

# **MARCH**

# **2022**

**Yakima Regional Clean  
Air Agency  
Board Meeting**



Yakima Regional Clean Air Agency  
MEETING LOCATION: AGENCY'S  
CONFERENCE ROOM  
186 Iron Horse Court, Suite 101  
Yakima, WA 98901  
[www.yakimacleanair.org](http://www.yakimacleanair.org)

**March 10, 2022**

**REGULAR BOARD OF DIRECTORS' MEETING at 2:00 P.M.**

**AGENDA**

**1. Call to Order**

**2. Roll Call**

**3. Additions or Deletions to the Agenda**

**4. Public Comments**

If you wish to address any matter relevant to the business of the Board, you may do so now. Please, state your name and the item you wish to address. Please limit your comments to three (3) minutes.

**5. Consent Agenda**

5.1 By consent, approve February 10, 2022 Board Meeting Summary

5.2 By consent, accept February 2022 YRCAA Monthly Activity Report

**Action Requested:** Approve Consent Agenda Items 5.1 through 5.2

**5.Regular Agenda**

6.1 Interim Executive Director's Report

**7. Action Items**

7.1 Approve Fiscal Vouchers and Payroll Authorization Transfers for February 2022.

**Action Requested:** Approve Fiscal Vouchers and Payroll Authorization Transfers.

**8. Other business**

8.2 Updates on the Search Process for Air Pollution Control Officer (APCO)/Executive Director

**9. Adjournment**

If you wish to attend the YRCAA Board meeting and require an accommodation due to a disability or Language Interpretative Services, call 509-834-2050, ext. 100 or send us an email at [admin@yrcaa.org](mailto:admin@yrcaa.org).



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10 de marzo de 2022

REUNIÓN ORDINARIA DE LA JUNTA DIRECTIVA a las 2:00 p.m.

**AGENDA**

**1. Llamada al orden**

**2. Registro de asistencia**

**3. Incorporaciones o eliminaciones al orden del día**

**4. Comentarios públicos**

Si desea tratar cualquier asunto pertinente a los temas del consejo, puede hacerlo en este momento. Acérquese al podio, diga su nombre e indique el tema que desea abordar. Limite sus comentarios a tres (3) minutos.

**5. Aprobación de la agenda de consentimiento**

5.1 Por consentimiento, apruebe el Resumen de la Reunión de la Junta del 10 de February de 2022

5.2 Por consentimiento, acepte el Informe Mensual de Actividad de YRCAA de February de 2022

**Acción solicitadas:** Aprobar el consentimiento Puntos 5.1 a 5.2 del orden del día

**6. Agenda de asambleas ordinarias**

6.1 Informe del Director Ejecutivo Interino

**7. Elementos de acción**

7.1 **Aprobar comprobantes fiscales y transferencias de autorización de nómina para February de 2022**

**Acción solicitada:** Aprobar comprobantes fiscales y transferencias de autorización de nómina,

**8. Otros asuntos**

8.2 Actualizaciones sobre el proceso de búsqueda de Oficial de Control de la Contaminación del Aire (APCO)/Director Ejecutivo

**9. Cierre**

Si desea asistir a la asamblea del consejo de YRCAA y requiere servicios especiales por discapacidad o de interpretacion llame al 509-834-2050,ext 100 o escribanos a [admin@yrcaa.com](mailto:admin@yrcaa.com)

# **CONSENT AGENDA ITEMS**



**SUMMARY OF THE GOVERNING  
 BOARD OF DIRECTORS  
 REGULAR BOARD MEETING**

**February 10, 2022**

**Location and Time:**

**YRCAA Office**

**Started at 2:00 PM**

***REGULAR MEETING***

**1. Vice Chair Trevino** *called the meeting to order at 2:00 p.m.*

**2. Christa Owen, Clerk of the Board,** *conducted roll call. There was a quorum.*

**PRESENT WERE:**

Ranie Haas, Member-at-Large  
 Steven Jones, Ph.D., County Representative  
 Janice Deccio, Large City Representative  
 Amanda McKinney, County Commissioner (Teleconference)  
 Jose Trevino, Small City Representative

**ABSENT:**

Jon DeVaney, Member-at-Large

**BOARD MEMBERS:**

Steven Jones, Ph.D., County Representative  
 Jon DeVaney, Member-at-Large  
 Amanda McKinney, County Commissioner  
 Jose Trevino, Small City Representative  
 Janice Deccio, Large City Representative

**LEGAL COUNSEL:**

Gary Cuillier

**STAFF:**

Hasan Tahat, Ph.D., Interim Executive Director  
 Christa Owen, Clerk of the Board  
 Pamela Herman, Public Records Officer

**3. Additions or Deletions to the Agenda**

Vice Chairman Trevino asked if there were any additions or deletions to the Agenda.

Dr. Tahat stated there was none.

**4. Public Comment**

Vice Chairman Trevino asked if there were any public comments.

***AGENDA ITEM NO. 5.1***



There were none.

## **5. Approval of Consent Agenda**

- 5.1 By consent, approve January 13, 2022 Board Meeting Summary
- 5.2 By consent, accept January 2022 YRCAA Monthly Activity Report

Dr. Jones moved and Mayor Deccio seconded to approve.  
Motion approved with no dissension.

## **6. Regular Agenda**

### 6.1 Interim Executive Director's Report

Dr. Tahat presented the report. Refer to Board packet.

Dr. Jones inquired on which NSR's were approved.

Dr. Tahat stated he would have to get the information after board meeting.

## **7. Action Items**

### 7.1 Health Insurance Employer Contribution Adjustment –Resolution 2022-01

There was a discussion on employer absorbing the increase from the health insurance.

Dr. Jones moved and Mayor Deccio seconded to approve.  
Motion approved with no dissension.

### 7.2 Fiscal Vouchers and Payroll Authorization Transfers for January 2022

Dr. Jones inquired amount listed on two separate items first one was for money received under miscellaneous income totaling \$7996.00. The second was on the \$9008.00 spent in professional service category.

Ms. Owen explained that the amount listed was for COVID payroll reimbursement from IRS. The second item was money spent was on attorney fees and others, but Ms. Owen could not remember the exact party involved.

When asked what lawsuit was that, Dr. Tahat reminded the board of the lawsuit against all clean air agencies in Washington State from 350.org, and Mr. Cuillier Can speak more about it.

Gary Cuillier the agencies council gave a brief explanation and outcome of lawsuit which ruled in favor of all the clean air agencies.



Dr. Jones moved and Ms. Haas seconded to approve.  
Motion approved with no dissension.

## **8. Other business**

### **8.1 Updates on the Search Process for Air Pollution Control Officer (APCO)/Executive Director.**

There was some discussion about the update. Dr. Tahat stated that County's HR who is dealing with that. We have not received any job announcement yet. Commissioner McKinney thought she saw an email about that. Vice Chairman Trevino stated that Chairman DeVaney would know and he could update the board at the next board meeting.

## **9. Adjournment**

Vice Chairman Trevino adjourned the meeting at 2:49 p.m.

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Jon DeVaney, Board of Directors

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Christa Owen, Clerk of the Board

**Date of Release:** March 3, 2022  
**Date of Consideration:** March 10, 2022  
**To:** Honorable YRCAA Board of Directors and Alternates  
**From:** Office of the Interim Executive Director  
**Subject:** Monthly Activity Report

*Current Quarter*

Activity	FY21 Total	Dec FY22	Jan FY22	Feb FY22	FY22 Total to Date
Minor Source Inspections	129	5	0	0	28
Complaints Received	295	6	7	3	80
NOVs Issued	94	3	7	0	20
AODs Issued	10	0	0	0	0
Warning Notices Issued	11	0	0	0	0
NOPs Issued	52	1	0	3	21
SEPA Reviews	433	34	23	18	307
AOP Applications Received	0	0	0	0	0
AOPs Issued or Renewed	0	0	0	0	0
Deviations/Upsets Reported	31	1	1	2	14
AOP Inspections	4	1	0	0	1
Public Workshops	0	0	0	0	1
Media Events	2	0	1	0	1
Media Contacts	7	0	2	1	6
Education Outreach Events	1	0	0	0	0
Sources Registered	353	0	49	58	112
NSR Applications Received	26	2	1	2	9
NSR Approvals Issued-Temporary	2	0	0	0	0
NSR Approvals Issued-Permanent	31	2	2	3	19
NODRs Received	195	8	10	15	88
Agricultural Burn Permits Issued	97	2	8	22	40
Conditional Use Permits Issued	8	0	0	0	2
Residential Burn Permits Issued	724	0	0	0	212
Burn Ban Days	58	0	21	0	84
Public Records Requests Fulfilled	41	3	1	6	24

**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

# **REGULAR**

# **AGENDA**



## **Executive Memorandum**

**Date of Release:** March 3, 2022  
**Date of Consideration:** March 10, 2022  
**To:** Honorable YRCAA Board of Directors and Alternates  
**From:** Office of the Interim Executive Director / Air pollution Control Officer  
**Subject:** Interim Executive Director's Report for the Month of February 2022

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### **1. Writ of Mandamus**

On February 22, 2022 our office was served in person, with a Writ of Mandamus from the Friends of Toppenish Creek (FOTC) by Ms. Jean Mendoza. Our Attorney Mr. Ehlis from Menke Jackson Beyer LLP., and I attended the hearing on February 25, 2022. In summary, "The Writ is requesting the Court to prevent the YRCAA from screening candidates until the following six conditions are met:

1. The public receives and has time to review the YRCAA job description for APCO/ED.
2. The job announcement has been distributed across the west coast and there is sufficient time (at least three weeks) for qualified professionals to study the announcement.
3. The public receives and has time to study the contract between the YRCAA and Yakima County Human Resources.
4. There is an adequate pool (at least 10 applications) of candidates for the position of YRCAA APCO/ED.
5. The YRCAA board of directors has approved, in an open public meeting, a list of members of the screening and selection committee for the position of YRCAA APCO/ED.
6. The YRCAA board of directors has approved, in an open public meeting, a process for screening and selecting the YRCAA APCO/ED."

Attached is what FOTC filed with the Court on February 22, 2022 and served to the YRCAA. Also Attached, the replies from our Attorney Mr. Ehlis.

The court dismissed the case without prejudice on February 25, 2022.

**2. America Rescue Plan (ARP) grant from EPA:**

In September 2021 there was a request from EPA for direct funding for continuous PM<sub>2.5</sub> Monitoring. Local clean air agencies joined with Department of Ecology and submitted the proposal in October 2021. Our Agency requested and proposed a change for the Sunnyside monitor from Nephelometer (Neph) monitor to Federal Equivalent Method (FEM) or Federal Reference Method (FRM). In addition, we asked for Air Sensors “Purple Air”. On March 2, 2022 we received an email from EPA informing us that the Sunnyside site was awarded \$25,500 to change the Neph monitor to FEM. There was no award for the air sensors nationwide (see attached email).

**3. FY 2022 Woodstove Change- out**

For February, a total of 39 woodstoves changed at \$155,550 which includes rebates and one bounty.

**4. Revised Code of Washington (RCW) 70A.15.1590- Air pollution control authority—Fiscal year—Adoption of budget—Contents.**

“... the budget year of each activated authority shall be the fiscal year beginning July 1st and ending on the following June 30th. On or before the fourth Monday in June of each year, each activated authority shall adopt a budget for the following fiscal year....”

Based on the above RCW and as you know, we should have the FY 2023 budget ready for public comments from May 1<sup>st</sup> to May 31<sup>st</sup> if the budget has to be approved pursuant to the above RCW. This means March is the starting month to establish the foundation for the budget to be ready on May 1<sup>st</sup>. We started the initial work for the budget FY 2023.

## 5. Compliance & Engineering

The division issued three NSR orders of approval. We registered 58 sources in the month of February as the registration program starts in January of every year. We send the forms late December early January to the registered sources. We processed 15 Notifications of Demolition / Renovation (NODR). Agricultural burning and burn bans pursuant to WAC 173-430 and WAC 173-433 requires daily allocation / metering and three days weather forecast, hence, the division does the daily allocation and forecast (dispersion) in accordance with the regulation.

The following Table itemizes, by type, the complaints received and the number of NOV's issued, if any, for the month of February 2022:

Type of Complaint	Number of Complaints	Number of NOV's*	Number of AOD's**
Residential Burning	2	0	0
Agricultural Burning	1	0	0
Other Burning and SFBD***	0	0	0
Fugitive / Construction Dust	0	0	0
Agricultural Dust	0	0	0
Agricultural Odor	0	0	0
Other Dust	0	0	0
Surface Coating	0	0	0
Odor	0	0	0
Asbestos	0	0	0
Others and NSR****	0	0	0
Registration	0	0	0
Industrial Sources	0	0	0
<b>TOTALS</b>	<b>3</b>	<b>0</b>	<b>0</b>

\*NOV- Notice of Violation

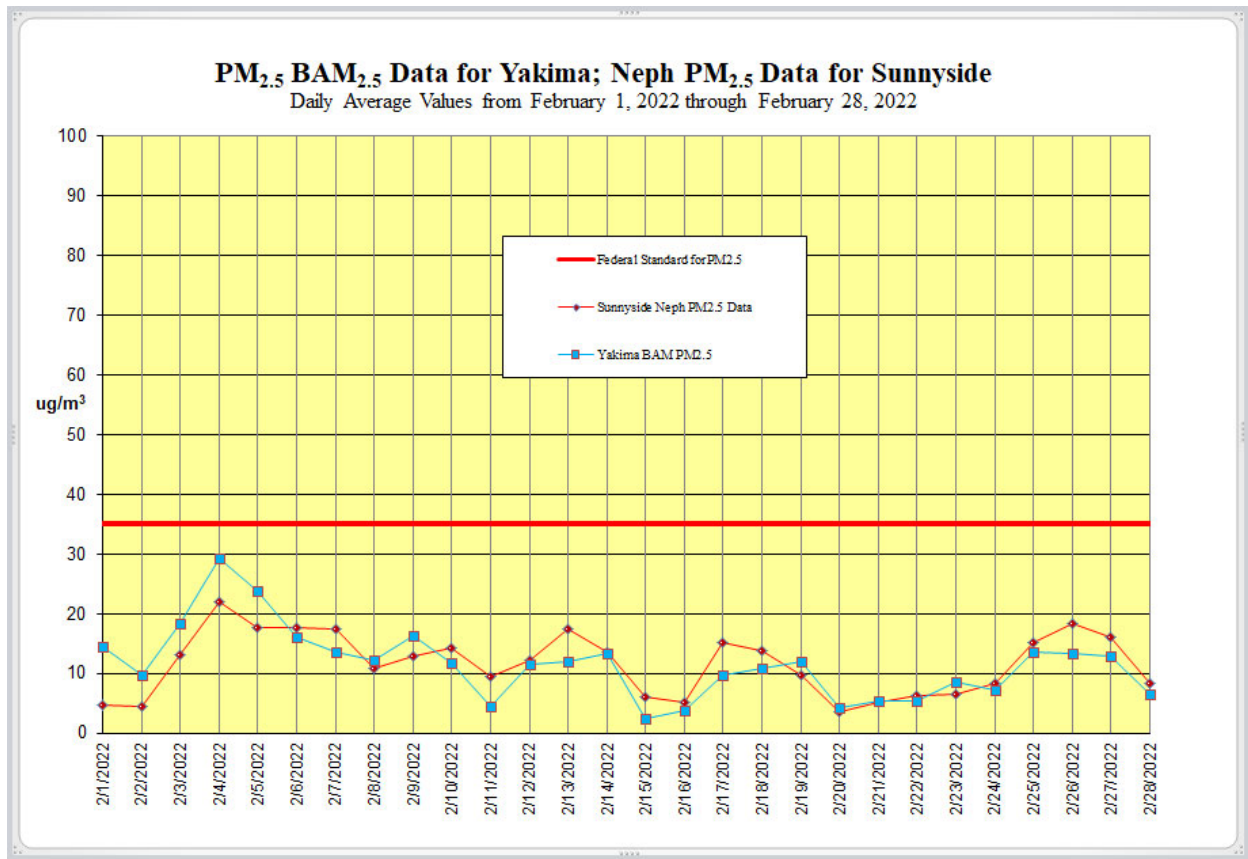
\*\*AOD- Assurance of Discontinues

\*\*\* Solid Fuel Burning Device \*\*\*\* New Source Review

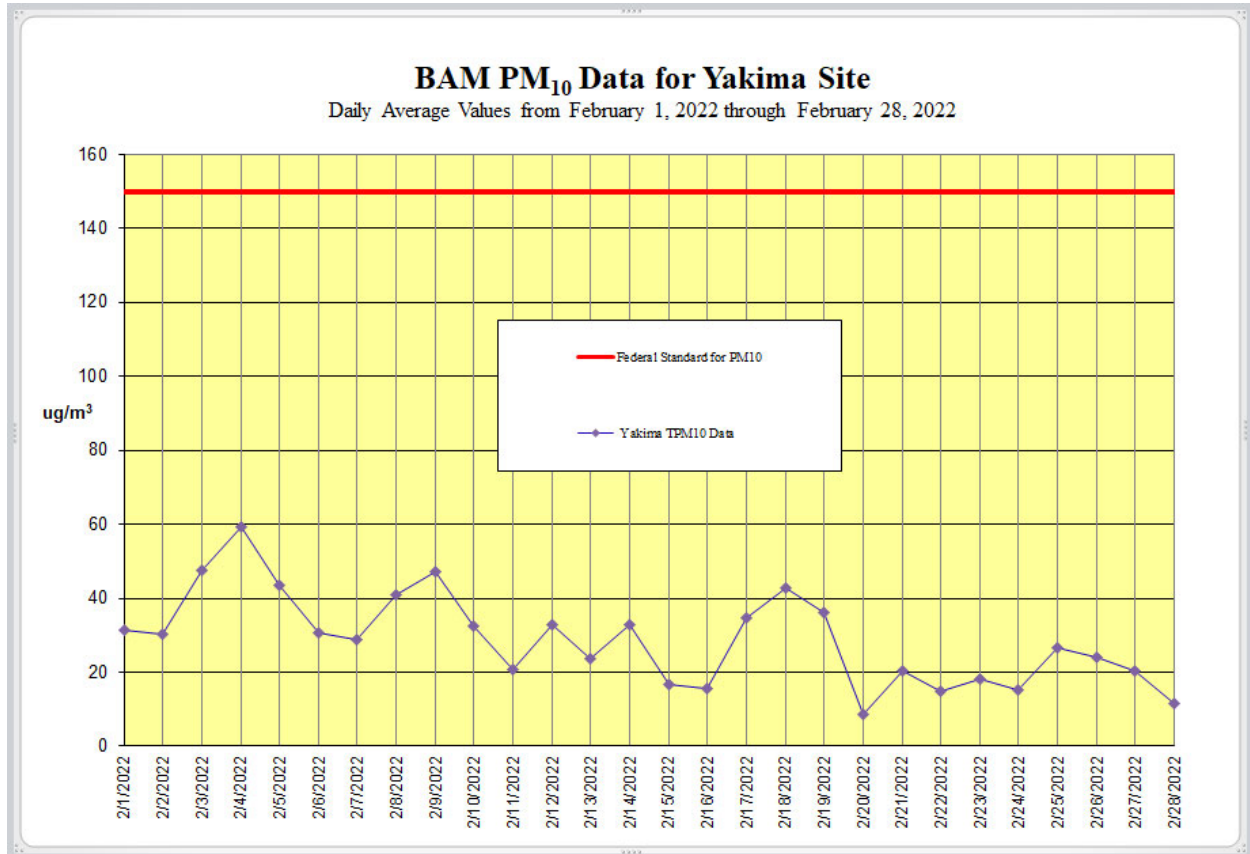
## 6. Air Monitoring Data for February 2022

Collected and shipped for analysis approximately 15 Air Monitoring Samples and completed 6 Quality Control (QC) checks on 5 Air Monitors.

