



# **Yakima Regional Clean Air Agency**

*Yakima Regional Clean Air Agency*

## **New Source Review (NSR) for DTG Limited Purpose Landfill (LPL)**

### **Responsive Summary For Comments Received**

#### **Public comment period held:**

September 26, 2023

First public comments started August 25, 2023 ended on September 25, 2023 and was extended for another thirty days through October 25, 2023

**Notice/Reminder:**

There has been some modification to the proposed Order of Approval since the first draft as shown in the posted final version and some conditions were added to accommodate and take into accounts the comments provided.

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**Public Comments received (Thursday, September 14, 2023 1:19 PM) from DTG are as follows:**

**General:**

1. There are a number of locations where "DTG" has been spelled "DGT". Please change the spelling to "DTG".

***Response- YRCAA will correct that.***

2. Please change the Applicant/Permittee on the cover page to the "Existing Limited Purpose Landfill with Materials Recovery Facility".

***Response- YRCAA will accept that change.***

3. Please change the Contact on the cover page from "Mike Sheldon" to "Ian Sutton". It was also discovered that the application forms included in the application were from a previous version. Correct applications forms are attached to this letter, which include updated contact information and the final iteration of emission quantities.

***Response- YRCAA- Will update the contact.***

**Description of the Source:**

Item 1.16 Based on Civil 3D estimates, Phase 1 is estimated at approximately 2,500,000 cubic yards and Phase 2 is estimated at approximately 2,200,000 cubic yards. Estimates assume haul density of 0.24 tons per cubic yard and an in-place density of 0.5 tons per cubic yard. In-place tonnage for Phase 1 and Phase 2 is estimated at 1,250,000 tons and 1,100,000 tons, respectively.

***Response- Yes- YRCAA accepts the haul/bulk density to be at 0.24 tons per cubic yard. However, in-place density at 0.50 tons/cubic yard is debatable. Some of the materials received are grinded, hence, the in place density should be less than 0.50 as suggested. YRCAA will accept 0.35 at the most not 0.50 based on analysis.***

**Determination:**

Please revise wording in **Section 2.0 Determinations** so content is not expressed as conditions.

Item 2.3 please change this item to read: "Construction/modification at this facility is subject to new source review requirements in WAC 173-400-110 and WAC 173-460-040;"

***Response- Condition has been clarified to not express it as a condition. However,***

***modifications are subject to NSR.***

Item 2.4 Please change this item to read: "The facility is subject to WAC 173-400-099 - Registration Program and YRCAA 1, 4.01- Registration Program."

***Response- Language has been clarified.***

Item 2.7 This determination is expressed as a condition. Please move it to Section 3.0 Conditions

***Response- It is part of the determination, as it did not specify the plan. The plan will also be submitted to Department of Health and Ecology for approval. Language has been modified.***

**Operating Approval Conditions:**

Condition 3.2.1 This condition appears to be a Determination. DTG has demonstrated compliance with Chapter 173-460 WAC in the NOC application. DTG requests that Condition 3.2.1 be deleted.

***Response- It is true the initial determination is that, DTG complied. However, this condition includes also the future, thus, no changes is required.***

Condition 3.2.2 There is no WAC 173-400-110(l)(c)(ii)(e). WAC 173-400-110(e) states that "The procedural requirements pertaining to NOC applications and orders of approval for new sources that are not major stationary sources, as defined in WAC 173-400-710 and 173- 400-810, shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, Model Toxics Control Act, or to the department of ecology when it conducts a remedial action under chapter 70.105 D RCW. The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW using the procedures outlined in WAC 173-340-710(9) or during a department-conducted remedial action, through the procedures outlined in WAC 173-340-7 10(9)." The statement in the second sentence, "The Department of Ecology shall ensure compliance with substantive requirements of this chapter..." appears to apply this requirement to Ecology rather than DTG. DTG requests that conditions in this approval that restate federal, state, and local regulations be deleted, as Condition 4.1 requires that DTG comply with all applicable federal, state and local laws and regulations.

***Response- It is true the citation of the WAC 173-400-110(l)(c)(ii)(e) is inaccurate- it is an error in YRCAA part, however, the condition and what the facility should comply with is accurate in the statement condition. We will change the citation to reflect the accurate WAC which is WAC 173-400-110(l)(e).***

Condition 3.2.3 The first sentence in Condition 3.2.3 appears to be a Description of the Source. DTG requests that it be moved to Section 1.0. DTG requests that the second sentence in this condition be changed to read: "The facility shall not accept any petroleum contaminated soil (PCS) at the site without obtaining necessary approval from YRCAA."

