahat contacted Thomas Carroll, the
6 Planning Official for Yakima County, to confirm the NSR would be adequately covered under the
7 County's 2015 SEPA threshold determination. *Tahat Testimony; Ex. R-6, p. 2-3.*

8 26.

9 In his capacity as the Yakima County Planning Division's Planning Official, Carroll
10 reviews SEPA environmental threshold determinations and, among other things, concludes
11 whether any of the circumstances outlined in WAC 197-11-600(3)(b) have occurred. *Carroll*
12 *Testimony.* Carroll conducted a careful review of the applicable documents and determined that
13 Yakima County's 2015 SEPA determination covered DTG's proposal for the NSR application.
14 *Carroll Testimony; Ex. R-6, p. 4.* Carroll determined that the state of Cell #2 was not dependent
15 on the state of Cell #1. *Carroll Testimony.* Carroll concluded that the 2015 SEPA determination
16 properly addressed issues related to the NSR proposal through the use of a CUP. *Carroll*
17 *Testimony.*

18 27.

19 Carroll also determined that the material recovery facility did not constitute a significant
20 change from what was contemplated in the 2015 SEPA DNS because it was within the footprint
21 of the approved LPL expansion proposal and functioned solely to sort the materials at the landfill.

1 *Ex. R-9, p. 1; Carroll Testimony; Sutton Testimony.* The material recovery facility was exempted
2 from further land use permitting requirements under Yakima County Code 19.18.440(2)(b)(ii),
3 which is intended “to exempt solid waste recycling or reclamation activities from having to obtain
4 additional land use approval if located within an approved solid waste disposal operation.” *Carroll*
5 *Testimony; Ex. R-9.*

6 28.

7 In a response to Dr. Tahat’s inquiry about the SEPA determination, Carroll wrote on
8 October 3, 2023, that “the proposed landfill operation under consideration in your office for [NSR]
9 is adequately covered under the 2015 SEPA threshold determination . . . issued by Yakima
10 County.” *Ex. R-6, p. 4.* Carroll also indicated that the proposed expansion did not constitute a
11 substantial change from the impacts evaluated under the 2015 SEPA and that a new threshold
12 determination was not required. *Id.* Carroll signed the response indicating he was the “Planning
13 Official/SEPA Responsible Official.” *Id.*

14 29.

15 On March 8, 2024, following the public comment process, YRCAA issued an Order of
16 Approval granting DTG’s NSR application. *Ex. R-5; Tahat Testimony.* The Order of Approval
17 covers operations in Cell #2, the material recovery facility, a woodchipper/grinder, crushed rock
18 exportation, the PCS area, and the already filled areas of Cell #1 with the exception of those areas
19 under the purview of the Agreed Order with Ecology. *Ex. R-5, p. 3.* The rock crushing operation
20 was not part of the NSR permitting process or Order of Approval, but the fugitive air emissions
21 from transportation of the crushed rocks at the LPL were calculated and considered in YRCAA’s

1 Order of Approval. *Id.* Additionally, because the LPL no longer accepts PCS, those operations
2 were also not considered in the Order of Approval. *Id.*

3 30.

4 Under MTCA, remedial actions undertaken by Ecology—including agreed orders—are
5 subject to WAC 173-400-110(1)(e)’s substantive requirements for NSR air emissions but are
6 excluded from permitting decisions by air agencies and other local government entities. *Tahat*
7 *Testimony*; *Thornsberry Testimony*; see WAC 173-400-110(1)(e).

8 31.

9 The Order of Approval permits air emissions from the LPL that are mainly composed of
10 (1) particulate matter with small aerodynamic diameters and (2) hydrogen sulfide, a toxic air
11 pollutant, in accordance with the CAA and WAC 173-460-150, respectively. *Ex. R-5, p. 4.* Air
12 emissions from the facility include fugitive emissions from the LPL and material recovery facility,
13 ancillary equipment on the waste deposition areas, paved and unpaved road use, tub grinder,
14 woodchip piles, transport of crushed rock, and the addition of hydrogen sulfide (primarily from
15 sheetrock disposed of in both cells of the LPL). *Id.* The Order of Approval also states that:

16 [t]here must be no fallout, fugitive emissions or odors from this Facility beyond the
17 property boundary lines in a quantity that interferes unreasonably with the use and
18 enjoyment of the property owners upon which the material or odor is detected, or
is detrimental to the health, safety or welfare of any person, or causes damage to
any property or business.

19 *Id.*, p. 10; *Thornsberry Testimony*.

1 32.