- **PM<sub>2.5</sub> Data**
  - We expect no PM<sub>2.5</sub> exceedances for the month.

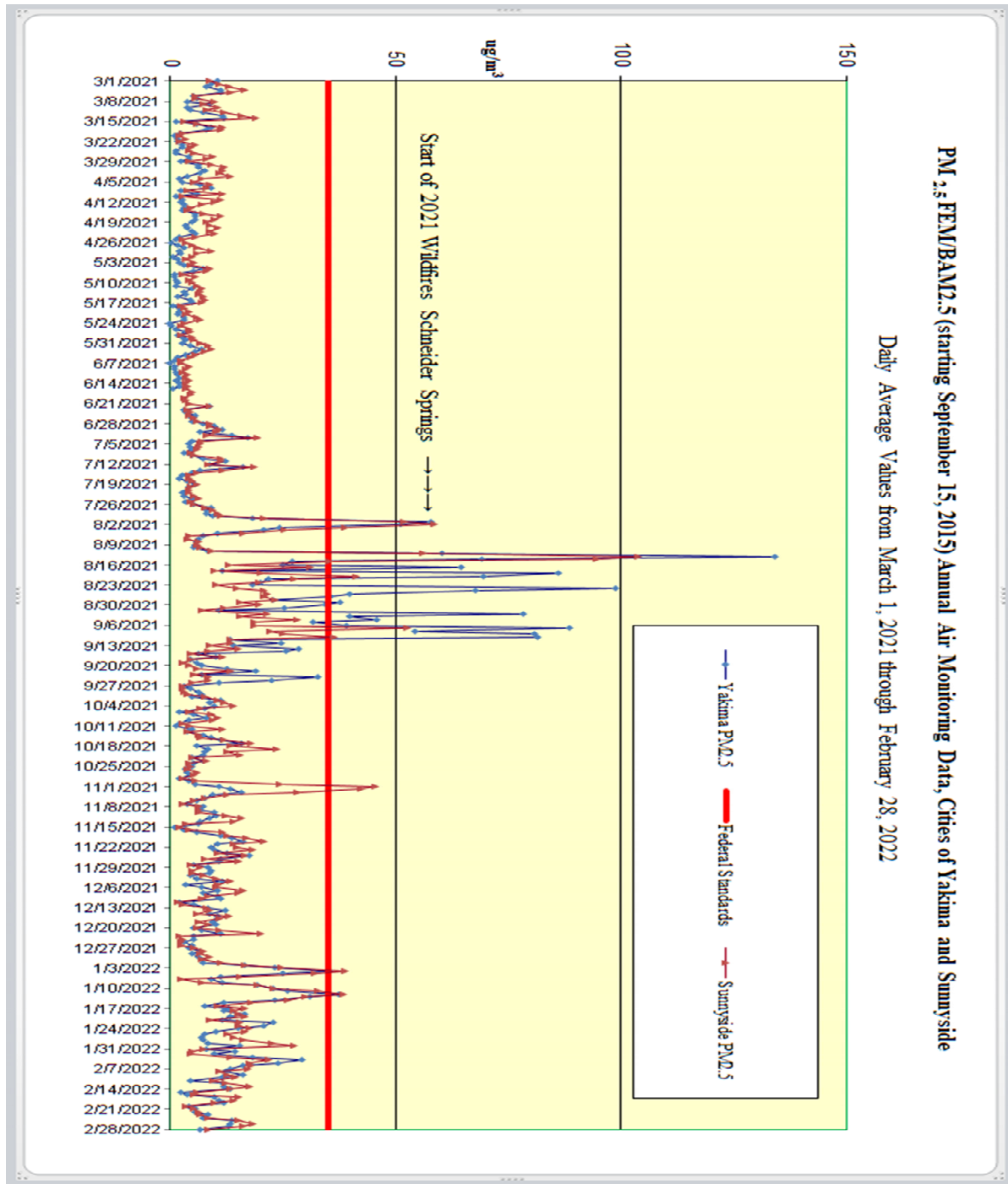


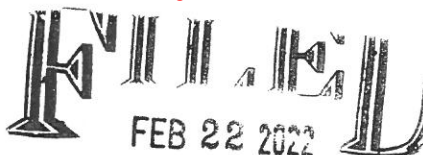
- **PM<sub>10</sub>**
- PM<sub>10</sub> data for February 2022, we expect no PM<sub>10</sub> exceedance for the month.



- **Annual PM<sub>2.5</sub> Data**

- Annual PM<sub>2.5</sub> for Yakima and Sunnyside monitors.
- Exceedances since August 2021 for this year are due to the wildfire (Schneider Springs Fire) as indicated in the graph below.





FEB 22 2022

Tracey M. Stagle  
YAKIMA COUNTY CLERKSuperior Court of Washington, County of Yakima

In re:

Petitioner/s (person/s who started this case):

Friends of Toppenish CreekNo. 2220033339Notice of Hearing  
(NTHG)

And Respondent/s (other party/parties):

Yakima Regional Clean Air  
Agency☒ Clerk's action required: **1****Notice of Hearing**

To the Court Clerk and all parties:

1. A court hearing has been scheduled:

for: 02-25-22 at: 1:30 ☐ a.m. ☒ p.m.  
date timeat: Yakima County Superior Court in \_\_\_\_\_  
court's address room or department\_\_\_\_\_  
docket / calendar or judge / commissioner's name2. The purpose of this hearing is (specify): Writ of Mandamus**Warning!** If you do not go to the hearing, the court may sign orders without hearing your side.This hearing was requested by: ☒ Petitioner or his/her lawyer ☐ Respondent or his/her lawyerPerson asking for this hearing signs here  
Jean MendozaJean Mendoza  
Print name (if lawyer, also list WSBA #)2/22/2022  
Date

I agree to accept legal papers for this case at:

3142 Signal Peak Road  
addressWhite Swan, WA 98952  
city state zip(Optional) email: jeanrmendoza  
@icloud.comThis does not have to be your home address. If this address changes before the case ends, you **must** notify all parties and the court clerk in writing. You may use the *Notice of Address Change* form (FL All Family 120). A party must also update his/her *Confidential Information* form (FL All Family 001) if this case involves parentage or child support.

## PETITION TO THE YAKIMA COUNTY SUPERIOR COURT

FRIENDS OF TOPPENISH CREEK, a non-profit organization

Petitioner

v.

YAKIMA REGIONAL CLEAN AIR  
AGENCY, a municipal corporation

Respondent

No. \_\_\_\_\_

### PETITION FOR WRIT OF MANDAMUS

Petitioners respectfully petition for a writ of mandamus to the Yakima County Superior Court to delay a first screening of candidates for the position of Air Pollution Control Officer/Executive Director for the Yakima Regional Clean Air Agency until such time as the screening can be conducted in the best interests of citizens of Yakima County.

#### Statement of Relief Requested

On February 17, 2022, The Yakima Regional Clean Air Agency (YRCAA) posted a job announcement for the position of Air Pollution Control Officer/Executive Director (APCO/ED) on the YRCAA website. The posting was developed under a contract with Yakima County Human Resources (HR). This posting provided the first opportunity for potential applicants to read the announcement and job description.

The posting states that the first screening of applicants will take place on February 28, 2022, less than seven working days from the initial posting. This is a petition for a Writ of Mandamus to postpone the first screening of applicants until:

1. The public receives and has time to review the YRCAA job description for APCO/ED
2. The job announcement has been distributed across the west coast and there is sufficient time (at least three weeks) for qualified professionals to study the announcement

3. The public receives and has time to study the contract between the YRCAA and Yakima County HR
4. There is an adequate pool (at least 10 applications) of candidates for the position of YRCAA APCO/ED
5. The YRCAA board of directors has approved, in an open public meeting, a list of members of the screening and selection committee for the position of YRCAA APCO/ED
6. The YRCAA board of directors has approved, in an open public meeting, a process for screening and selecting a YRCAA APCO/ED

### **Parties to the Proceedings**

Friends of Toppenish Creek is a 501 C (3) non-profit organization registered in the State of Washington. FOTC members are citizens of Yakima County.

The Yakima Regional Clean Air agency is a municipal corporation, activated according to RCW 70A.15.1560, formerly RCW 70.94.081. The YRCAA is delegated authority to enforce certain Federal Regulations, the Washington Clean Air Act, State Regulations and YRCAA Regulations, within the boundaries of Yakima County.

### **Jurisdiction and Applicable Law**

RCW 7.16.160 states that a Writ of Mandamus:

*may be issued by any court, except a district or municipal court, to any inferior tribunal, corporation, board or person, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or person.*

The Yakima Regional Clean Air Agency (YRCAA) is a municipal corporation (RCW 70A.15.160), a public agency (RCW 42.30.020), and a local agency (RCW 42.56.010).

FOTC has searched the Revised Code of Washington, the WA Administrative Code, YRCAA Administrative Codes Part A & B, the WA State Implementation Plan (SIP) for air programs, and YRCAA Regulation 1. We find no policies that define or regulate search for Clean Air

Agency (CAA) Air Pollution Control Officers (APCOs) or Executive Directors (EDs). This gives Clean Air Agency Boards of Directors much latitude in how they search for, screen, and hire APCO/EDs.

1. The YRCAA Regulation 1 states:

*The governing body of the agency is the board of directors. The board has the power to: Appoint an Air Pollution Control Officer (APCO) whose sole responsibility shall be to observe and enforce the provisions of chapter 70A.15 RCW and all orders, ordinances, resolutions, or rules and regulations of such activated authority pertaining to the control and prevention of air pollution.*

2. The YRCAA Administrative Code Part A states:

3.4 Executive Director

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

3.5 Control Officer

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

3. As a public agency the YRCAA is subject to RCW 42.30 the WA Open Public Meetings Act. According to RCW 42.30.020 an agency action includes an order from the YRCAA Board of Directors.

*"Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.*

Instructing the Interim YRCAA APCO/ED to sign a contract with the Yakima County Dept. of Human Resources is an order and an action, as defined by RCW 42.30.020.

The YRCAA has added requirements for public participation at YRCAA board meetings in YRCAA Administrative Code Part A. Members of the public are allowed three minutes in

which to address the board on a topic from the agenda. The YRCAA board typically does not respond, and specifically does not answer questions.

4. As a local agency the YRCAA is subject to RCW 42.56, the WA Public Records Act. Pursuant to RCW 42.56.570, the YRCAA has compiled and approved a YRCAA specific public records policy, entitle YRCAA Administrative Code Part C.

YRCAA Administrative Code Part C requires the YRCAA public records officer to acknowledge receipt of a request within five business days.

YRCAA Administrative Code Part C states:

*(5.3) Consequences of failure to respond. If the YRCAA does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the PRO to determine the reason for the failure to respond.*

5. RCW 7.16.160 defines Grounds for a Writ of Mandamus:

*Grounds for granting writ.*

*It may be issued by any court, except a district or municipal court, to any inferior tribunal, corporation, board or person, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or person.*

6. RCW 42.30.130, the WA Open Public Meetings Act, states:

*Any person may commence an action either by mandamus or injunction for the purpose of stopping violations or preventing threatened violations of this chapter by members of a governing body.*

### **Statement of the Issue**

The Air Pollution Control Officer/Executive Director for the Yakima Regional Clean Air Agency is responsible for implementation of the federal and state Clean Air Acts in Yakima County.

Air quality in Yakima County is worsening to the point that Yakima County tops the list of communities at risk for non-attainment of standards for fine particulate matter (PM 2.5) in Washington State. Classification into non-attainment indicates elevated public health risks and brings regulatory sanctions against the county.

Failure of the YRCAA to adequately address air pollution has prompted Friends of Toppenish Creek to ask the WA State Dept. of Ecology (Ecology) to exercise legally authorized oversight over the YRCAA in 2016 and 2019. Ecology declined. Failure of YRCAA to adequately address air pollution prompted FOTC to ask Yakima County Commissioners to dissolve the YRCAA in 2021. The request for dissolution included allegations that the YRCAA has violated WA statutes. To date the Yakima County Commissioners have not responded.

**Timeline:**

In February of 2017 the YRCAA Board of Directors selected a new APCO/ED after a search that, in retrospect, was inadequate. The board hired a candidate with a bachelor's degree in physical fitness.

In October of 2021 the APCO/ED resigned amid allegations of sexual harassment and workplace abuse that included threatening three employees about telling the truth in public records documents.

In December of 2021 FOTC asked the YRCAA Board of Directors to include a citizen representative from the Lower Yakima Valley (LYV) in the search team because only one of the five YRCAA board members lives in the LYV. The board has so far not replied to this request. At that time the board decided to postpone the search until after the holidays.

The YRCAA Board of Directors has instructed the Interim YRCAA APCO/ED to sign a contract with Yakima County HR to conduct a search to fill the position. The contract has not been presented to the board in an open public meeting and the board has not approved wording of the contract in an open public meeting.

On January 31, 2022, FOTC asked Yakima County and the YRCAA for a job description for the APCO/ED position and for a listing of outlets where the job is posted.

On February 5, 2022, FOTC submitted a public records request to the YRCAA for a job description for the APCO/ED position and for a listing of outlets where the job is posted. The

YRCAA did not respond to this request within five working days as required by RCW 42.56.520.

On February 10, 2022, FOTC submitted a public records request for a copy of the contract between the YRCAA and Yakima County HR to conduct a search for a new YRCAA APCO/ED. FOTC resubmitted this request on February 17, 2022. To date the YRCAA has not responded to this request as required by RCW 42.56.520.

On February 17, 2022, FOTC resubmitted a public records request to the YRCAA for a job description for the APCO/ED position and for a listing of outlets where the job is posted.

On February 18, 2022, the YRCAA provided an undated job description and a promise to identify outlets for the job posting when they are available.

#### **Inadequate Board Preparation:**

FOTC provides here an unofficial transcription of the February 10, 2022 YRCAA board discussion of the search for a new APCO/ED. FOTC believes this transcript will convince the court that the YRCAA board is not prepared to screen candidates for the APCO/ED position at this time.

*YRCAA Board Chairman Jon Devaney was absent for the February 2022 YRCAA board meeting. The meeting was conducted by Vice-Chairman Jose Trevino.*

*Vice Chair Trevino: Under Item 8 – Other Business – Update on search process for air pollution control officer and I don't know anything about where that's at. That would be Jon.*

*Interim Director Tahat: That would be exactly Jon, but the last thing I heard is, I have to announce this exactly the way I was told. I did not receive – Jon basically told the Human Resources for the county – they are the ones who are doing the work for us – so they asked Jon what are the benefits for an executive director. And Jon thought that he doesn't really know 100% to ask me. So Human Resources sent me an email asking me what are those benefits. I sent them a copy of the administrative code which we have for us. Its 20 or 50 pages, basically for us, that anyone can read and so on and so forth. So I sent it to them. I only signed it based on your recommendation, I signed the agreement between*

*our agency and the county, the Human Resources. Beyond that I don't have any involvement because the Human Resources, the county, they told me point blank – If you even change your mind in the future and apply for the position – because I wasn't planning to apply for the position. So they told me – if you change your mind you cannot apply for it so that you should know, but if you change your mind in the future you can list basically somebody else to deal with that. That's why we referred it to Jon as the chair board and he has been dealing with it. I don't know if it has had anything. . .*

*Female Voice: I don't, I, yeah. . .*

*Trevino: Uhmm, Commissioner, do you have anything to add?*

*Commissioner McKinney: Yeah. And I have to go through my emails right here, but I think that we all -the last information I have is when Jon forwarded to all of us then the proposed job announcement, uhmm, and requested feedback and, uhmm, it looks like, uhmm, because I'm not privy to any of us asked for any changes, uhmm, so each member can comment on that. And then I know that we have a, just a, clarification for wanting to know who would be on the interview panel, I believe to help facilitate the meetings. Uhmm and that there was concurrence that board members would be on the interview panel and do the scoring. So that is the most recent update I have.*

*Trevino: Thank you commissioner. I appreciate that.*

*McKinney: Yes, sir.*

*Trevino: OK, anything else”*

*Adjourn*

### **Reasons for Granting a Writ of Mandamus**

Rushing through the search process for a YRCAA APCO/ED will not provide the best pool of highly qualified candidates for this important position. Saving a few dollars during the search process may well result in huge costs down the road as the YRCAA deals with serious problems regarding air pollution in Yakima County.