***Response- Yes, the facility ceased to accept PCS is a description to indicate that PCS will continue not to be accepted too. However, YRCAA clarified condition and added the written approval as part of an Order of Approval to be required, if ever is approved.***

Condition 3.2.5 Section 13.2.2 of AP-42 published by the EPA, provides emission factors and equations for estimated emissions due to vehicle use on unpaved roads. EPA recommends that equation 1a be used to estimate emissions from vehicles traveling on unpaved roads at industrial sites. Equation 1a calculation does not include a vehicle speed factor. Equation 1b, which the EPA recommends be used to estimate emissions from vehicles traveling on publicly accessible roads, does contain a speed factor, which uses 30 mph as the base speed, that speed at which the speed factor in the Equation 1b is 1.0. DTG is required in Condition 3.2.4 to apply dust palliative material or water on unpaved roads and unpaved areas as needed to minimize airborne dust. DTG believes that Condition 3.2.4 precludes the need for a speed limit, but if a speed limit is deemed necessary by YRCAA, DTG requests that it be no less than the 30 mph base speed used in Equation 1b.

***Response- Yes, the equation has no speed limits. However, 10 mph is the recommended speed for all unpaved roads. The road to the landfill site has some residence to the east of the roads. Dust must be minimized. YRCAA observed that the road was dusty during summer. When the road is wet, the speed may become moot issue, as was also observed. Hence, the 10 mph or less is a good dust control for vehicles when the roads are dry.***

Condition 3.2.8 The facility has a Plan of Operation as approved by YHD and Ecology for the solid waste permit. The Plan of Operations will be revised to include the requirements of the final Order of Approval.

***Response- It might be the case that the YHD and Ecology are asking for Plan of Operation, what YRCAA is asking something like what is specified in Condition 3.3.***

Condition 3.3.6 The LPL is required through the solid waste permit to perform quarterly methane monitoring of the ambient air at the property line. No actionable measurements of methane have been encountered. Based on the ongoing monitoring, historic results, and the location and nature of the landfilled material, increasing monitoring frequency to weekly is not warranted. Ambient methane readings should continue on a quarterly frequency. If methane monitoring is needed in response to a landfill gas response, DTG requests that methane be added to Conditions 3.3.4 and 3.3.5.

***Response- Methane monitoring is also required by LPL regulation. However, the requirement in the condition is for the YRCAA Order of Approval (Permit). However, if no detection is recorded the frequency will be changed to something like condition 6.4. In addition, we should also ask for reading at the surface for methane.***

Condition 3.6 In accordance with the NSR application, PTE was based on a 1,000,000 cubic yard annual haul volume received. The maximum allowable volume should be set at 1,000,000 cubic yards.

**Response- This condition has been revisited as the 690,276 cubic yard was initially used based on the registration forms. We have taken the compaction and grinded materials received into consideration. Thus, the one million is used based on the NSR application using the bulk /hull density and used in the NSR calculation and specified in the condition and also specified as the maximum allowable.**

Condition 3.9 Material limitations for the MRF are based on the solid waste permit which is limited to material able to be disposed in the landfill. Condition 3.9 should be changed to state that material accepted at the MRF shall be in compliance with solid waste permitting.

**Response- We will specify what is in the YHD permit. It is almost what we indicated in our permit.**

Condition 3.10 Material limitations for the MRF are based on the solid waste permit which is limited to material able to be disposed in the landfill. DTG requests that Condition 3.10 be deleted.

**Response- It is specific to purely plastic materials which shall not be accepted. Conditions remain.**

Condition 3.18 Please add crushed rock export as an authorized operation.

**Response- We will add that if it is permitted as specified in other permits i.e., YHD and Ecology.**

Condition 3.18 Table 1 dimensions for Phases 1 and 2 are the modeled values for AERSCREEN with approximate average heights indicated. Phase 1 was modeled as a circular area with height set to average height because it is full . Phase 2 was modeled as a rectangular area, with height set at an average value for the projected fill. DTG requests that actual configurations, sizes and heights of Phases 1 and 2, as shown in Section 4.3.4.1 of the NSR application, be used in Table 1 of Condition 3.18.

**Response- Will adjust it if the dimensions are the same. However, we have also done an AERMOD modeling for the actual area with the actual topography.**

Condition 3.19 Table 2 is a list of site equipment at the time of the NSR application. Equipment may change over time. DTG requests that Condition 3.19 stipulate that permit modifications are not required for like-kind vehicle replacement.

**Response- This kind of requested modification is included as indicated at the modification determination condition item 2.3 and operating approval conditions item 3.4 and the general approval conditions item 4.1.**

**General Approval Conditions:**

Condition 4.3 This condition appears to restate permitting requirements in WAC 173-400-110 and WAC 173-460-040. DTG requests that conditions in this approval that restate federal, state, and local regulations be deleted, as Condition 4.1 requires that DTG comply with all applicable federal, state and local laws and regulations.