2 **D. Additional Testimony at Hearing**

3 Nancy Lust is the Chair of FORT and lives near the LPL in Yakima, Washington. *Lust*
4 *Testimony*. Lust hikes the Cowiche County Conservancy trails located near the LPL and has seen
5 litter from the landfill on the trails. *Id.* Throughout 2021 and 2022, Lust and other neighbors
6 experienced odors emanating from the landfill, which made them sick. *Id.* In her capacity as Chair,
7 Lust fields complaints about the LPL from neighbors and nearby trail users, including issues with
8 litter, odor, dust, waste composition, increased landfill traffic, and after-hours operations. *Id.* Lust
9 sends those complaints to Ecology through the Environmental Report Tracking System. *Id.* Lust
10 also has expressed FORT's concerns about the LPL in meetings with various agencies, including
11 Ecology, YRCAA, and the Yakima County Planning Division. *Id.*

12 33.

13 During the 2015 SEPA process, Lust submitted comments to Yakima County about the
14 LPL's operations. *Id.* During the 2015 conditional use permitting process, Lust also submitted
15 comments to the Yakima County Hearing Examiner detailing her concerns about the LPL's waste
16 stream and potential groundwater contamination. *Ex. R-4, p. 3; Lust Testimony*. Lust testified that
17 she did not address odor or increased landfill traffic from the LPL in her comments during any of
18 the 2015 permitting processes. *Lust Testimony*.

19 34.

20 Lust testified about her concerns regarding the LPL's acceptance of gypsum. *Id.* However,
21 Lust acknowledged that DTG currently holds a Solid Waste Permit issued by YHD that allows

1 DTG to accept gypsum at the LPL. *Id.* Additionally, Lust recognized that the gas created from
2 gypsum, hydrogen sulfide, was included in YRCAA's review of the LPL's air emissions. *Id.* Lust
3 also testified about her concerns regarding DTG's acceptance of waste from outside Yakima
4 County. *Id.*

5 35.

6 Lust did not appeal any of the emissions limits or monitoring and reporting requirements
7 in the Order of Approval issued by YRCAA. *Id.*; *see Ex. R-5.*

8 36.

9 Scott Cave is the President of S. C. Communications Inc. and has been a consultant for
10 municipal solid waste management operations for nineteen years. *Cave Testimony.* Cave testified
11 on behalf of FORT. Cave was not presented or recognized as an expert. Cave is familiar with the
12 applicable rules and regulations for solid waste operations. *Id.* In March 2020, Cave visited the
13 LPL site and smelled a mixture of what he characterized as municipal solid waste and petroleum-
14 based products. *Id.* After the site visit, Cave met with Carol DeGrave and other FORT members
15 and agreed to conduct a review of DTG's LPL operations to address FORT's concerns. *Id.*

16 37.

17 Cave issued public records requests to multiple agencies that have jurisdiction over DTG's
18 various permits—including YRCAA, Ecology, YHD, Yakima County Code Enforcement, and the
19 Utilities and Transportation Commission. *Id.* Cave familiarized himself with the LPL's permitting
20 documents, hydrogeologic documents, inspection reports, and other documents pertaining to the
21 historical annual disposal and inspections of the facility from the 1990s to present. *Id.*

1 38.

2 During YRCAA's public hearing process, Cave provided comments on behalf of FORT to
3 YRCAA regarding the LPL's air permit history. *Id.*; *Ex. A-3, pp. 18-19*. Additionally, Cave helped
4 FORT members navigate the process of filing complaints with regulatory agencies. *Cave*
5 *Testimony*. Cave reached out to regulators directly on behalf of FORT. *Id.* Cave communicated
6 with YHD and Ecology on multiple occasions to report concerns related to groundwater
7 contamination, inadequate environmental controls, and air emissions. *Id.*

8 39.

9 Mark Thornsberry is YRCAA's Executive Director and Designated Air Pollution Control
10 Officer. *Thornsberry Testimony*. Thornsberry began working with YRCAA in 2022. *Id.* In his role
11 at YRCAA, Thornsberry conducts oversight of the air permitting process. *Id.*

12 40.

13 Thornsberry testified that DTG's Order of Approval was an "after-the-fact permit"— the
14 mechanism through which permittees gain compliance with state law air permit requirements when
15 they have previously failed to do so. *Id.* YRCAA was unable to determine that an air permit was
16 previously issued for the Anderson Landfill and issued the Order of Approval as an after-the-fact
17 permit for Cell #1 in an attempt to address the potential permitting gap issue. *Id.* Thornsberry
18 testified that YRCAA lacks jurisdiction to enforce any conditions in permits issued by other
19 agencies. *Id.*

1 41.