The YRCAA Board of Directors has not substantively discussed the qualifications for this position, nor agreed upon a selection process in an open public meeting. The YRCAA Board meets once a month. The next board meeting is on March 10, 2022, ten days after the scheduled first screening. Thus, there is no opportunity for presentation of screening criteria and approval of a process in an open public meeting before the screening takes place.

Important documents and information are not currently available to the public. This information and documentation must be provided in a timely manner so that the public can participate in local government, as required by law.

If the first screening for selection of a YRCAA APCO/ED takes place on February 28, as posted, the YRCAA Board of Directors could easily appoint a minimally qualified applicant to the position at that time. Potential consequences include failure to improve Yakima County air quality, failure to engage the public, and failure to strengthen the YRCAA as a public agency.

Highly qualified candidates are busy people with full schedules. Such individuals will want to research this position before applying. They will have difficulty gathering three letters of support and application materials in a few days.

#### **Memorandum explaining why there is no adequate remedy at law**

The YRCAA Board of Directors restricts public participation at board meetings to three minute presentations. There is no dialogue with the board. The YRCAA Directors rarely respond to written public comments, even when well prepared and supported with evidence.

FOTC has contacted the YRCAA Board of Directors at least twice with concerns about the APCO/ED selection and the board has not replied.

#### **Conclusion**

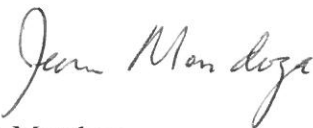
Quality of life in Yakima County depends on clean air. The only agency with the power and authority to secure clean air for Yakima County is the Yakima Regional Clean Air Agency. To perform this job well, the agency needs strong, highly qualified leadership.

Please postpone the first screening of YRCAA APCO/ED applicants until:

- The public receives and has time to review and publicize the YRCAA job description for APCO/ED

- The job announcement has been distributed across the west coast and there is sufficient time (at least three weeks) for qualified professionals to study the announcement
- The public receives and has time to study the contract between the YRCAA and Yakima County HR
- There is an adequate pool (at least 10 applications) of candidates for the position of YRCAA APCO/ED
- The YRCAA board of directors has approved, in an open public meeting, a list of members of the screening and selection committee for the position of YRCAA APCO/ED
- The YRCAA board of directors has approved, in an open public meeting, a process for screening and selecting a YRCAA APCO/ED

Respectfully submitted this 21<sup>st</sup> Day of February 2022

s/ 

Jean Mendoza

Executive Director Friends of Toppenish Creek  
3142 Signal Peak Road  
White Swan, WA 98952

I, Jean Mendoza, Executive Director for Friends of Toppenish Creek, affirm that this petition is a true statement

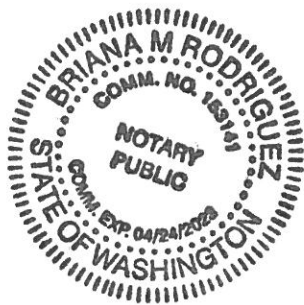
Jean Mendoza Feb 21, 2022

State of Washington  
County of Yakima

I certify that I know or have satisfactory evidence that Jean Rosina Mendoza is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: February 21, 2022

(Seal or stamp)



Briana M Rodriguez  
Signature

Notary Public  
Title

My appointment expires: April 24, 2023

### CERTIFICATION OF SERVICE

I hereby certify that on the 21<sup>st</sup> day of February 2022, I served one true and correct copy of the foregoing on the following individuals using e-mail.

Yakima Regional Clean Air Agency  
Dr. Hasan Tahat, Interim Air Pollution Control Officer/Executive Director  
186 Iron Horse Court, Suite 101  
Yakima, WA 98901  
Email: [Hasan@vrcaa.org](mailto:Hasan@vrcaa.org)

Yakima Regional Clean Air Agency  
Jon DeVaney, Chairman of the YRCAA Board of Directors  
186 Iron Horse Court, Suite 101  
Yakima, WA 98901  
Email: [Boardposition5@vrcaa.org](mailto:Boardposition5@vrcaa.org)

s/ Jean Mendoza  
Jean Mendoza  
Executive Director, Friends of Toppenish Creek  
3142 Signal Peak Road  
White Swan, WA 98952

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND  
FOR YAKIMA COUNTY

FRIENDS OF TOPPENISH CREEK

Appellant

v.

YAKIMA REGIONAL CLEAN AIR  
AGENCY

Respondents

Case No. 22-2-00333-39.

**RESPONSE TO MOTION TO  
DISMISS**

The Friends of Toppenish Creek respectfully submit this response to the Yakima Regional Clean Air Agency's Motion for Dismissal.

This petition is simple. The Friends of Toppenish Creek ask the Court for a Writ of Mandamus ordering the Yakima Regional Clean Air Agency to delay a first screening of applicants for the position of Air Pollution Control Officer/Executive Director until such time as the job posting is widely distributed and a sufficiently large pool of highly qualified candidates is available for interviews.

1 The appeal is urgent because the job was posted on the evening of February 17, 2022, and the  
2 first screening is scheduled for February 28, 2022, only six working days after the initial posting.  
3 The Friends of Toppenish Creek were prevented from following all legal requirements for a Writ  
4 of Mandamus by this shortened schedule.

5 The appeal is urgent because the current schedule and process allow individuals with special  
6 interests to inform preferred candidates about the position, rush them through the (undefined)  
7 screening process and convince the YRCAA Board of Directors to hire a preferred candidate  
8 before the board has interviewed other equally or better qualified candidates.

9 The Friends of Toppenish Creek sympathize with the court in dealing with a non-lawyer.  
10 Nevertheless, hiring a well-qualified Air Pollution Control Officer/Executive Director is so  
11 important for Yakima County that we ask your indulgence as we try to address the Yakima  
12 Regional Clean Air Agency objections. If the court decides that more time is required, we  
13 respectfully request a temporary order to prevent the Yakima Regional Clean Air Agency from  
14 initiating screening until after the court has ruled.

15 The Friends of Toppenish Creek continue to advocate for collaboration rather than  
16 confrontation as this case moves forward because collaboration serves the best interests of the  
17 people who call Yakima County home and confrontation sows seeds of discontent. We agree  
18 with the Respondent that, "it is important for all citizens to have clean air and to have a  
19 competent APCO/ED."

20  
21 **Response to Petition for Dismissal**

22 Respondent gives three reasons for dismissal. According to Respondent:

- 23 1. Petitioner, as a corporation, must be represented by a licensed attorney.  
24

2. The Court lacks jurisdiction because the petitioner improperly noticed the petition.

3. The Petitioner cannot meet the elements for the granting of a Writ of Mandamus

We will address the reasons for dismissal one by one.

**1. Petitioner, as a corporation, must be represented by a licensed attorney**

Jean Mendoza, Executive Director for the Friends of Toppenish Creek has represented the Friends of Toppenish Creek pro se in Case Number 19-060 before the WA State Pollution Control Hearings Board.

RCW 42.30.130 states:

*Any person may commence an action either by mandamus or injunction for the purpose of stopping violations or preventing threatened violations of this chapter by members of a governing body.*

RCW 42.30.140 states:

*If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:*

*(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or*

1           (2) *That portion of a meeting of a quasi-judicial body which relates to a quasi-*  
2 *judicial matter between named parties as distinguished from a matter having general*  
3 *effect on the public or on a class or group; or*

4           (3) *Matters governed by chapter 34.05 RCW, the Administrative Procedure Act;*  
5 *or*

6           (4)(a) *Collective bargaining sessions with employee organizations, including*  
7 *contract negotiations, grievance meetings, and discussions relating to the interpretation*  
8 *or application of a labor agreement; or (b) that portion of a meeting during which the*  
9 *governing body is planning or adopting the strategy or position to be taken by the*  
10 *governing body during the course of any collective bargaining, professional negotiations,*  
11 *or grievance or mediation proceedings, or reviewing the proposals made in the*  
12 *negotiations or proceedings while in progress.*

13  
14 Friends of Toppenish is registered as a tax exempt 501 C (3) non-profit corporation in the  
15 State of Washington. Friends of Toppenish Creek is not a for profit C Corporation. There is a  
16 difference. Friends of Toppenish Creek is a completely volunteer organization that does not  
17 generate profits. Friends of Toppenish Creek has an annual budget of less than \$5,000 with less  
18 than \$5,000 available for legal expenses.

19 The Laws of Washington State do not restrict access to the laws of the state to persons who  
20 are financially able to hire attorneys.

21 The short time frame in this case does not give Friends of Toppenish Creek time to acquire  
22 legal assistance. Friends of Toppenish does not have an attorney on staff. Personnel at the  
23 Yakima County Clerk's office advised Friends of Toppenish Creek to seek legal assistance from  
24

1 the Northwest Justice Project/ "CLEAR" on Tuesday, February 22, 2022. We called "CLEAR"  
2 and we were told that no legal assistance is currently available.

3 CR II does not state that "corporations appearing in court proceedings must be represented by  
4 an attorney". Respondents mischaracterize the requirement for legal representation based on  
5 incomplete reference to three cases.

6 **LLOYD ENTERPRISES v. Longview Plumbing, 958 P.2d 1035, 91 Wash. App. 697 (Ct. App.**  
7 **1998).**

8 *In the second action, Lloyd Enterprises, Inc, filed suit against Longview Plumbing and Berry,*  
9 *Inc, as well as other parties. Longview Plumbing filed a third party complaint against Wade*  
10 *Berry and Jane Doe Berry, and Berry, Inc. Here too Wade Berry filed an answer to both*  
11 *complaints pro se.*

13 **Cottringer v. Employment Security Department, 162 Wn. App. 782 (Wash. Ct. App. 2011)**

14 *The court ordered PSSP to retain counsel within 30 days or suffer dismissal of its petitions for*  
15 *review with prejudice. (Emphasis added)*

16 *In Washington, with limited exceptions, individuals appearing before the court on behalf of*  
17 *another party must be licensed in the practice of law. (Emphasis added)*

19 **Biomed Comm, Inc. v. STATE, DEPT. OF HEALTH BD., 193 P.3d 1093, 146 Wash. App.**  
20 **929 (Ct. App. 2008).**

21 *In an appeal of an administrative agency decision, a court may strike a pleading of a*  
22 *corporation that is not signed by an attorney, provided the court gives the corporation a*  
23 *reasonable time to correct the error.*  
24

**2. The Court lacks jurisdiction because the petitioner improperly noticed the petition.**

Respondent claims:

*Instead, Ms. Mendoza filed and served this action on February 22, 2022, noticing a hearing for February 25, 2022. This is not sufficient notice to defendant and does not comply with RCW 7.16.190. As such, petitioner's petition for writ of mandamus should be denied.*

It was not possible to meet this requirement.

Because the Yakima Regional Clean Air Agency acted in what Friends of Toppenish Creek allege was an unlawful manner and scheduled a first screening of applicants for the position of Air Pollution Control Officer/Executive Director six working days after the job posting, Friends of Toppenish Creek did not have ten days in which to give notice as required by law.

If Friends of Toppenish Creek were forced to wait ten days for a hearing the case would be moot because an initial screening would have been completed. The Friends of Toppenish Creek were not aware of the YRCAA notice stating "First Applicant Screening February 28, 2022" until the evening of February 17, 2022. As non-attorneys we struggled to understand the relevant law throughout the days of February 18, 19 & 20. Friends of Toppenish Creek visited the Yakima County Courthouse on February 21, 2022, to file a petition, but the courthouse was closed in observance of President's Day. Friends of Toppenish Creek filed a petition for a Writ of Mandamus at the earliest possible opportunity, on February 22, 2022.

**3. The Petitioner cannot meet the elements for the granting of a Writ of Mandamus**

Those three elements are:

- a) "the party to the writ is under a clear duty to act"
- b) "the applicant has no plain, speedy and adequate remedy in the ordinary court of law"

1 c) "the applicant is 'beneficially interested'"

2 The Friends of Toppenish Creek assert that the Yakima Regional Clean Air Agency has a  
3 clear duty to comply with RCW 42.30.130. The Yakima Regional Clean Air Agency Board of  
4 Directors has a clear duty to hire a well-qualified Air Pollution Control Officer/Executive  
5 Director using publicly stated processes.

6 Due to the severe time constraints in this case, there is no other plain or adequate remedy in  
7 the ordinary court of law. All other potential remedies would take place after the allegedly illegal  
8 action has been completed.

9 As advocates for the people who suffer from serious air pollution in the Lower Yakima  
10 Valley, and as residents of the Lower Yakima Valley, the Friends of Toppenish Creek have a  
11 beneficial interest in the hiring of the most qualified person to administer the state and federal  
12 Clean Air Acts in Yakima County. If a less than qualified person is hired for this position the  
13 Friends of Toppenish Creek and the people we represent will continue to suffer worsening health  
14 and early death due to air pollution.

15  
16 Respondents err when they assert "The City does not have a clear duty to act". This petition  
17 does not address a City.

18  
19 The Friends of Toppenish Creek do not "take(s) umbrage" with the fact that the defendant  
20 only holds one board meeting a month. We provided this information to the court, knowing that  
21 the court likely does not know how often the Yakima Regional Clean Air Agency Board of  
22 Directors meets. The Friends of Toppenish Creek have never asserted that the Yakima Regional  
23  
24

1 Clean Air Agency has “any duty to hold more than one meeting a week” or a duty to hold more  
2 than one meeting a month.

3  
4 The Friends of Toppenish Creek provided an unofficial transcription of the February 10, 2022  
5 Yakima Regional Clean Air Agency Board meeting to demonstrate the board’s very low level of  
6 understanding of the hiring process. For example, the Vice Chair stated, ‘Under Item 8 – Other  
7 Business – Update on search process for air pollution control officer and I don’t know anything  
8 about where that’s at.’

9  
10 Respondent is incorrect in stating on page 10, line 23, “Defendant is without sufficient  
11 knowledge or information so as to admit or deny whether the February 10, 2022 transcript  
12 provided by petitioner is accurate and therefore denies the same.” A recording of the February  
13 10, 2022 Yakima Regional Clean Air Agency Board Meeting is available on the Yakima  
14 Regional Clean Air website.

15  
16 Respondent states, “The petitioner has failed to show it does not have an adequate remedy at  
17 law.” We disagree. The Friends of Toppenish Creek have taken every action at our disposal,  
18 given the short time frame in this case.

19  
20 Respondent states on page 6, lines 25 – 28, “As such, petitioner has not identified how they  
21 are beneficially different from all other citizens and therefore does not have standing to bring its  
22 petition.” The Friends of Toppenish Creek did not anticipate this level of resistance from the  
23  
24

1 Yakima Regional Clean Air Agency. We attempted to present a concise petition. In answer to  
2 Respondent's assertion the Friends of Toppenish Creek state:

- 3 a) Morbidity and mortality rates from COVID 19 are higher in Yakima County compared to  
4 the rest of Washington State. Credible research shows a significant relationship between  
5 poor air quality and COVID 19 morbidity and mortality.
- 6 b) The Friends of Toppenish Creek have performed air studies that found ammonia levels  
7 66 time higher in the Lower Yakima Valley compared to the Upper Yakima Valley.
- 8 c) The Friends of Toppenish Creek have provided the Yakima Regional Clean Air Agency  
9 with air quality data that shows rising levels of fine particulate matter in the county and  
10 increasing chances that Yakima County will be placed in a "non-attainment" category.

11 The Friends of Toppenish Creek disagree with the Respondent statement on page 9, lines 13  
12 & 14, that says, "Defendant is without sufficient knowledge or information to admit or deny the  
13 allegations relating to air quality in Yakima County and therefore denies the same." If the  
14 Yakima Regional Clean Air Agency does not know about air quality in Yakima County who  
15 does?

16  
17  
18 Respectfully submitted this 25<sup>th</sup> day of February 2022

19 s/ 

20 Jean Mendoza

21 Executive Director Friends of Toppenish Creek  
22 3142 Signal Peak Road  
23 White Swan, WA 98952  
24

CERTIFICATE OF SERVICE

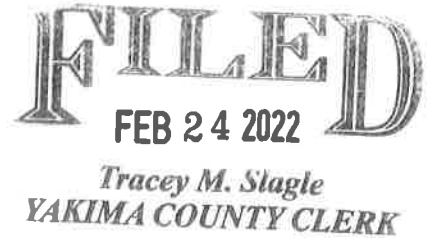
I hereby certify that on the 25th day of February, 2022, I served one true and correct copy of the foregoing on the following individuals using e-mail.

Kirk A. Ehlis  
Aziza L. Foster  
Attorneys for Respondent  
Menke, Jackson, Byer, LLP  
807 N. 39<sup>th</sup> Avenue  
Yakima, WA 98902

Dr. Hasan Tahat  
Yakima Regional Clean Air Agency  
186 Iron Horse Court, Suite 101  
Yakima, WA 98901

s/ *Jean Mendoza*

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



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR YAKIMA COUNTY

FRIENDS OF TOPPENISH CREEK,  
a non-profit organization,

Petitioner,

vs.

YAKIMA REGIONAL CLEAN AIR AGENCY,  
a municipal corporation

Respondent.

NO. 22-2-00333-39

**DEFENDANT'S MOTION TO  
DISMISS PETITION FOR WRIT  
OF MANDAMUS AND ANSWER  
AND AFFIRMATIVE DEFENSES**

Defendant, Yakima Regional Clean Air Agency ("YRCAA"), by and through their attorneys of record, Kirk A. Ehlis and Aziza L. Foster, of Menke Jackson Beyer, LLP, hereby submit their Motion to Dismiss and Answer to Petitioner's Petition for Writ of Mandamus.

**DEFENDANT'S MOTION TO DISMISS PETITIONER'S PETITION FOR WRIT  
OF MANDAMUS**

Defendant, Yakima Regional Clean Air Agency ("YRCAA"), by and through their attorneys of record, Kirk A. Ehlis and Aziza L. Foster, of Menke Jackson Beyer, LLP, hereby submit their Motion to Dismiss and respectfully request this Court dismiss petitioner's petition with prejudice.

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**DEFENDANT'S MOTION TO DISMISS AND  
ANSWER - 1**

**MENKE JACKSON BEYER**  
807 North 39<sup>th</sup> Avenue  
Yakima, WA 98902  
Telephone (509)575-0313  
Fax (509)575-0351

# **I. Introduction**

Petitioner filed its Petition for Writ of Mandamus, requesting this Court prevent YRCAA from screening candidates for the position of Air Pollution Control Officer/Executive Director ("APCO/ED"). Petitioner requests that YRCAA be prevented from conducting its first screening of candidates until the following six conditions are met:

1. The public receives and has time to review the YRCAA job description for APCO/ED.

2. The job announcement has been distributed across the west coast and there is sufficient time (at least three weeks) for qualified professionals to study the announcement.

3. The public receives and has time to study the contract between the YRCAA and Yakima County Human Resources.

4. There is an adequate pool (at least 10 applications) of candidates for the position of YRCAA APCO/ED.

5. The YRCAA board of directors has approved, in an open public meeting, a list of members of the screening and selection committee for the position of YRCAA APCO/ED.

6. The YRCAA board of directors has approved, in an open public meeting, a process for screening and selecting the YRCAA APCO/ED.

However, this petition is invalid and should be dismissed for at least three reasons. First, petitioner, as a corporation, must be represented by a licensed attorney. Second, the Court lacks jurisdiction because the petitioner improperly noticed the petition. Lastly, the petitioner cannot meet the elements for the granting of a writ of mandamus.

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**DEFENDANT'S MOTION TO DISMISS AND  
ANSWER - 2**

**MENKE JACKSON BEYER**  
807 North 39<sup>th</sup> Avenue  
Yakima, WA 98902  
Telephone (509)575-0313  
Fax (509)575-0351

## II. Analysis

### A. Corporations must be represented by an attorney.

Under CR 11, every pleading must be signed either by an attorney of record or a pro se litigant. CR 11(a). Ms. Mendoza, presumably, signed the petition thinking that she could represent petitioner pro se because she is its executive director. However, Washington law follows the general common law rule followed by other jurisdictions, and all federal courts, that “corporations appearing in court proceedings must be represented by an attorney.” *Lloyd Enter., Inc. v. Longview Plumbing & Heating Co.*, 91 Wn. App. 697, 701 (1998); *see also Cottringer v. Dept. of Emp. Sec.*, 162 Wn. App. 782 (2011); *Biomed Comm, Inc. v. Dept. of Health Bd. of Pharmacy*, 146 Wn. App. 929 (2008). This is “[b]ecause corporations are artificial entities that can only act through their agents”. *Lloyd Enter.*, 91 Wn. App. at 701. As such, the limited exception allowing pro se representation does not apply. *See Cottringer*, 162 Wn. App. 782.

Friends of Toppenish Creek is a non-profit corporation. As such, any action filed on its behalf must be signed by an attorney licensed to practice in the state of Washington. Ms. Mendoza did not attach a Washington State Bar Association number to her signature and to the best of defendant’s knowledge, Ms. Mendoza is not a licensed attorney within the State of Washington. As such, the petition was not signed by a licensed attorney. The appropriate remedy, therefore, is to strike the pleading and dismiss the case. *Biomed Comm, Inc.*, 146 Wn. App. at 935; *see also* CR 11(a). As such, defendant respectfully requests that this Court strike petitioner’s petition for writ of mandamus and dismiss the petition with prejudice.

### B. Lack of jurisdiction.

There are two types of writs of mandamus, an alternative writ and a peremptory writ. RCW 7.16.180. The difference is important. An alternative writ is a court order that either directs a party to perform or cease an activity or to show cause why the party should not be

ordered to do or cease from doing something. *Id.* A peremptory writ is similar, but omits the requirement to show cause. *Id.* If an application for a writ of mandamus is made to the court without notice, then an alternative writ, with a show cause hearing date already set, is issued. RCW 7.16.190. If notice is given, then a peremptory writ may be issued. *Id.* However, if notice of an application is given, it must be given at least ten days before. *Id.*

Because Ms. Mendoza did not serve YRCAA with a court order and the requirement to show cause is absent, then the petition is a peremptory writ, not an alternative writ. As such, Ms. Mendoza was required to follow the procedures for peremptory writ as laid out in RCW 7.16.190. However, Ms. Mendoza failed to comply with the statutory procedures as she did not give YRCAA at least ten days notice. Instead, Ms. Mendoza filed and served this action on February 22, 2022, noticing a hearing for February 25, 2022. This is not sufficient notice to defendant and does not comply with RCW 7.16.190. As such, petitioner's petition for writ of mandamus should be denied.

**C. Petitioner cannot meet the elements for a writ of mandamus.**

There are three elements that must be met before a court can grant a writ of mandamus: "(1) the party subject to the writ is under a clear duty to act; (2) the applicant has no plain, speedy and adequate remedy in the ordinary court of law; and (3) the applicant is 'beneficially interested.'" *Eugster v. City of Spokane*, 118 Wn. App. 383, 402 (2003) (internal citation and quotation omitted). The petition for writ of mandamus must be dismissed as petitioner cannot meet any of the elements for granting a writ of mandamus.

*i. The City does not have a clear duty to act.*

First, and most importantly, the petitioner has not identified any mandatory duty to act that the defendant has. Petitioner has identified that, under RCW 42.30.130, an action for mandamus or injunction may be commenced to stop or prevent a violation of the Open Public

Meetings Act ("OPMA"). However, that is just a statement of the law. RCW 42.30.130 does not impose a duty upon the defendant, but rather simply states potential remedies for a violation of the OPMA.

Instead of identifying any duty the defendant has, the petitioner simply speculates that "the YRCAA board is not prepared to screen candidates for the APCO/ED position at this time." Petition, pg. 6. The petitioner also takes umbrage with the fact that the defendant only holds one board meeting a month. Petition, pg. 7. However, petitioner has not shown any evidence that the defendant is unqualified to screen candidates nor has petitioner identified any duty to hold more than one meeting a week.

Further, assuming petitioner had identified some duty the defendant has, at most "[m]andamus can direct an officer to exercise a mandatory discretionary duty, but not the manner of exercising that discretion." *Eugster*, 118 Wn. App. at 405. Therefore, "a mandamus applicant cannot exactly shape a mandatory discretionary act." *Id.* The list of requirements petitioner asks this court to impose upon the YRCAA is an attempt to control the manner the YRCAA exercises its discretion to hire an APCO/ED. Because the petitioner has failed to identify a mandatory duty of the defendant, mandamus is inappropriate.

ii. The petitioner has failed to show it does not have an adequate remedy at law.

A petitioner's affidavit or complaint in support of a writ of mandamus "must 'allege sufficient facts to establish that the appellants had no plain, speedy, or adequate remedy in the ordinary course of law.'" *Id.* at 414 (quoting *Edwards v. Tremper*, 49 Wn.2d 677, 678 (1957)). The duty, therefore, is upon the petitioner to show that they *do not* have an adequate remedy rather than upon the defendant to show that *there is* an adequate remedy.

Here, petitioner has failed to showcase any facts that they do not have a plain, speedy, or adequate remedy. Instead, all petitioner alleges is that they are not satisfied with the level of communication the YRCAA has with the public. The petitioner also takes issue with the fact that, allegedly, the YRCAA has not responded to public comments or to concerns that the petitioner has with APCO/ED selection. However, petitioner has not identified any requirement that the YRCAA has to do more than allow public comments at board meetings. There is no evidence to support the contention that the YRCAA has to respond to, or even take into account, petitioners' concerns in the APCO/ED selection process. Because petitioner has failed to show that they do not have an adequate remedy at law, mandamus is inappropriate.

iii. Petitioner is not beneficially interested.

"An individual has standing to bring an action for mandamus, and is therefore considered to be beneficially interested, if he has an interest in the action beyond that shared in common with other citizens." *Retired Pub. Emp. Council of Wash. v. Charles*, 148 Wn.2d 602, 616 (2003). As noted *supra*, petitioner has not identified any duty imposed upon the YRCAA, therefore, it makes determining what interest different from the general public the petitioner is claiming to hold difficult. Presumably, petitioner is asserting either that it has an interest in having clean air or in having a screening process that results in the best APCO/ED. However, petitioner has not identified how they have an interest in clean air, having the best APCO/ED, or any other action of the YRCAA, beyond that in common with other citizens in Yakima County. Defendant's acknowledge that it is important for all citizens to have clean air and to have a competent APCO/ED. However, that is an interest that is important for all citizens in Yakima County, not just petitioner. As such, petitioner has not identified how they are beneficially interested different from all other citizens and therefore does not have standing to bring its petition.

### III. Conclusion

For the foregoing reasons, petitioner's petition for writ of mandamus should be dismissed.

### DEFENDANT'S ANSWER

Defendant, Yakima Regional Clean Air Agency ("YRCAA"), submits this answer to petitioner's Petition for Writ of Mandamus as well. *See State ex rel. Brown v. Warnock*, 12 Wn.2d 478, 486 (1942) (if a defendant wants to answer, it must submit it at the same time as its demurrer).

#### I. Statement of Relief Requested

1.1 Defendant only admits that it posted its job announcement for the APCO/ED on February 17, 2022, which speaks for itself, and denies each and every other allegation contained in Petitioner's Statement of Relief Requested.

#### II. Parties to the Proceedings

2.1 Defendant re-alleges and incorporates by reference all preceding admissions and denials contained in this Answer.

2.2 Defendant is without sufficient knowledge or information to admit or deny the allegations regarding Friends of Toppenish Creek's organizational status and therefore denies the same.

2.3 Defendant admits that YRCAA was formed under RCW 70A.15.160, formerly RCW 70.94.081. YRCAA further admits that it is delegated the authority to enforce certain Federal Regulations, the Washington Clean Air Act, State Regulations, and YRCAA Regulations, within the boundaries of Yakima County.

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**DEFENDANT'S MOTION TO DISMISS AND  
ANSWER - 7**

**MENKE JACKSON BEYER**  
807 North 39<sup>th</sup> Avenue  
Yakima, WA 98902  
Telephone (509)575-0313  
Fax (509)575-0351

### **III. Jurisdiction and Applicable Law**

3.1 Defendant realleges and incorporates by reference all preceding admissions and denials contained in this Answer.

3.2 Defendant admits only to the existence of RCW 7.16.160, which speaks for itself, and denies each and every other allegation of said paragraph.

3.3 Defendant admits that it is a municipal corporation, a public agency, and a local agency. Defendants further admits to the existence of RCW 70A.15.160, RCW 42.30.020, and RCW 42.56.010, which speak for themselves, and denies each and every other allegation of said paragraph.

3.4 Defendant is without sufficient knowledge or information so as to admit or deny petitioner's search of various policies and laws and therefore denies the same.

3.5 Defendant admits only to the existence of YCRAA Regulation 1, which speaks for itself, and denies each and every other allegation of said paragraph.

3.6 Defendant admits only to the existence of YRCAA Administrative Code Part A, which speaks for itself, and denies each and every other allegation of said paragraph.

3.7 Defendant admits that, as a public agency, it must follow the laws applicable to public agencies. Defendant further admits to the existence of chapter 42.30 RCW, which speaks for itself, and denies each and every other allegation of said paragraph.

3.8 Defendant admits only to the existence of YRCAA Administrative Code Part A, which speaks for itself, and denies each and every other allegation of said paragraph.

3.9 Defendant admits that, as a local agency, it must follow the laws applicable to local agencies. Defendant further admits to the existence of RCW 42.56.570 and YRCAA Administrative Code Part C, which speak for themselves, and denies each and every other allegation of said paragraphs.

3.10 Defendant admits only to the existence of RCW 7.16.160, which speaks for itself, and denies each and every other allegation of said paragraph.

3.11 Defendant admits only to the existence of RCW 42.30.130, which speaks for itself, and denies each and every other allegation of said paragraph.

#### IV. Statement of the Issue

4.1 Defendant realleges and incorporates by reference all preceding admissions and denials contained in this Answer.

4.2 Defendant admits only that its APCO/ED has the authority to implement state and federal laws within Yakima County. Defendant denies each and every remaining allegation in said paragraph.

4.3 Defendant is without sufficient knowledge or information to admit or deny the allegations relating to air quality in Yakima County and therefore denies the same.

4.4 Defendant admits only that Friends of Toppenish have contacted the Washington State Department of Ecology to complain about defendant, and denies each and every other allegation of said paragraph.

#### **Timeline:**

4.5 Defendant admits only that, in February of 2017, its Board of Directors selected a new APCO/ED who had a bachelor's degree in physical fitness. Defendant denies each and every other allegation of said paragraph.

4.6 Defendant admits only that, in October of 2021, its APCO/ED resigned. Defendant denies each and every other allegation of said paragraph.

4.7 Defendant admits only that, in December of 2021, the petitioner asked during the public comment period to have someone who represents the Lower Yakima Valley in the selection committee. Defendant denies each and every other allegation of said paragraph.

4.8 Defendant admits only that the Interim APCO/ED was given permission by the YRCAA Board of Directors in an open meeting on December 10, 2021 to sign a contract with Yakima County HR to conduct a search to fill the position of APCO/ED. Defendant denies each and every other allegation of said paragraph.

4.9 Defendant denies that it received a request for the APCO/ED position from the petitioner. Defendant is without sufficient knowledge or information so as to admit or deny whether petitioner requested information from Yakima County and therefore denies the same. Defendant denies each and every other allegation of said paragraph.

4.10 Defendant denies that it received a public records request from petitioner on February 5, 2022.

4.11 Defendant denies that it received a public records request from petitioner on February 10, 2022.

4.12 Defendant admits that it received a public records request from petitioner on February 17, 2022.

4.113 Defendant admits only that, on February 18, 2022, it provided a job description for the APCO/ED job opening. Defendant denies each and every other allegation of said paragraph.

#### **Inadequate Board Preparation:**

4.13 Defendant is without sufficient knowledge or information so as to admit or deny whether the February 10, 2022 transcript provided by petitioner is accurate and therefore denies the same.

#### **V. Reasons for Granting A Writ of Mandamus**

5.1 Answering defendants reallege and incorporate by reference all preceding admissions and denials contained in this Answer.

**DEFENDANT'S MOTION TO DISMISS AND  
ANSWER - 10**

**MENKE JACKSON BEYER**  
807 North 39th Avenue  
Yakima, WA 98902  
Telephone (509)575-0313  
Fax (509)575-0351

5.2 Petitioner provides five unnumbered paragraphs listing the reasons it believes this court should grant its mandamus petition. Defendant denies each and every allegation contained in said paragraphs.

**IV. Memorandum Explaining Why There is No Adequate Remedy at Law.**

5.9 Answering defendants reallege and incorporate by reference all preceding admissions and denials contained in this Answer.

5.10 Defendant denies each and every allegation raised in petitioner's memorandum explaining why there is no adequate remedy at law.

**ALL ALLEGATIONS NOT EXPRESSLY ADMITTED ARE DENIED**

Defendant asserts by way of AFFIRMATIVE DEFENSES the following:


1. Petitioner's Petition fails to state a claim upon which relief can be granted;
2. Petitioner has failed to assert this Court's jurisdiction over defendant; and
3. Defendant owed no duty specifically to petitioners.

**PRAYER FOR RELIEF**

Answering defendants requests the following relief:

1. The petitioner's petition be dismissed with prejudice;
2. The petitioner be awarded nothing;
3. Defendants be awarded its reasonable attorney's fees and costs pursuant to applicable statute, case law or recognized ground in equity for litigating this matter; and
4. For such other and further relief as the court deems just and equitable under the circumstances.

DATED this 24 day of February, 2022

 WSBA # 43853 For  
KIRK A. EHLIS (WSBA # 22908)

**DEFENDANT'S MOTION TO DISMISS AND  
ANSWER - 11**

**MENKE JACKSON BEYER**  
807 North 39th Avenue  
Yakima, WA 98902  
Telephone (509)575-0313  
Fax (509)575-0351

AZIZA L. FOSTER (WSBA # 58434)  
Attorneys for Respondent  
Menke Jackson Beyer, LLP  
807 N. 39<sup>th</sup> Avenue  
Yakima, WA 98902

**DEFENDANT'S MOTION TO DISMISS AND  
ANSWER - 12**

**MENKE JACKSON BEYER**  
807 North 39<sup>th</sup> Avenue  
Yakima, WA 98902  
Telephone (509)575-0313  
Fax (509)575-0351

**CERTIFICATE OF SERVICE**

I certify, under penalty of perjury, under the laws of the State of Washington, that on this day I served a true and correct copy of the attached document on the petitioner named herein by email at jeanrmendoza@icloud.com and by depositing in the United States Postal Service, postage prepaid properly addressed as follows:

Friends of Toppenish Creek  
3142 Signal Peak Road  
White Swan, WA 98952

Dated in Yakima, Washington, this 24<sup>th</sup> day of February, 2022

  
JANET L. ROSE

## Exhibit 1



**Board Position 5**

To: Jean Mendoza

Feb 22, 2022 at 10:28 AM

[Details](#)

### Re: YRCAA Open Public Meetings Act

Dear Ms. Mendoza,

Pursuant to Section 2 of the YRCAA Administrative Code I have forwarded your letter to the Acting Executive Director/APCO for review. Dr. Tahat will provide any recommendations as appropriate at the next regularly scheduled YRCAA Board Meeting.