2 In his role with YRCAA, Thornsberry is responsible for disseminating information to the
3 public as statutorily required for notice and comment periods. *Id.* Thornsberry also serves as a
4 Hearings Officer for public input hearings. *Id.* Thornsberry served as a Hearings Officer for
5 YRCAA's Proposed Draft Permit for DTG. *Id.* At the public hearing, YRCAA staff presented a
6 staff report, which included information pertaining to the 2015 SEPA review. *Id.*; *Ex. A-7, p. 3.*
7 The staff report stated that the activities contemplated in YRCAA's Order of Approval were all
8 covered under the expansion area considered in the 2015 SEPA approval. *Thornsberry Testimony*;
9 *Ex. A-7, p. 3.* Thornsberry testified that YRCAA confirmed the sufficiency of the 2015 SEPA
10 review for the proposed NSR application with the Yakima County Planning Division, both in
11 conversations prior to the public hearing and in the letter Carroll sent after the public hearing.
12 *Thornsberry Testimony*; *Ex. R-6.*

13 42.

14 Following YRCAA's receipt of Carroll's letter confirming the sufficiency of the 2015
15 SEPA review for the NSR application, Thornsberry determined that YRCAA had "very little
16 latitude to go back into the SEPA considering [Carroll's] statement that it was valid for the project
17 under consideration." *Thornsberry Testimony*; *Ex. R-6.* Thornsberry testified that he was unable to
18 find conclusive evidence to contradict Carroll's position on the sufficiency of the 2015 SEPA for
19 the NSR application. *Thornsberry Testimony.* Thornsberry testified that he determined there was
20 no basis for YRCAA to prepare a new SEPA threshold determination. *Id.*

1 43.

2 Ian Sutton is the Director of Engineering at DTG. *Sutton Testimony*. Sutton oversees
3 DTG's environmental permitting and compliance processes, MTCA processes, and improvements
4 to the material recovery facility. *Id.* Sutton earned a bachelor's degree in science in Environmental
5 Engineering from the New Mexico School of Mining and Technology in 1999. *Id.* Sutton obtained
6 a master's degree in science and civil and environmental engineering from the University of
7 Washington in 2000. *Id.* In 2000, Sutton began his career in environmental and solid waste
8 engineering and consulting. *Id.* He is a licensed engineer in Washington and a Board Member for
9 the Solid Waste Association of North America, Evergreen Chapter, which includes Washington.
10 *Id.* When he was a consultant, Sutton specialized in solid waste engineering and management for
11 more than 20 different landfills nationally. *Id.*

12 44.

13 Sutton began working as a permit design engineer for the Anderson Facility in 2005 when
14 the Anderson Facility was reclassifying the facility as an LPL. *Id.* He completed the
15 reclassification process for the Anderson Facility in 2009. *Id.* Sutton was rehired in 2014 to work
16 on the expansion process for the Anderson Facility. *Id.* In 2016 through 2017, the Anderson
17 Facility retained Sutton to pursue an Order of Approval from YRCAA. *Id.* After DTG's acquisition
18 of the Anderson Facility, Sutton was hired as the Director of Engineering for the DTG LPL and
19 assisted DTG in its NSR application process to pursue an Order of Approval. *Id.*

1 45.

2 Any Conclusion of Law deemed properly to be considered a Finding of Fact is hereby
3 adopted as such.

4 **5. CONCLUSIONS OF LAW**

5 1.

6 The Board has jurisdiction over the parties and subject matter of this appeal pursuant to
7 RCW 43.21B.110(1).

8 2.

9 The issuing agency shall have the initial burden of proof in cases involving penalties or
10 regulatory orders and in other cases, the appealing party shall have the initial burden of proof.
11 WAC 371-08-485. FORT has the initial burden of proof in this matter.

12 3.

13 SEPA seeks to “ensure that environmental impacts and alternatives are properly considered
14 by decision makers.” *Save Our Rural Env’t*, 99 Wn.2d at 371. The SEPA lead agency is the agency
15 with the main responsibility for complying with SEPA’s procedural requirements and shall be the
16 only agency responsible for the threshold determination and the preparation and content of an EIS.
17 WAC 197-11-050.

18 4.

19 An agency considering action on the same proposal for which a SEPA lead agency has
20 prepared a DNS or an EIS must adhere to WAC 197-11-600, which “contains criteria for
21 determining whether an environmental document must be used unchanged and describes when

1 existing documents may be used to meet all or part of an agency's responsibilities under SEPA."