Jon DeVaney

YRCAA Board Chair

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**From:** Jean Mendoza <jeanrmendoza@icloud.com>

**Sent:** Monday, February 21, 2022 6:11:39 AM

**To:** Board Position 5

**Subject:** YRCAA Open Public Meetings Act

Dear Chairman DeVaney,

Please see the attached letter from Friends of Toppenish Creek. Would you let me know when you receive this letter?

Thank you.

Jean Mendoza



February 21, 2022

Dear Chairman DeVaney,

Section 2 of the Yakima Regional Clean Air Agency (YRCAA) Administrative Code Part A states:

*Any Board Member or person who suspects the Board has violated the Open Public Meeting Law is requested to advise the Chair in writing within thirty (30) days of the time that the alleged violation occurred.*

Pursuant to this directive I am advising you that the YRCAA board may have violated:

- Section 5 of the YRCAA Administrative Code Part A
- RCW 42.30.030
- RCW 42.30.060

We were alerted to this possibility when Commissioner McKinney stated at the February 10, 2022, YRCAA Board Meeting,

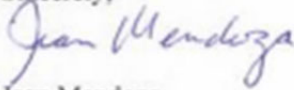
*Yeah. And I have to go through my emails right here, but I think that we all -the last information I have is when Jon forwarded to all of us then the proposed job announcement, uhmm, and requested feedback and, uhmm, it looks like, uhmm, because I'm not privy to any of us asked for any changes, uhmm, so each member can comment on that. And then I know that we have a, just a, clarification for wanting to know who would be on the interview panel, I believe to help facilitate the meetings. Uhmm and that there was concurrence that board members would be on the interview panel and do the scoring. So that is the most recent update I have.*

On February 10, 2022, Friends of Toppenish Creek (FOTC) submitted a public records request for a copy of the contract between YRCAA and Yakima County Human Resources. YRCAA public records officer Pamela Herman told us by email that she did not receive this request. FOTC resubmitted the request on February 17. We have not received a reply.

It appears that the YRCAA Board of Directors has:

- Authorized signing of a contract with Yakima County Human Resources that was not reviewed by the board members and was not made public
- Agreed upon the makeup of an interview panel for selection of an Air Pollution Control Officer/Executive Director by email vote, rather than in a public meeting.
- Not agreed upon scoring criteria and processes for an Air Pollution Control Officer/Executive Director in an open public meeting.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jean Mendoza". The signature is fluid and cursive, with the first name "Jean" and last name "Mendoza" clearly distinguishable.

Jean Mendoza

Executive Director, Friends of Toppenish Creek  
3142 Signal Peak Road  
White Swan, WA 98952



## EXECUTIVE DIRECTOR

### Job Announcement

Open Until Filled



Our mission is to protect the people and the environment of Yakima County from the effects of air pollution. The Yakima Regional Clean Air Agency is committed to achieving and maintaining healthful air quality throughout our jurisdiction. This is accomplished through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues.

As part of our clean air strategy, we do the following:

- Adopt rules that limit pollution, issue permits to ensure compliance, and inspect pollution sources.
- Administer an Agricultural Burning Plan to preserve air quality in Yakima County, protect public health and safety, and to ensure agricultural burning, as may be necessary, continues in a safe, regulated fashion.

- Inventory and assess the health risks of toxic air emissions.
- Monitor the county's air quality with a variety of air quality monitoring stations.
- Prepare Clean Air Plans to identify how much pollution is in our air, where it comes from, and how to control it most effectively.
- Analyze the air quality impact of new businesses and land development projects.
- Respond to public complaints and inquiries.
- Work with other government agencies to ensure their decisions coordinate with good air quality programs.
- Help individuals and businesses understand and comply with federal, State, and local air pollution control laws.
- Inform the public about air quality conditions and health implications.
- Issue permits to build, alter, and operate equipment to companies under our jurisdiction that either cause, contribute to, or control air pollution.



The Yakima Air Quality Governing Board of Directors is comprised of five members. The Board establishes policy and approves new rules. The Board meets the 2nd Thursday of each month. The Executive Director represents and directs the agency daily and reports directly to the Board of Directors. The Executive Director also supervises the Executive Office Division. YRCAA Division Supervisors oversee the daily workings of the Engineering and Planning and Compliance and Monitoring Divisions.

The YRCAA governing Board of Directors consists of two representatives of the Yakima County Commissioners; one large city representative (usually a councilmember); one small city representative (elected by the City Selection committee); and one member-at-large (selected by the other four Board Members). Each Board Member selects an alternate who serves in their place, should they be unable to attend a Board Meeting. Board Meetings are traditionally held the second Thursday of each month. Special Board Meetings are scheduled as needed.



The YRCAA is delegated to enforce certain Federal Regulations, the Washington Clean Air Act, State Regulations and YRCAA Regulations, within the boundaries of Yakima County. This applies to all areas of Yakima County except for Yakama Indian Reservation lands, which are overseen by the Environmental Protection Agency, and fall under the Federal Air Rules for Reservations (FARR) regulations.

### **Position Summary**

Directs and oversees all activities of the Agency and serves as Chief Executive Officer to the Governing Board of Directors and Chief Financial Officer for the Agency. YRCAA has a staff size of approximately 11 employees. Develops annual budgets, acts as Auditing Officer, develops, and oversees a comprehensive air quality management program within the authority of state, federal and local laws and regulations.

Consults with and advises the Environmental Protection Agency (EPA), Department of Ecology and local and statewide Air Agency Department Heads and peers regarding best practices for minimizing air pollutants. Consults with and advises them of air pollution control emission requirements within the Federal and Washington State Clean Air Acts, regulations pursuant to the Acts, and YRCAA policies.

### **Essential Duties**

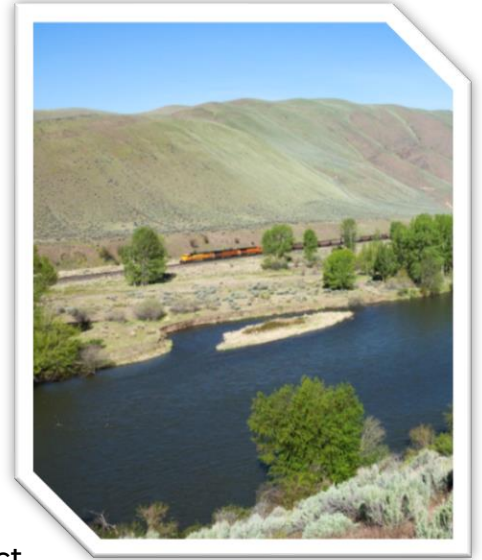
The Executive Director will determine scope, direction, and objectives of the YRCAA. Plans and organizes air pollution control program activities as directed by the Governing Board of Directors (BOD). The director will perform a full range of managerial oversight functions which includes authority over organizational structure budget, staffing levels, financial management, strategic planning, policy development, contract management, grants management, prioritization and allocation of resources, hires, performance management, terminations, and employee relations.

Develops and oversees implementation of annual budgets. Develops and administers pollutant-specific emission reduction plans. Coordinates a comprehensive air quality management program with state, federal, and local government agencies. Directs technical and regulatory policies of the Agency. Develops public relations and outreach programs to educate the public on air quality problems and corrective measures.

Represents the Agency at conferences and meetings.

Serves as chief executive officer and chief financial officer for the Agency.

The incumbent must be able to exercise a high degree of inventiveness, imagination, innovation and independent judgment to identify critical and non-critical issues, to develop and analyze options, and to make and implement decisions; creatively use analytical tools; solve problems in cooperation with other disciplines and entities; keep multi-task timelines coordinated; and work with diverse groups/individuals to develop common ground around differing values and opinions. The incumbent must be adept at critically thinking through the stages and execution of plans, programs; must be able to directly and creatively manage resources to ensure priorities and commitments are kept. The director will work with the Board to understand vision and strategic policy direction. Assists the Board in developing and managing policy matters and issues, establishing, and maintaining effective relationships with elected officials, external agencies, other governmental agencies, the public, and community organizations. Gives technical engineering advice and assistance requiring a diversified knowledge of engineering principles and practices in broad areas of assignments and related fields



## Education / Experience / Knowledge / Skills / Abilities

### Education & Experience

Bachelor's Degree in Environmental, Legal, Public Administration, Engineering, Public Health or related field and at least six (6) years of experience in a director or other leadership role for an organization or a department within an organization, which includes experience with the development and management of grant programs and experience with contract management. Experience reporting to a Board.

### Required Knowledge

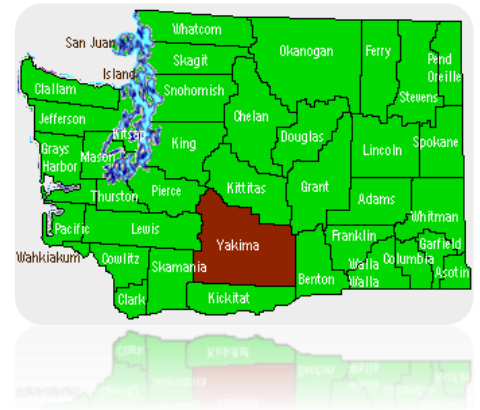
- Federal, state, and local laws and regulations specific to air pollution control;
- Basic engineering principles of industrial processes and various types of air pollution control devices and work practices;
- Supervisory procedures to manage a municipal corporation without direct supervision;
- Emission inventory principles;
- Land use, environmental and air quality laws and regulations; and
- Government accounting practices applicable to a municipal corporation.

### Skills and Abilities

- Effectively direct and manage administrative and professional staff;
- Work cooperatively and effectively with the Board of Directors;
- Communicate effectively with federal, state and local government agencies, industry and the general public;
- Interpret and apply state and federal air quality laws and regulations, making applicability determinations when needed;
- Prepare and conduct public presentations and public outreach campaigns;
- Develop and implement competitive grant programs;
- Prepare and manage service contracts.

## Locale

Yakima County is located in south central Washington near the eastern slopes of the Cascade Mountains in a major agricultural and outdoor recreation region. It is situated in the fertile Yakima Valley, known for its wineries and apple orchards. The geography varies from densely timbered, mountainous terrain in the west, rolling foothills, broad valleys, and arid regions to the east and fertile valleys in its central and southern parts. It is centrally located between the cities of Seattle, Spokane, and Portland. The Yakima Valley is a wonderful place to live, work and play.



## Yakima Regional Clean Air Agency Benefits

Yakima Regional Clean Air Agency offers its Executive Director position a full comprehensive salary and benefits package which include:

- No cost insurance (medical, dental, vision, prescription) for employee
- Paid annual leave, sick leave and paid personal holidays
- 10 paid holidays
- WA State Department of Retirement Systems retirement and pension program funded by employer and employee for retirement
- Deferred Compensation options funded by employee for retirement
- Reimbursed tuition, education, and training options
- Starting salary for the position is \$98,000 depending on qualifications

### The Application and Selection Process

*Position is open until filled.*

**First Applicant Screening: February 28, 2022**

An online application process is required. For consideration, please submit all the following documents combined into one document to: [human.resources@co.yakima.wa.us](mailto:human.resources@co.yakima.wa.us)

- Employment Application
- Cover Letter & Resume
- Completed Applicant Questionnaire
- At Least three (3) Professional References

For questions please call (509) 574-2210

### YRCAA Notice of Non-Discrimination

The Yakima Regional Clean Air Agency (YRCAA) does not discriminate on the base of race, color, national origin, disability, age, or sex in administration of its programs or activities, and the YRCAA does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or opposed actions protected by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights (As prohibited under Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972(hereinafter referred to collectively as the federal non-discrimination statutes).

### YRCAA Notificación de No Discriminación

La Agencia Regional de Aire Limpio de Yakima (Yakima Regional Clean Air Agency: YRCAA) no discrimina por motivos de raza, color, nacionalidad, discapacidad, edad o sexo relación con la administración de sus programas o actividades. Asimismo, la YRCAA no intimida ni toma represalias en contra ninguna persona o grupo por haber ejercido sus derechos para participar en o por haberse opuesto a cualquier acción protegidas por 40 C.F.R., partes 5 y 7, ni a fin de interferir con tales derechos (tal como lo prohíbe el Título VI de la Ley de derechos civiles de 1964, según sus modificaciones; la Sección 504 de la Ley de rehabilitación de 1973; la Ley de discriminación por edad de 1975; el Título IX de las enmiendas de a la Ley de educación de 1972; y la Sección 13 de las enmiendas a la Ley federal de control de la contaminación del agua de 1972 (en conjunto, las leyes federales en contra de la discriminación).

## Exhibit 3

[illegible]

**From Sarah Waldo, Ph.D. EPA Senior Air Monitoring Specialist, EPA email to YRCAA March 2, 2022.**

“...As you know, EPA is gearing up to reprogram \$22.5 million in American Rescue Plan grants to EPA Regions to begin awarding funds to state, tribal, and local air agencies that will enable continuous monitoring of fine particle pollution (PM<sub>2.5</sub>) and replace other aging air monitoring equipment. We appreciate the detailed input you provided this past fall regarding your PM<sub>2.5</sub> and other NAAQS monitoring needs.

We want to share with you now that once the entire grant process is complete, our intention is for these one-time funds to provide state and local agencies in Washington with a total of \$249k for:

- A new PM<sub>2.5</sub> AQI site in Prosser (BCAA, \$26k)
- Replacement L2 O<sub>3</sub> standard (ECY, \$19k)
- Two portable O<sub>3</sub> monitors (ECY, \$10k)
- Replacing four aging BAMs in key EJ communities (PSCAA/ECY, \$90k)
- A new PM<sub>2.5</sub> FEM site near SeaTac Airport (PSCAA, \$50k)
- Portable aethalometer for mobile BC monitoring (SRCAA, \$28.5k)
- Upgrading the Sunnyside PM<sub>2.5</sub> site from AQI to FEM (YRCAA, \$25.5k)

We also anticipate the ARP direct awards will provide \$130k in funding to upgrade the Cheeka Peak monitoring shelter and other infrastructure.

Over the coming months, EPA Region 10 staff will work with state, tribal, and local agencies through the grants process to help ensure the necessary grants information is submitted through Grants.gov. Please note there may still be flexibility for adjustments in funding during this process. EPA will begin processing the awards in the near future. “

# **ACTION**

# **ITEMS**



*Yakima Regional Clean Air Agency  
186 Iron Horse Court, Suite 101  
Yakima, WA 98901  
(509) 834-2050, Fax (509) 834-2060  
[yakimacleanair.org](http://yakimacleanair.org)*

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## **Executive Memorandum**

**Date of Release:** March 3, 2022  
**Date of Consideration:** March 10, 2022  
**To:** Honorable YRCAA Board of Directors and Alternates  
**From:** Office of the Executive Director / Air pollution Control Officer  
**Subject:** Fiscal Program Report

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**Issue:**  
Fiscal Reports

**Discussion:**  
February 2022 Accounts Payable (AP) and Payroll Authorizations are enclosed for your approval. The Budget Verification Analysis (BVA) and Supplemental Income documents are included as informational items.

**Recommendation:**  
Accept and approve by minute action the February 2022 AP Fiscal Vouchers, totaling \$188,497.78, and the February 2022 Payroll Authorization, totaling \$42,675.01.

Encl. 4



February 11, 2022


**Fund 614-6140 YRCAA****Fund 614-1410 Enterprise**

<u>Name</u>	<u>Warrant/MICR #</u>	<u>GL #</u>	<u>Amount</u>	<u>Date</u>
Brandon Abdulla*	35029	4105	\$ 2,000.00	2/14/2022
Absolute Comfort Technology*	35030	4105	\$ 6,997.29	2/14/2022
Armstrong's Stove & Spa Yakima*	35031	4105	\$ 4,597.42	2/14/2022
Devin Carver*	35032	4105	\$ 1,500.00	2/14/2022
Cascade Natural Gas	35033	4701	\$ 232.33	2/14/2022
Catholic Charities Volunteer Services*	35034	4105	\$ 450.00	2/14/2022
Coastal*	35035	4105	\$ 16,957.16	2/14/2022
Coleman Oil Company	35036	3201	\$ 30.58	2/14/2022
Cuillier Law Office	35037	4101	\$ 1,488.00	2/14/2022
Fosseen's Home & Hearth*	35038	4105	\$ 38,424.71	2/14/2022
Robin Ghramm*	35039	4105	\$ 2,000.00	2/14/2022
Samantha Gifford*	35040	4105	\$ 2,000.00	2/14/2022
Hahn Business Products	35041	3101	\$ 302.02	2/14/2022
Kathryn Holbrook*	35042	4105	\$ 2,000.00	2/14/2022
Iron Horse Real Estate & Property Mgt	35043	4501	\$ 4,776.83	2/14/2022
J & K Wood & Pellet*	35044	4105	\$ 7,501.51	2/14/2022
James Johnson*	35045	4105	\$ 2,000.00	2/14/2022
Don Luttrell*	35046	4105	\$ 2,000.00	2/14/2022
Nth Degree Environmental Engineering Sol	35047	4101	\$ 900.00	2/14/2022
Northwest Community Action Center*	35048	4105	\$ 350.00	2/14/2022
Elizabeth Owens*	35049	4105	\$ 1,500.00	2/14/2022
James Reno*	35050	4105	\$ 100.00	2/14/2022
Larry Smith*	35051	4105	\$ 1,500.00	2/14/2022
Travis Trudell*	35052	4105	\$ 7,418.39	2/14/2022
William Trudell*	35053	4105	\$ 2,000.00	2/14/2022
Wattsmart HVAC*	35054	4105	\$ 5,076.12	2/14/2022
YRCAA	35055	4901	\$ 488.66	2/14/2022
Yakima County Public Services	35056	4701	\$ 42.30	2/14/2022

**\$ 114,633.32****\*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: **\$ 114,633.32**

  
Christa Owen, Alternate Auditing Officer 2/14/2022

\_\_\_\_\_  
Jon DeVaney, Board Chairman

3/10/2022

\_\_\_\_\_  
Hasan M. Tahat, Interim Auditing Officer

2/14/2022



February 25, 2022

Fund 614-6140 YRCAA  
Fund 614-1410 Enterprise

<u>Name</u>	<u>Warrant/MICR #</u>	<u>GL #</u>	<u>Amount</u>	<u>Date</u>
Abadan Reprographics	35057	4801	\$ 86.76	2/28/2022
Absolute Comfort Technology, LLC*	35058	4105	\$ 6,000.00	2/28/2022
Alliant Communications	35059	4101	\$ 319.14	2/28/2022
Armstrong's Stove & Spa Yakima*	35060	4105	\$ 23,728.70	2/28/2022
Sandra Baxter*	35061	4105	\$ 2,000.00	2/28/2022
Michael Clark*	35062	4105	\$ 2,000.00	2/28/2022
Coastal*	35063	4105	\$ 8,597.80	2/28/2022
Leanna Conrad*	35064	4105	\$ 2,000.00	2/28/2022
Don Fisher*	35065	4105	\$ 1,500.00	2/28/2022
Fosseen's Home & Hearth*	35066	4105	\$ 5,964.95	2/28/2022
Ronald E. Frazier*	35067	4105	\$ 2,000.00	2/28/2022
KeyBank**	35068	Various	\$ 2,222.86	2/28/2022
Robert Melton*	35069	4105	\$ 2,000.00	2/28/2022
Nth Degree Environmental Engineering Sol	35070	4101	\$ 1,050.00	2/28/2022
Pacific Power	35071	4701	\$ 180.48	2/28/2022
Rhea Peralta*	35072	4105	\$ 2,500.00	2/28/2022
Jerry Ripperger*	35073	4105	\$ 2,000.00	2/28/2022
Daniel Sanchez*	35074	4105	\$ 2,000.00	2/28/2022
Skagit County Fairgrounds Mount Vernon**	35075	4506	\$ 375.00	2/28/2022
Sharon Templin*	35076	4105	\$ 2,000.00	2/28/2022
Travis Trudell*	35077	4105	\$ 3,174.89	2/28/2022
Wattsmart HVAC*	35078	4105	\$ 1,923.88	2/28/2022
Yakima Area Arboretum**	35079	4506	\$ 200.00	2/28/2022
Yakima County Sheriff's Department	35080	4101	\$ 40.00	2/28/2022
			<b>\$ 73,864.46</b>	

\*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: **\$ 73,864.46**

Christa Owen, Alternate Auditing Officer 2/28/2022

3/10/2022

Jon DeVaney, Board Chairman

2/28/2022

Hasan M. Tahat, Interim Auditing Officer

**AUTHORIZATION FOR ELECTRONIC FUNDS TRANSFER****Direct Deposit Payroll & Payroll Taxes****Date:** 2/25/2022**District:** Yakima Regional Clean Air Agency**Contact Person:** Christa Owen**Address:** 186 Iron Horse Ct. #101, 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:** 125000574**Bank Account Number:** 472091010661**Payroll Date:** March 1, 2022**Transfer Amount(s):** \$ 42,675.01**Total Amount of Electronic Transfer:** \$ 42,675.01**Authorizing Signatures (No facsimile signatures accepted.):**

  
 Auditing Officer

 \_\_\_\_\_  
 Chairman Board of Directors


  
 Alternate Auditing Officer

Date February 25, 2022

**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  
(01-2008)

Telefax Number: 509-574-2801

## FY 2021 Monthly BVA

February 2021 Report Date: March 11, 2021		Budget	Actual Current	Actual Year to Date	Year to Date % of Budget
<b>REVENUE 614 YRCAA Base Operations</b>					
<b>REVENUE 614 YRCAA Base Operations</b>					
<b>Stationary Source Permit Fees</b>					
614-32190001	Minor Sources	\$ 158,097	\$ 28,438	\$ 64,182	40.6%
614-32190008	Synthetic Minor Sources	\$ 18,620	\$ 2,822	\$ 2,822	15.2%
614-32190006	Complex Sources	\$ 30,840	\$ 5,468	\$ 5,468	17.7%
614-32290001	Title V Sources	\$ 107,000	\$ -	\$ 131,510	122.9%
614-32190002	New Source Review	\$ 35,500	\$ 7,243	\$ 27,728	78.1%
<i>Subtotal, Stationary Source Permit Fees</i>		<i>\$ 350,057</i>	<i>\$ 43,971</i>	<i>\$ 231,710</i>	<i>66.2%</i>
<b>Burn Permit Fees</b>					
614-32290005	Residential Burn Permits	\$ 60,500	\$ -	\$ 11,520	19.0%
614-32290007	Agricultural Burn Permits	\$ 32,250	\$ 2,852	\$ 10,494	32.5%
614-32290011	Conditional Use Burn Permits	\$ 2,000	\$ -	\$ 675	33.8%
<i>Subtotal, Burn Permit Fees</i>		<i>\$ 94,750</i>	<i>\$ 2,852</i>	<i>\$ 22,689</i>	<i>23.9%</i>
<b>Compliance Fees</b>					
614-32190005	Asbestos Removal Fees	\$ 31,000	\$ 3,418	\$ 13,470	43.5%
614-32190009	Construction Dust Control Fees	\$ 5,000	\$ -	\$ 3,650	73.0%
<i>Subtotal, Compliance Fees</i>		<i>\$ 36,000</i>	<i>\$ 3,418</i>	<i>\$ 17,120</i>	<i>47.6%</i>
<i>Subtotal, All Permit Fee Revenue</i>		<i>\$ 480,807</i>	<i>\$ 50,241</i>	<i>\$ 271,519</i>	<i>56.5%</i>
<b>Base Grants</b>					
614-33366001	EPA, Core Grant	\$ 106,322	\$ 26,636	\$ 80,658	75.9%
614-33403101	DOE, Core Grant	\$ 76,800	\$ 19,288	\$ 57,866	75.3%
<i>Subtotal, Base Grants</i>		<i>\$ 183,122</i>	<i>\$ 45,924</i>	<i>\$ 138,525</i>	<i>75.6%</i>
			\$ -	\$ -	
			\$ -	\$ -	
<b>Fines &amp; Penalties</b>					
614-35990001	Civil Penalty	\$ 2,500	\$ 74	\$ 34,548	
614-35990001	Other Fines	\$ -	\$ -	\$ -	
<i>Subtotal, Fines &amp; Penalties</i>		<i>\$ 2,500</i>	<i>\$ 74</i>	<i>\$ 34,548</i>	
<b>Supplemental Income</b>					
614-33831001	Supplemental Income	\$ 102,090	\$ 53,494	\$ 85,753	84.0%
<i>Subtotal, Supplemental Income</i>		<i>\$ 102,090</i>	<i>\$ 53,494</i>	<i>\$ 85,753</i>	<i>84.0%</i>
<b>Other Income</b>					
614-36111001	Interest	\$ 3,500	\$ 332	\$ 2,375	67.9%
614-36990014	Miscellaneous Income	\$ 75	\$ -	\$ 9,455	12607.1%
<i>Subtotal, Other Income</i>		<i>\$ 3,575</i>	<i>\$ 332</i>	<i>\$ 11,830</i>	<i>330.9%</i>
<i>Total YRCAA Base Operations Revenue</i>		<i>\$ 772,094</i>	<i>\$ 150,066</i>	<i>\$ 542,174</i>	<i>70.2%</i>
<b>REVENUE 614 YRCAA Grant Operations</b>					
614-33403105	Wood Stove Ed	\$ 4,588	\$ -	\$ 2,599	56.6%
614-33403108	PM 2.5	\$ 21,050	\$ 5,263	\$ 15,788	75.0%
614-33403107	Woodstove Change-out	\$ 292,334	\$ 412	\$ 113,522	38.8%
<i>Total YRCAA Grant Operations Revenue</i>		<i>\$ 317,972</i>	<i>\$ 5,674</i>	<i>\$ 131,909</i>	<i>41.5%</i>
<b>REVENUE Enterprise Operations</b>					
614-34317001	VE Certification Fees	\$ 80,000	\$ -	\$ 36,591	45.7%
614-34317002	Other Enterprise Revenue	\$ -	\$ -	\$ -	#DIV/0!
<i>Subtotal, Enterprise Revenue</i>		<i>\$ 80,000</i>	<i>\$ -</i>	<i>\$ 36,591</i>	<i>45.7%</i>
<i>Total Base, Grant and Enterprise Revenue</i>		<i>\$ 1,170,066</i>	<i>\$ 155,740</i>	<i>\$ 710,674</i>	<i>60.7%</i>

## FY 2021 Monthly BVA

<b>February 2021</b>				
<b>Report Date:</b> March 11, 2021	<b>Budget</b>	<b>Actual Current</b>	<b>Actual Year to Date</b>	<b>Year to Date % of Budget</b>

<b>EXPENSES</b>				
<b>EXPENSES</b>	<b>614 YRCAA Base Operations</b>			
<b>Salaries</b>				
614-1001	Salaries	\$ 424,862	\$ 22,844	\$ 266,191 62.7%
614-2002	Benefits	\$ 143,785	\$ 8,026	\$ 93,526 65.0%
614-1003	Overtime	\$ -	\$ -	\$ - 0.0%
	<i>Subtotal, Salaries</i>	<i>\$ 568,647</i>	<i>\$ 30,870</i>	<i>\$ 359,717 63.3%</i>

<b>Supplies</b>				
614-3101	Office Supplies	\$ 6,500	\$ 720	\$ 3,604 55.4%
614-3101	Safety Equipment	\$ 300	\$ -	\$ - 0.0%
614-3201	Vehicles, Gas	\$ 1,500	\$ 31	\$ 931 62.0%
614-3501	Small Tools/Equipment	\$ 200	\$ -	\$ 1,059 529.5%
614-3502	Computer Network	\$ 3,000	\$ 108	\$ 1,230 41.0%
	<i>Subtotal, Supplies</i>	<i>\$ 11,500</i>	<i>\$ 859</i>	<i>\$ 6,824 59.3%</i>

<b>Services</b>				
614-4101	Professional Services	\$ 55,000	\$ 3,833	\$ 56,093 102.0%
614-4101	Laboratory Analyses	\$ 500	\$ -	\$ - 0.0%
614-4125	Treasurer, Yakima County	\$ 900	\$ -	\$ 737 81.8%
614-4201	Communications, Phones/Internet	\$ 12,491	\$ 38	\$ 5,117 41.0%
614-4202	Postage	\$ 2,850	\$ -	\$ 1,078 37.8%
614-4301	Travel & Transportation	\$ 3,200	\$ -	\$ - 0.0%
614-4401	Public Education	\$ 2,000	\$ 1,102	\$ 1,102 55.1%
614-4401	Publications, Legal Notices	\$ 1,000	\$ -	\$ 35 3.5%
614-4501	Rents & Leases, Equipment	\$ 3,294	\$ 4,777	\$ 5,262 159.7%
614-4501	Rents & Leases, Space	\$ 53,851	\$ -	\$ 33,228 61.7%
614-4601	Insurance	\$ 14,124	\$ -	\$ 15,720 111.3%
614-4701	Utilities	\$ 4,500	\$ 455	\$ 3,056 0.0%
614-4801	Maintenance, Motor Vehicles	\$ 1,200	\$ 6	\$ 1,348 112.3%
614-4801	Maintenance, Equipment	\$ 2,000	\$ 87	\$ 5,700 285.0%
614-4801	Maintenance, Computers	\$ 750	\$ -	\$ 316 42.2%
614-4801	Maintenance, Building	\$ 500	\$ -	\$ 512 102.5%
614-4901	Memberships	\$ 915	\$ 14	\$ 453 49.5%
614-4901	Training	\$ 2,500	\$ -	\$ 485 19.4%
614-4901	Service Chgs & Interest	\$ 6,600	\$ 555	\$ 4,030 61.1%
614-4901	Miscellaneous Services	\$ 4,000	\$ 15	\$ 15 0.4%
614-4901	DOE Oversight Fees	\$ 4,500	\$ -	\$ - 0.0%
	<i>Subtotal, Services</i>	<i>\$ 176,675</i>	<i>\$ 10,881</i>	<i>\$ 134,288 76.0%</i>

<b>Capital Out-Lay &amp; Fixed Assets</b>				
614-6401	Capital Out-Lay/Fixed Assets	\$ -	\$ -	\$ - #DIV/0!
	<i>Total YRCAA Base Operations Expenses</i>	<i>\$ 756,822</i>	<i>\$ 42,610</i>	<i>\$ 500,829 66.2%</i>

<b>EXPENSES 614 YRCAA Grant Operations</b>				
<b>614-33403105 Wood Stove Ed</b>				
<b>Salaries</b>				
614-1001	Salaries	\$ 3,399	\$ 169	\$ 2,082 61.2%
614-2002	Benefits	\$ 1,189	\$ 59	\$ 731 61.5%
614-1003	Overtime	\$ -	\$ -	\$ - 0.0%
	<i>Subtotal, Salaries</i>	<i>\$ 4,588</i>	<i>\$ 228</i>	<i>\$ 2,813 61.3%</i>

<b>Supplies</b>				
614-3101	Office Supplies	\$ -	\$ -	\$ - 0
	<i>Subtotal, Supplies</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ - 0.0%</i>

## FY 2021 Monthly BVA

February 2021 Report Date: March 11, 2021		Budget	Actual Current	Actual Year to Date	Year to Date % of Budget
<b>Services</b>					
614-4139	Professional Services	\$ -	\$ -	\$ 470	0.0%
614-4202	Postage	\$ -	\$ -	\$ -	0.0%
	<i>Subtotal, Services</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ 470</i>	<i>0.0%</i>
	<i>Subtotal, Woodstove Grant Expenses</i>	<i>\$ 4,588</i>	<i>\$ 228</i>	<i>\$ 3,283</i>	<i>71.6%</i>
<b>614-33403108 PM2.5</b>					
<b>Salaries</b>					
614-1001	Salaries	\$ 15,270	\$ 1,286	\$ 11,167	73.1%
614-2002	Benefits	\$ 5,780	\$ 452	\$ 3,923	67.9%
614-1003	Overtime	\$ -	\$ -	\$ -	0.0%
	<i>Subtotal, Salaries</i>	<i>\$ 21,050</i>	<i>\$ 1,738</i>	<i>\$ 15,090</i>	<i>71.7%</i>
<b>Supplies</b>					
614-3101	Office Supplies	\$ -	\$ -	\$ -	0.0%
	<i>Subtotal, Supplies</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ -</i>	<i>0.0%</i>
<b>Services</b>					
614-4101	Professional Services	\$ -	\$ -	\$ -	0.0%
	<i>Subtotal, Services</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ -</i>	<i>0.0%</i>
<b>Capital Out-Lay &amp; Fixed Assets</b>					
614-6401	Capital Out-Lay/Fixed Assets	\$ -	\$ -	\$ -	0.0%
	<i>Subtotal, PM 2.5 Grant Expenses</i>	<i>\$ 21,050</i>	<i>\$ 1,738</i>	<i>\$ 15,090</i>	<i>71.7%</i>
<b>614-33403107 Woodstove Change-out</b>					
<b>Salaries</b>					
614-1001	Salaries	\$ 52,750	\$ 7,281	\$ 32,828	62.2%
614-2002	Benefits	\$ 17,583	\$ 2,558	\$ 11,534	65.6%
614-1003	Overtime	\$ -	\$ -	\$ -	0.0%
	<i>Subtotal, Salaries</i>	<i>\$ 70,333</i>	<i>\$ 9,839</i>	<i>\$ 44,363</i>	<i>63.1%</i>
<b>Supplies</b>					
614-3101	Office Supplies	\$ 100	\$ -	\$ -	0.0%
	<i>Subtotal, Supplies</i>	<i>\$ 100</i>	<i>\$ -</i>	<i>\$ -</i>	<i>0.0%</i>
<b>Services</b>					
614-4101	Professional Services	\$ 200,630	\$ 175,763	\$ 448,087	223.3%
	<i>Subtotal, Services</i>	<i>\$ 200,630</i>	<i>\$ 175,763</i>	<i>\$ 448,087</i>	<i>223.3%</i>
<b>Capital Out-Lay &amp; Fixed Assets</b>					
614-6401	Capital Out-Lay/Fixed Assets	\$ -	\$ -	\$ -	0.0%
	<i>Subtotal, Woodstove Change-out Grant Expenses</i>	<i>\$ 271,063</i>	<i>\$ 185,602</i>	<i>\$ 492,450</i>	<i>181.7%</i>
	<i>Total, Grant Operations Expenses</i>	<i>\$ 296,701</i>	<i>\$ 187,568</i>	<i>\$ 510,823</i>	<i>172.2%</i>
<b>EXPENSES 141 Enterprise Operations</b>					
<b>Salaries</b>					
141-1001	Salaries	\$ 12,481	\$ -	\$ 4,769	38.2%
141-2002	Benefits	\$ 4,275	\$ -	\$ 1,676	39.2%
141-1003	Overtime	\$ -	\$ -	\$ -	0.0%
	<i>Subtotal, Salaries</i>	<i>\$ 16,756</i>	<i>\$ -</i>	<i>\$ 6,445</i>	<i>38.5%</i>