2 WAC 197-11-600(1). WAC 197-11-600(3) states in relevant part:

3 (3) Any agency acting on the same proposal shall use an environmental
4 document unchanged, except in the following cases:

5 (a) For DNSs, an agency with jurisdiction is dissatisfied with the DNS, in
6 which case it may assume lead agency status (WAC 197-11-340 (2)(e) and
7 197-11-948).

8 (b) For DNSs and EISs, preparation of a new threshold determination or
9 supplemental EIS is required if there are: (i) Substantial changes to a
10 proposal so that the proposal is likely to have significant adverse
11 environmental impacts (or lack of significant adverse impacts, if a DS is
12 being withdrawn); or (ii) New information indicating a proposal's probable
13 significant adverse environmental impacts. (This includes discovery of
14 misrepresentation or lack of material disclosure.)

15 WAC 197-11-600(3)(a)-(b).

16 5.

17 The clearly erroneous standard is applied in judicial review of threshold determinations of
18 nonsignificance. *Norway Hill Pres. & Prot. Ass'n v. King Cnty. Council*, 87 Wn.2d 267, 552 P.2d
19 674 (1976). The Board applies the clearly erroneous standard in reviewing an agency's reliance
20 on a previous threshold determination. *Ctr. For Env't. Law & Pol'y v. Dep't of Ecology*, PCHB
21 No. 09-113 (May 3, 2010); *Advoc. For A Cleaner Tacoma v. Puget Sound Clean Air Agency*,
PCHB No. 19-087c (Nov. 19, 2021); *Cornelius v. Wash. Dep't of Ecology*, PCHB No. 06-099
(Jan. 18, 2008). The Board is obligated to give YRCAA's decision to rely on Yakima County's
threshold determination substantial weight. RCW 43.21C.090; *Barrie*, 97 Wn.2d at 236; *City of*
Bellingham, PCHB No. 11-125c, pp. 11, 14.

1 6.

2 It is FORT's burden to show that YRCAA did not meet its obligations under WAC 197-
3 11-600(3). The essence of this inquiry is whether YRCAA properly considered "significant
4 adverse environmental impacts" not considered by the original DNS. We conclude that FORT did
5 not meet its burden.

6 7.

7 Supporting its argument that YRCAA did not meet its SEPA obligations, FORT provided
8 testimony from Scott Cave and Nancy Lust. Cave and Lust testified as lay witnesses. Cave and
9 Lust provided testimony and evidence about generalized environmental impacts of the landfill,
10 such as litter, odor, dust, waste composition, increased landfill traffic, and after-hours operations.
11 They also testified about groundwater contamination, inadequate environmental controls, and
12 excessive air emissions, among other concerns. FOF 34-38. FORT, however, did not provide
13 expert testimony about the relationship between the generalized impacts and the NSR. Nor did
14 FORT provide evidence showing a need for YRCAA to undertake additional steps to investigate.

15 8.

16 On the whole, the record shows that YRCAA was largely made aware of FORT's concerns
17 and followed a detailed process to ensure they were addressed and covered by the 2015 SEPA.
18 The evidence details the NSR review process from start to finish: during the permitting process,
19 YRCAA inquired about the sufficiency of the 2015 SEPA determination by contacting the
20 appropriate planning official at Yakima County, the lead agency, to confirm the NSR would be
21 adequately covered under the 2015 SEPA threshold determination. In turn, Yakima County

1 conducted a careful review to ensure that the 2015 SEPA properly addressed the issues related to
2 the NSR and concluded that the operations described in the NSR application did not constitute a
3 significant change from what was contemplated in the 2015 SEPA DNS. FOF 25-29. In addition
4 to contacting Yakima County, the lead agency, YRCAA undertook its own process to review
5 concerns about a broad range of potential environmental impacts. Regarding the comments and
6 concerns raised by FORT, YRCAA reviewed and responded to each comment. FOF 22-24. In
7 summary, YRCAA met all substantive or procedural requirements related to WAC 197-11-600.

8 9.

9 It is certainly understandable that FORT, whose members live and recreate near the landfill,
10 would prefer fewer, if any impacts resulting from the landfill. However, weighing all the facts
11 against the applicable law, the Board concludes that FORT did not meet its burden to show a
12 violation of WAC 197-11-600. YRCAA should prevail.

13 10.

14 Under the clearly erroneous standard and giving substantial weight to YRCAA's decision
15 to rely on Yakima County's DNS, the Board concludes that YRCAA complied with the
16 requirements of WAC 197-11-600.

17 11.

18 Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

19 Having so found and concluded, the Board enters the following:
20
21