## FY 2021 Monthly BVA

February 2021 Report Date: March 11, 2021		Budget	Actual Current	Actual Year to Date	Year to Date % of Budget
<b>Supplies</b>					
141-3101	Office Supplies	\$ 500	\$ -	\$ 28	5.5%
141-3201	Vehicles, Gas	\$ 1,000	\$ -	\$ 463	46.3%
141-3501	Small Tools/Equipment	\$ 200	\$ -	\$ -	0.0%
<i>Subtotal , Supplies</i>		<i>\$ 1,700</i>	<i>\$ -</i>	<i>\$ 491</i>	<i>28.9%</i>
<b>Services</b>					
141-4101	Professional Services	\$ 250	\$ -	\$ 475	0.0%
141-4202	Postage	\$ 200	\$ 16	\$ 47	23.4%
141-4301	Travel & Transportation	\$ 5,150	\$ -	\$ 3,893	75.6%
141-4501	Rents & Leases, Space	\$ 3,000	\$ 686	\$ 1,636	54.5%
141-4801	Maintenance, Motor Vehicles	\$ 500	\$ -	\$ 68	13.6%
141-4801	Maintenance, Equipment	\$ 500	\$ 293	\$ 293	58.6%
141-4901	Miscellaneous Services	\$ -	\$ -	\$ -	0.0%
<i>Subtotal, Services</i>		<i>\$ 9,600</i>	<i>\$ 995</i>	<i>\$ 6,412</i>	<i>66.8%</i>
<b>Capital Out-Lay &amp; Fixed Assets</b>					
141-4500	Capital Out-Lay/Fixed Assets	\$ -	\$ -	\$ -	0.0%
<i>Total Enterprise Operations Expenses</i>		<i>\$ 28,056</i>	<i>\$ 995</i>	<i>\$ 13,347</i>	<i>47.6%</i>
<b>Summary of Revenue vs Expenses:</b>					
<i>Prior-Year Carry Over Funds</i>		<i>\$ 125,000</i>	<i>\$ -</i>	<i>\$ 125,000</i>	
<i>Total Revenue, Base, Grants &amp; Enterprise</i>		<i>\$ 1,295,066</i>	<i>\$ 155,740</i>	<i>\$ 835,674</i>	<i>64.5%</i>
<i>Total Expenses, Base, Grants &amp; Enterprise</i>		<i>\$ 1,081,579</i>	<i>\$ 231,173</i>	<i>\$ 1,024,998</i>	<i>94.8%</i>
<i>Fund Balance</i>		<i>\$ 213,487</i>	<i>\$ (75,433)</i>	<i>\$ (189,325)</i>	
<i>Operating Reserves</i>		<i>\$ 88,487</i>			
<i>Estimated Available Fund Balance</i>		<i>\$ 125,000</i>			

**YAKIMA REGIONAL CLEAN AIR AGENCY**  
**SUPPLEMENTAL INCOME STATUS for CY 2021 on February 28, 2022**  
**CY 2022 \$.40 PER CAPITA (Rounded Amounts)**

City/Town	Past Due	Assessment Amount	Total Amt Due	Date Received	Amount Received	Balance Due	Responses
Grandview	\$ -	\$ 4,492	\$ 4,492	2/15/2022	\$ 4,492	\$ -	Pd in full
Granger	\$ -	\$ 1,662	\$ 1,662	2/15/2022	\$ 416	\$ 1,247	Pd 1/4
Harrah	\$ -	\$ 272	\$ 272	2/15/2022	\$ 272	\$ -	Pd in full
Mabton	\$ -	\$ 932	\$ 932	2/25/2022	\$ 932	\$ -	Pd in full
Moxee	\$ -	\$ 1,728	\$ 1,728	2/23/2022	\$ 1,728	\$ -	Pd in full
Naches	\$ -	\$ 398	\$ 398	2/24/2022	\$ 398	\$ -	Pd in full
Selah	\$ -	\$ 3,214	\$ 3,214	2/15/2022	\$ 3,214	\$ -	Pd in full
Sunnyside	\$ -	\$ 6,900	\$ 6,900	2/24/2022	\$ 1,725	\$ 5,175	Pd 1/4
Tieton	\$ -	\$ 522	\$ 522	2/15/2022	\$ 522	\$ -	Pd in full
Toppenish	\$ -	\$ 3,652	\$ 3,652		\$ -	\$ 3,652	
Union Gap	\$ -	\$ 2,542	\$ 2,542	2/24/2022	\$ 2,542	\$ -	Pd in full
Wapato	\$ -	\$ 2,022	\$ 2,022	2/11/2022	\$ 506	\$ 1,517	Pd 1/4
City of Yakima	\$ -	\$ 38,196	\$ 38,196	1/20/2022	\$ 9,549	\$ 28,647	Pd 1/4
Zillah	\$ -	\$ 1,280	\$ 1,280	2/15/2022	\$ 1,280	\$ -	Pd in full
Yakima Co.	\$ -	\$ 35,468	\$ 35,468	2/24/2022	\$ 35,468	\$ -	Pd in full
<b>Totals:</b>	<b>\$ -</b>	<b>\$ 103,280</b>	<b>\$ 103,280</b>		<b>\$ 63,043</b>	<b>\$ 40,237</b>	

# **OTHER BUSINESS**



## Executive Memorandum

**Date of Release:** March 3, 2022  
**Date of Consideration:** March 10, 2022  
**To:** Honorable YRCAA Board of Directors and Alternates  
**From:** Office of the Interim Executive Director / Air pollution Control Officer  
**Subject:** Interim Executive Director's Recommendations about YRCAA Administrative Code Part A

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### 1. Friends of Toppenish Creek (FOTC) Request for Clarification

On February 22, 2022 Chairman DeVaney forwarded a letter from FOTC signed by Ms. Jean Mendoza advising him that pursuant to a specific directive of the YRCAA Administrative Code A, in Section 2, the YRCAA Board of Directors may have violated a stated directive in Section 2 as the following (letter attached):

“Section 2 of the Yakima Regional Clean Air Agency (YRCAA) Administrative Code Part A states:

*Any Board Member or person who suspects the Board has violated the Open Public Meeting Law is requested to advise the Chair in writing within thirty (30) days of the time that the alleged violation occurred.*

Pursuant to this directive I am advising you that the YRCAA board may have violated:

- Section 5 of the YRCAA Administrative Code Part A
- RCW 42.30.030
- RCW 42.30.060”

The letter continued to say,

“We were alerted to this possibility when Commissioner McKinney stated at the February 10, 2022, YRCAA Board Meeting,

*Yeah. And I have to go through my emails right here, but I think that we all -the last information I have is when Jon forwarded to all of us then the proposed job announcement, uhmm, and requested feedback and, uhmm, it looks like, uhmm, because I'm not privy to any of us asked for any changes, uhmm, so each member can comment on that. And then I know that we have a, just a, clarification for wanting to know who would be on the interview panel, I believe to help facilitate the meetings. Uhmm and that*

*there was concurrence that board members would be on the interview panel and do the scoring. So that is the most recent update I have.*

On February 10, 2022, Friends of Toppenish Creek (FOTC) submitted a public records request for a copy of the contract between YRCAA and Yakima County Human Resources. YRCAA public records officer Pamela Herman told us by email that she did not receive this request. FOTC resubmitted the request on February 17. We have not received a reply.

It appears that the YRCAA Board of Directors has:

- Authorized signing of a contract with Yakima County Human Resources that was not reviewed by the board members and was not made public
- Agreed upon the makeup of an interview panel for selection of an Air Pollution Control Officer/Executive Director by email vote, rather than in a public meeting.
- Not agreed upon scoring criteria and processes for an Air Pollution Control Officer/Executive Director in an open public meeting.”

Chairman DeVaney forwarded the letter to me pursuant to Section 2 of the Administrative Code Part A Section 2 to review the issue and provide recommendations as may be appropriate to the Board at the next available meeting of the Board.

***“YRCAA Administrative Code Part A Section 2.***

*“...The Chair, upon receiving such notice, will direct the Executive Director to review the issue and provide recommendations as may be appropriate to the Board at the next available meeting of the Board which will assure the Agency maintains substantial compliance with the Open Public Meeting Law...”*

***“RCW 42.30.030 Meetings declared open and public.***

*All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.”*

***“RCW 42.30.060 Ordinances, rules, resolutions, regulations, etc., adopted at public meetings—Notice—Secret voting prohibited.***

*(1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.*

*(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.”*



Therefore, this serves as a clarification to the statements/inquiries of the FOTC and a review the issue and provide recommendations as may be appropriate to the Board at this “next” next available meeting. Commissioner McKinney stated at the February 10, 2022 Board Meeting *“...And I have to go through my emails right here, but I think that we all -the last information I have is when Jon forwarded to all of us then the proposed job announcement, uhmm, and requested feedback...”* It is very clear that the Commissioner is referring to an email not a meeting asking if the Board have any feedback on the Job Description of the Executive Directors position (attached) done by the County’s HR. In addition, this statement was stated during a public board meeting. Furthermore, at the November Board meeting, the Board voted to authorize the Interim Executive Director to sign the agreement between the YRCAA and the County HR for a recruitment of an Executive Director position. In that agreement, it states what the County HR should do (Agreement attached). The County HR will do the job description based on the old position description they have on file. It is within the Board of Directors power to appoint a control officer as stated in the RCW 70A.15.2030. *“...The board may appoint a control officer, and any other personnel, and shall determine their salaries...”*

Therefore, it is very clear to me that none the above Statues and Regulation have been violated.

In relation to statements made by FOTC statement *“On February 10, 2022, Friends of Toppenish Creek (FOTC) submitted a public records request for a copy of the contract between YRCAA and Yakima County Human Resources. YRCAA public records officer Pamela Herman told us by email that she did not receive this request. FOTC resubmitted the request on February 17. We have not received a reply.”* This statement has been clarified with FOTC that YRCAA did not receive that public information request on February 10, 2022. It was received on February 17, 2022 as Ms. Mendoza stated above and it has been fulfilled.

*“It appears that the YRCAA Board of Directors has:*

- Authorized signing of a contract with Yakima County Human Resources that was not reviewed by the board members and was not made public*
- Agreed upon the makeup of an interview panel for selection of an Air Pollution Control Officer/Executive Director by email vote, rather than in a public meeting.*
- Not agreed upon scoring criteria and processes for an Air Pollution Control Officer/Executive Director in an open public meeting.”*

Regarding the above statements, signing the contract between YRCAA and County HR was approved during November’s Board meeting but there was no contract yet. There was a lengthy discussion about the hiring process and how it will proceed during the November 2021 board meeting as stated above. YRCAA received the first copy of the Agreement/Contract on December 8, 2021 and it was distributed to the Board Members during December’s board meeting on December 9, 2021. Regarding the agreed upon the

makeup of the interview panel, the 2<sup>nd</sup> bullet, again, the interview process, forms and shapes, it was discussed on November 18, 2021, at length. To my knowledge, and to the Board Chair knowledge, there were no votes by email. Commissioner McKinney statement was referencing the job description as I stated above.

Regarding the 3<sup>rd</sup> bullet above, to my understanding, that is really the purpose of having a third party to do the process, to be transparent and clear. The process is an agreed upon procedure etc., in the Agreement/Contract between County HR and YRCAA to the scope of the work to be rendered. Lastly as stated above, It is within the Board of Directors power to appoint a control officer as stated in the RCW 70A.15.2030. *“...The board may appoint a control officer, and any other personnel, and shall determine their salaries...”*

To this end, as an Interim Executive Director, pursuant to the Administration Code Part A, Section 2, my recommendation is that there has been no violation to the Open Public Act.



February 21, 2022

Dear Chairman DeVaney,

Section 2 of the Yakima Regional Clean Air Agency (YRCAA) Administrative Code Part A states:

*Any Board Member or person who suspects the Board has violated the Open Public Meeting Law is requested to advise the Chair in writing within thirty (30) days of the time that the alleged violation occurred.*

Pursuant to this directive I am advising you that the YRCAA board may have violated:

- Section 5 of the YRCAA Administrative Code Part A
- RCW 42.30.030
- RCW 42.30.060

We were alerted to this possibility when Commissioner McKinney stated at the February 10, 2022, YRCAA Board Meeting,

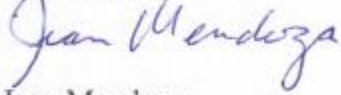
*Yeah. And I have to go through my emails right here, but I think that we all -the last information I have is when Jon forwarded to all of us then the proposed job announcement, uhmm, and requested feedback and, uhmm, it looks like, uhmm, because I'm not privy to any of us asked for any changes, uhmm, so each member can comment on that. And then I know that we have a, just a, clarification for wanting to know who would be on the interview panel, I believe to help facilitate the meetings. Uhmm and that there was concurrence that board members would be on the interview panel and do the scoring. So that is the most recent update I have.*

On February 10, 2022, Friends of Toppenish Creek (FOTC) submitted a public records request for a copy of the contract between YRCAA and Yakima County Human Resources. YRCAA public records officer Pamela Herman told us by email that she did not receive this request. FOTC resubmitted the request on February 17. We have not received a reply.

It appears that the YRCAA Board of Directors has:

- Authorized signing of a contract with Yakima County Human Resources that was not reviewed by the board members and was not made public
- Agreed upon the makeup of an interview panel for selection of an Air Pollution Control Officer/Executive Director by email vote, rather than in a public meeting.
- Not agreed upon scoring criteria and processes for an Air Pollution Control Officer/Executive Director in an open public meeting.

Sincerely,



Jean Mendoza

Executive Director, Friends of Toppenish Creek  
3142 Signal Peak Road  
White Swan, WA 98952

BOCC Agreement

## AGREEMENT/CONTRACT

316-2021

Yakima County WA

**THIS AGREEMENT/CONTRACT** is entered by Yakima County, hereinafter "Contractor", whose address is 128 N. 2<sup>nd</sup> Street, Yakima, WA and Yakima Regional Clean Air Agency Board of Directors hereinafter "Agency," whose address is 186 Iron Horse Court, Suite 101, Yakima, WA 98901

Name: Yakima County  
Street: 128 N. 2<sup>nd</sup> Street  
City, State Zip: Yakima, WA 98901  
Federal Tax ID No.  
Washington State Department of Revenue No.

**WITNESSETH:** In consideration of the terms and conditions contained, the parties agree as follows:

**Project:** Yakima County agrees to do all work and furnish all materials necessary for performing the work for the Agency in accordance with this agreement. The services that would be included are:

- Recruitment for the Executive Director position;
- Create job announcement and advertise the position on a variety of venues to include professional associations, universities, local venues, social media, etc;
- Position will be advertised as "Open Until Filled"
- Create pre-screening questions and interview questionnaire (with Agency cooperation/involvement); scoring mechanism included;
- Manage all applicant information as required by law for records management and HIPAA;
- Screen applications and pass successful applicants to the YRCAA Board;
- Assist with the selection of the interview panel as desired by YRCAA Board;
- Conduct background checks as desired by YRCAA Board;
- Conduct reference checks as desired by YRCAA Board;
- Coordinate interview schedules as desired by YRCAA Board. This may include first and second round of interviews depending on the overall applicant pool;
- Assist with offer letter template if desired by YRCAA Board.

1. **Amendments:** This agreement contains all terms and conditions agreed upon by the parties. No change or addition to this Agreement shall be valid or binding upon either party unless such change or addition is in writing and executed by both parties.
2. **Consideration:** The Agency shall compensate Yakima County Nine thousand dollars (\$9,000.00) by check payable to Yakima County Human Resources Department. Payment to be made by January 15, 2022.
3. **Independent Contractor:** The parties agree that, for the purposes of this agreement, Yakima County is an independent Contractor and is not an employee of the Yakima Regional Clean Air

Agency. Yakima County is providing a service to the Yakima Regional Clean Air Agency.

4. **Nondiscrimination:** Yakima County and the Yakima Regional Clean Air Agency agree that they shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, sexual orientation, veteran status, pregnancy, age, marital status, political affiliation or belief, or the presence of any sensory, mental or physical disability in violation of the Washington State Law Against Discrimination (RCW chapter 49.60) or the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) or any other applicable state, federal or local law, rule or regulation. Yakima County and the Yakima Regional Clean Air Agency shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability and require affirmative action by covered prime contractors and subcontractors to subject to this agreement.
5. **Assignment:** Yakima County shall not assign or subcontract any portion of the contracted activities without obtaining written prior approval from the Yakima Regional Clean Air Agency.
6. **Termination:** Either party may terminate this contract upon sixty-days written notice sent by mail to the addresses listed above.
7. **Indemnification, Defense, and Hold Harmless:** To the fullest extent permitted by law including RCW 4.24.115, Yakima County shall indemnify, defend, and hold harmless the Agency, and its officers, employees, agents, and volunteers from all claims, suits, or actions brought for injuries to, or death of, any persons, or damages arising from or relating to the Yakima County's performance of this Agreement or in consequence of any negligence or breach of contract related to the Yakima County's performance of this Agreement caused in whole or in part by any act or omission by the Yakima County or the agents or employees of the Yakima County related to performance of this Agreement.
8. **Insurance:** Yakima County agrees that at all times during the term of this contract that it is insured by/ a member of the Washington Counties Risk Pool will maintain its usual insurance limits.  
  
**Workers' Compensation:** Yakima County shall maintain coverage at limits as legally mandated by the Industrial Insurance Laws of the State of Washington.
9. **Laws, venue, jurisdiction:** This Agreement shall be governed by the laws of the State of Washington. Any action, suit, or judicial proceeding for the enforcement of this Agreement shall be brought in the Superior Court for the State of Washington in Yakima County, Washington.
10. **Term:** The term of this agreement shall be from the date of execution until the completion of services, unless an extension is agreed to by the parties, in writing prior to the termination of the original term of the agreement.
11. **Confidentiality:** The parties shall use Personal Information and other confidential information gained by reason of this Agreement only for the purpose of this Agreement. The Agency and

Yakima County shall not disclose, transfer, or sell any such information to any other party, except as provided by law or, in the case of Personal Information except as provided by law or with the prior written consent of the person to whom the Personal Information pertains. The parties shall maintain the confidentiality of all Personal Information and other confidential information gained by reason of this Agreement and shall return or certify the destruction of such information if requested in writing by the party to this Agreement that provided the information.

12. **Records:** Yakima County agrees to maintain records and documents which accurately reflect all direct and indirect costs related to the delivery of contracted services. Yakima County further agrees to retain all fiscal and program records and other material relevant to this Agreement for at least seven years. Fiscal records must be retained until all audits are resolved.
13. **Inspection:** Yakima County shall, at no cost, provide to the Agency, and the Office of the State Auditor reasonable access to Yakima County's place of business and its records related to this project. These inspection rights shall survive seven years following this Agreement's termination or expiration.
14. **Waiver:** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement. Only a majority vote of a quorum of the Yakima County Board of County Commissioners or the Yakima Regional Clean Air Agency Board of Directors has the authority to waive any term or condition of this Agreement on behalf of the County or the Agency.
15. **Severability:** If any term of this Agreement is held invalid by any court, the remainder of the Agreement remains valid and in full force and effect.

**Agreement Number:**DONE this 21 day of December, 2021.**YAKIMA COUNTY**

By: Jacqui Lindsay  
Printed Name

Signature: [Signature]

Title: HR Director

Date: 12/16/2021

**Yakima County Department/Office**

By: HASAN M. TAHAT  
Printed Name

[Signature]  
 Department Head/Elected Official Signature

Title: Interim Executive Director

Date: 12/10/2021

**ATTEST:**

DocuSigned by:  
[Signature]  
 Julie Lawrence, Clerk of the Board  
 Linda Kay O'Hara, Deputy Clerk

**Approved as to form:**

\_\_\_\_\_  
 Deputy Prosecuting Attorney

Date: \_\_\_\_\_

Agreement/Contract

**BOARD OF YAKIMA COUNTY COMMISSIONERS**

DocuSigned by:  
Ron Anderson  
 Ron Anderson, Chairman

DocuSigned by:  
Amanda McKinney  
 Amanda McKinney, Commissioner

DocuSigned by:  
LaDon Linde  
 LaDon Linde, Commissioner  
 Constituting the Board of County Commissioners  
 for Yakima County, Washington

DS



## AGENDA REQUEST FORM

**Return completed form and complete agenda item to the Clerk of the Board  
Yakima County Commissioners' Office, Room 232**

Prepared by:

Gail Hall, Judy Kendall, Tammi Spencer

Department:

Human Resources

Requested Agenda Date:

12/21/2021

Presenting:

Jacqui Lindsay

Document Title:

**AGREEMENT/CONTRACT between Yakima County and Yakima Regional Clean Air Agency  
Board of Directors, Concerning a Recruitment for the Executive Director Position**

Action Requested: *Check Applicable Box*

- ☐ PASS RESOLUTION     ☒ EXECUTE or AMEND **AGREEMENT** CONTRACT or GRANT  
☐ ISSUE PROCLAMATION   ☐ PASS ORDINANCE   ☐ OTHER \_\_\_\_\_

Describe Fiscal Impact:

The Agency agrees to compensate Yakima County \$9,000.00 by January 15, 2022.

Background Information:

The position of the Executive Director for the Yakima Regional Clean Air Agency Board will be advertised as "Open Until Filled" and Yakima County agrees to do all work and furnish all materials necessary for performing the recruitment work for the Agency in accordance with this agreement.

Summary &amp; Recommendation:

HR recommends the approval of the Agreement/Contract.

Motion:

Department Head/ Elected Official

Signature

**AGREEMENT** Attached Is Approved as to Form  
Corporate Counsel Initial \_\_\_\_\_

*Late Agenda Requests Require BOCC Chairman Signature:*

*Board of County Commissioners Record Assigned  
BOCC Agreement*

#

# 316-2021

*Yakima County, WA*

APPROVED FOR AGENDA:

☐ Consent☐ Regular

*Board of County Commissioners Determined*



## EXECUTIVE DIRECTOR

### Job Announcement

Open Until Filled



Our mission is to protect the people and the environment of Yakima County from the effects of air pollution. The Yakima Regional Clean Air Agency is committed to achieving and maintaining healthful air quality throughout our jurisdiction. This is accomplished through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues.

As part of our clean air strategy, we do the following:

- Adopt rules that limit pollution, issue permits to ensure compliance, and inspect pollution sources.
- Administer an Agricultural Burning Plan to preserve air quality in Yakima County, protect public health and safety, and to ensure agricultural burning, as may be necessary, continues in a safe, regulated fashion.

- Inventory and assess the health risks of toxic air emissions.
- Monitor the county's air quality with a variety of air quality monitoring stations.
- Prepare Clean Air Plans to identify how much pollution is in our air, where it comes from, and how to control it most effectively.
- Analyze the air quality impact of new businesses and land development projects.
- Respond to public complaints and inquiries.
- Work with other government agencies to ensure their decisions coordinate with good air quality programs.
- Help individuals and businesses understand and comply with federal, State, and local air pollution control laws.
- Inform the public about air quality conditions and health implications.
- Issue permits to build, alter, and operate equipment to companies under our jurisdiction that either cause, contribute to, or control air pollution.



The Yakima Air Quality Governing Board of Directors is comprised of five members. The Board establishes policy and approves new rules. The Board meets the 2nd Thursday of each month. The Executive Director represents and directs the agency daily and reports directly to the Board of Directors. The Executive Director also supervises the Executive Office Division. YRCAA Division Supervisors oversee the daily workings of the Engineering and Planning and Compliance and Monitoring Divisions.

The YRCAA governing Board of Directors consists of two representatives of the Yakima County Commissioners; one large city representative (usually a councilmember); one small city representative (elected by the City Selection committee); and one member-at-large (selected by the other four Board Members). Each Board Member selects an alternate who serves in their place, should they be unable to attend a Board Meeting. Board Meetings are traditionally held the second Thursday of each month. Special Board Meetings are scheduled as needed.



The YRCAA is delegated to enforce certain Federal Regulations, the Washington Clean Air Act, State Regulations and YRCAA Regulations, within the boundaries of Yakima County. This applies to all areas of Yakima County except for Yakama Indian Reservation lands, which are overseen by the Environmental Protection Agency, and fall under the Federal Air Rules for Reservations (FARR) regulations.

### **Position Summary**

Directs and oversees all activities of the Agency and serves as Chief Executive Officer to the Governing Board of Directors and Chief Financial Officer for the Agency. YRCAA has a staff size of approximately 11 employees. Develops annual budgets, acts as Auditing Officer, develops, and oversees a comprehensive air quality management program within the authority of state, federal and local laws and regulations.

Consults with and advises the Environmental Protection Agency (EPA), Department of Ecology and local and statewide Air Agency Department Heads and peers regarding best practices for minimizing air pollutants. Consults with and advises them of air pollution control emission requirements within the Federal and Washington State Clean Air Acts, regulations pursuant to the Acts, and YRCAA policies.

### **Essential Duties**

The Executive Director will determine scope, direction, and objectives of the YRCAA. Plans and organizes air pollution control program activities as directed by the Governing Board of Directors (BOD). The director will perform a full range of managerial oversight functions which includes authority over organizational structure budget, staffing levels, financial management, strategic planning, policy development, contract management, grants management, prioritization and allocation of resources, hires, performance management, terminations, and employee relations.

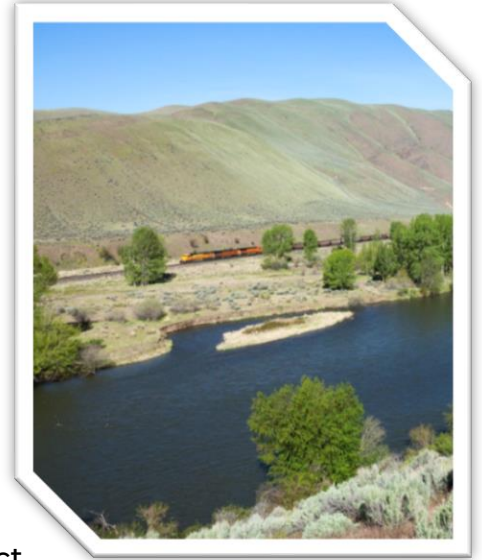
Develops and oversees implementation of annual budgets. Develops and administers pollutant-specific emission reduction plans. Coordinates a comprehensive air quality management program with state, federal, and local government agencies. Directs technical and regulatory policies of the Agency. Develops public relations and outreach programs to educate the public on air quality problems and corrective measures.

Represents the Agency at conferences and meetings.

Serves as chief executive officer and chief financial officer for the Agency.

The incumbent must be able to exercise a high degree of inventiveness, imagination, innovation and independent judgment to identify critical and non-critical issues, to develop and analyze options, and to make and implement decisions; creatively use analytical tools; solve problems in cooperation with other disciplines and entities; keep multi-task timelines coordinated; and work

with diverse groups/individuals to develop common ground around differing values and opinions. The incumbent must be adept at critically thinking through the stages and execution of plans, programs; must be able to directly and creatively manage resources to ensure priorities and commitments are kept. The director will work with the Board to understand vision and strategic policy direction. Assists the Board in developing and managing policy matters and issues, establishing, and maintaining effective relationships with elected officials, external agencies, other governmental agencies, the public, and community organizations. Gives technical engineering advice and assistance requiring a diversified knowledge of engineering principles and practices in broad areas of assignments and related fields



## Education / Experience / Knowledge / Skills / Abilities

### Education & Experience

Bachelor's Degree in Environmental, Legal, Public Administration, Engineering, Public Health or related field and at least six (6) years of experience in a director or other leadership role for an organization or a department within an organization, which includes experience with the development and management of grant programs and experience with contract management. Experience reporting to a Board.

### Required Knowledge

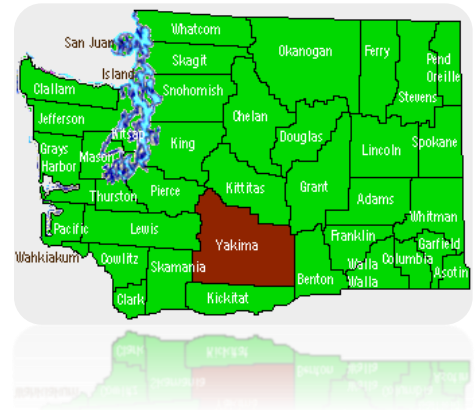
- Federal, state, and local laws and regulations specific to air pollution control;
- Basic engineering principles of industrial processes and various types of air pollution control devices and work practices;
- Supervisory procedures to manage a municipal corporation without direct supervision;
- Emission inventory principles;
- Land use, environmental and air quality laws and regulations; and
- Government accounting practices applicable to a municipal corporation.

### Skills and Abilities

- Effectively direct and manage administrative and professional staff;
- Work cooperatively and effectively with the Board of Directors;
- Communicate effectively with federal, state and local government agencies, industry and the general public;
- Interpret and apply state and federal air quality laws and regulations, making applicability determinations when needed;
- Prepare and conduct public presentations and public outreach campaigns;
- Develop and implement competitive grant programs;
- Prepare and manage service contracts.

## Locale

Yakima County is located in south central Washington near the eastern slopes of the Cascade Mountains in a major agricultural and outdoor recreation region. It is situated in the fertile Yakima Valley, known for its wineries and apple orchards. The geography varies from densely timbered, mountainous terrain in the west, rolling foothills, broad valleys, and arid regions to the east and fertile valleys in its central and southern parts. It is centrally located between the cities of Seattle, Spokane, and Portland. The Yakima Valley is a wonderful place to live, work and play.



## Yakima Regional Clean Air Agency Benefits

Yakima Regional Clean Air Agency offers its Executive Director position a full comprehensive salary and benefits package which include:

- No cost insurance (medical, dental, vision, prescription) for employee
- Paid annual leave, sick leave and paid personal holidays
- 10 paid holidays
- WA State Department of Retirement Systems retirement and pension program funded by employer and employee for retirement
- Deferred Compensation options funded by employee for retirement
- Reimbursed tuition, education, and training options
- Starting salary for the position is \$98,000 depending on qualifications

### The Application and Selection Process

*Position is open until filled.*

**First Applicant Screening: February 28, 2022**

An online application process is required. For consideration, please submit all the following documents combined into one document to: [human.resources@co.yakima.wa.us](mailto:human.resources@co.yakima.wa.us)

- Employment Application
- Cover Letter & Resume
- Completed Applicant Questionnaire
- At Least three (3) Professional References

For questions please call (509) 574-2210

### YRCAA Notice of Non-Discrimination

The Yakima Regional Clean Air Agency (YRCAA) does not discriminate on the base of race, color, national origin, disability, age, or sex in administration of its programs or activities, and the YRCAA does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or opposed actions protected by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights (As prohibited under Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972(hereinafter referred to collectively as the federal non-discrimination statutes).

### YRCAA Notificación de No Discriminación

La Agencia Regional de Aire Limpio de Yakima (Yakima Regional Clean Air Agency: YRCAA) no discrimina por motivos de raza, color, nacionalidad, discapacidad, edad o sexo relación con la administración de sus programas o actividades. Asimismo, la YRCAA no intimida ni toma represalias en contra ninguna persona o grupo por haber ejercido sus derechos para participar en o por haberse opuesto a cualquier acción protegidas por 40 C.F.R., partes 5 y 7, ni a fin de interferir con tales derechos (tal como lo prohíbe el Título VI de la Ley de derechos civiles de 1964, según sus modificaciones; la Sección 504 de la Ley de rehabilitación de 1973; la Ley de discriminación por edad de 1975; el Título IX de las enmiendas de a la Ley de educación de 1972; y la Sección 13 de las enmiendas a la Ley federal de control de la contaminación del agua de 1972 (en conjunto, las leyes federales en contra de la discriminación).



## EMPLOYMENT APPLICATION

**YAKIMA REGIONAL CLEAN AIR AGENCY** an Equal Opportunity Employer

**INSTRUCTIONS:** Type or legibly print in the spaces provided. Do not type or print in the shaded areas. Sign and date the application. Incomplete Applications may not be accepted. You may submit up to 3 letters of recommendation.

General Information			Computer Skills		
Position for which you are applying			Write number of years of experience next to each skill.		
Last Name	First Name	Middle Initial	Website Software	Operation Spreadsheet	Programming Word Processing
			Data Entry Dbase/Relational		
Mail Address			Describe Any Other Computer Skills		
City/State/Zip			Keyboard/Data Entry Words per Minute Ability		
Email Address			<b>Language Skills</b> List any foreign language spoken & check appropriate skill level.		
Home Phone	Work Phone	Message Phone	Language		Fluent
					Conversational
Driver's License? Yes <input type="checkbox"/> No <input type="checkbox"/>					<input type="checkbox"/>
State No. Expires					<input type="checkbox"/>
United States Citizen? Yes <input type="checkbox"/> No <input type="checkbox"/>					<input type="checkbox"/>
If no, describe status.			<b>Equipment Skills</b> List equipment skills you have which may apply to this position.		
U. S. Military Service? Yes <input type="checkbox"/> No <input type="checkbox"/>					
Dates of Service Type of Discharge			<b>Licenses and Certifications</b>		
<b>Education</b>			List professional licenses/certifications you hold which may apply to this position.		
High School Diploma or GED? Yes <input type="checkbox"/> No <input type="checkbox"/>			License or Certification		Issued By
If no, highest grade completed.					Expiration Date
List Colleges, Vocational or Technical Schools & Dates Attended					
			<b>Other Skills or Aptitudes Which May Apply to this Position</b>		
List Colleges Degree(s) or Certificate(s) Obtained and Date(s) Obtained					
List College Course(s) of Study					

## Employment History

List your previous work experience including, self-employment and military service. Begin with the most recent employer.

From To Hours per week Rate of pay	Job Title Duties	Employer Address City/State/Zip Supervisor's Name Phone Reason for Leaving
From To Hours per week Rate of pay	Job Title Duties	Employer Address City/State/Zip Supervisor's Name Phone Reason for Leaving
From To Hours per week Rate of pay	Job Title Duties	Employer Address City/State Supervisor's Name Phone Reason for Leaving
Of the jobs above, which one did you most enjoy and why?		

### Agreement, Authorization and Certification

I hereby certify that all information on this application is true and understand that false or misleading information on this application may result in the removal of my name from consideration for employment and, if hired, may result in termination of any employment. I understand that this information may be subject to verification and I authorize YRCAA to perform a background check and to verify the information presented here. I hereby release YRCAA from all liability for any damage whatsoever arising therefrom.

**Signature of Applicant** \_\_\_\_\_ **Date** \_\_\_\_\_

This agency will consider all individuals for any position for which they are qualified and able to perform. It is also the policy of this agency to administer all phases of its personnel recruitment, hiring, placement, compensation, benefits, and all other conditions or privileges of employment without regard to race, color, religion, sex, national origin, age, marital status, disability or veteran status.



## Yakima Regional Clean Air Agency Executive Director Application Screening Questions

Applicant Name: \_\_\_\_\_

### Application Screening Questions

#### **Education & Experience**

**Q1.** Do you have a bachelor's degree in Environmental, Legal, Public Administration, Engineering, Public Health or related field and at least six (6) years of experience in a director or other leadership role for an organization or a department within an organization?

- ☐ Yes  
☐ No

**Q2.** Do you have experience with the development and management of grant programs and experience with contract management?

- ☐ Yes  
☐ No

**Q3.** Do you have at least 5 years of experience in financial management and/or budget administration?

- ☐ Yes  
☐ No

**Q4.** Do you have at least 5 years of experience with Federal, state, and local laws and regulations specific to air pollution control?

- ☐ Yes  
☐ No

**Q5:** Do you have knowledge of basic engineering principles of industrial processes and various types of air pollution control devices and work practices?

- ☐ Yes  
☐ No

**Q6:** Do you have at least 5 years of experience leading a diverse group of staff for an organization?

☐ Yes

☐ No

**Q7:** Do you have experience preparing and conducting public presentations and public outreach campaigns?

☐ Yes

☐ No

**Q8:** Do you have experience communicating effectively with federal, state and local government agencies, industry and the general public;

☐ Yes

☐ No

### **Instructions**

- Your completed application, cover letter, resume, application screening questions, and at least three (3) professional references must all be submitted in order for your application to be considered complete.
- Submit all required documents to: [Human.Resources@co.yakima.wa.us](mailto:Human.Resources@co.yakima.wa.us)
- Contact by phone (509)574-2210 if you have any questions.