***Response- It is true it is restating the requirements, but only applicable requirements to the facility. This is a general approval conditions that used by YRCAA in case any regulation is missed or not stated. YRCAA expect the facility to be in compliance with those regulation, hence, if that is the case, there shall not be any problem. Nonetheless, condition 4.3 to be specific for any modification not to start construction prior to the issuance of the permit.***

**Emission Limits:**

Condition 5.3 This condition appears to restate permitting requirements in WAC 173-460-040, Chapter 173-460 WAC and WAC 173-400-075. DTG requests that conditions in this approval that restate federal, state, and local regulations be deleted, as Condition 4.1 requires that DTG comply with all applicable federal, state and local laws and regulations.

***Response- It is true it reinstates the permitting requirements, but this condition is in relation to the general emissions limits that are and not specified within the order of approval. The facility shall comply with those limits too. Hence, it remains as a condition.***

Condition 5.4 In accordance with WC 173-350-400, limited purpose landfills must be designed to control methane and other explosive gases to ensure they do not exceed:

- (i) Twenty-five percent of the lower explosive limit (1.25% by volume) for the gases in facility structures;
- (ii) The lower explosive limit (5% by volume) for gases in soil or in ambient air at the property boundary or beyond; and
- (iii) One hundred parts per million by volume of hydrocarbons (expressed as methane) in off-site structures.

DTG requests that conditions in this approval that restate federal, state, and local regulations be deleted, as Condition 4.1 requires that DTG comply with all applicable federal, state and local laws and regulations.

***Response- This is a very good point. What you have stated above is in relation to WAC 173-350-400. YRCAA clarified the conditions and we will add a surface monitoring.***

Condition 5.6 In accordance with the NSR application, PTE was based on a 1,000,000 cubic yard



annual haul volume received. The maximum allowable volume should be set at 1,000,000 cubic yards.

***Response- Please see reply to condition Item 3.6 above.***

**Monitoring, Recordkeeping, and Reporting Requirements:**

Condition 6.4 Daily ambient air monitoring has been performed at the site for H<sub>2</sub>S beginning in March 2023 with no detections. The LPL is not a significant source of H<sub>2</sub>S as demonstrated through modeling and field assessments. Based on this information, DTG contends that high-frequency monitoring is not warranted. DTG requests that Condition 6.4 be changed to require periodic H<sub>2</sub>S inspection at the facility during routine CH<sub>4</sub> inspections. If H<sub>2</sub>S odor is detected during routine inspection or at any other time, DTG will respond in accordance with Condition 3.3.

***Response- Routine inspection is not specific and not specified. It could mean monthly, quarterly or even annual. Hence, the YRCAA will reevaluate the actual data from previous years and reevaluate the condition accordingly if warranted.***

**Appendix A- Calculations**

**Fugitive Particulate Matter Emissions Calculations**

Several Notice of Construction applications have been submitted to YRCAA, first by Anderson Rock, then by DTG, for the limited purpose landfill since 2016. Each of those submittals had calculations for anticipated actual emissions and for potential to emit (maximum emissions possible under worst-case conditions). YRCAA performed their own calculations as a way of cross-checking emission calculations submitted by the applicant. YRCAA's emission calculation methodologies varied from the applicant's methodologies in several ways.

One example is that YRCAA's calculation for fugitive particulate matter emissions from "Roll-off Haul Truck; Gravel Haul t(r)uck road on compacted soil and gravel" used a silt content of 6.8%, truck weight of 22.5 tons, round trip distance 2.5 miles, 11,556.4 trips/yr for vehicle miles traveled (VMT) of 28,891 mi/yr. YRCAA calculated fugitive particulate matter emissions for the following categories including:

- Roll-off Haul Truck; Gravel Haul t(r)uck road in LPL and wood waste area(s),
- Loader
- Dozer
- Light truck
- Woodwaste Tub Grinder
- Wood chip pile

DTG's calculation for fugitive particulate matter emissions "Haul trucks-Phase 2, graveled road use" used a silt content of 4.5%, truck weight of 17.8 tons, round trip distance of 1.5 miles, 16,964 trips/yr for VMT of 25,786 mi/yr. DTG calculated fugitive particulate matter emissions for the following categories including:

- Haul trucks-Phase 2, graveled road use
- Haul trucks-quarry, graveled road use
- Haul trucks-Phase 2, work area use

- Haul trucks-quarry, work area use
- Loaders, work area use
- Bulldozers, work area use
- Bulldozers, compacting construction and demolition debris compaction
- Light trucks, gravel road use
- Light trucks, work area use
- Haul trucks-Phase 2, paved road use
- Haul trucks-quarry, paved road use
- Light trucks, paved road use
- Woodwaste Tub Grinder
- Wood chip pile

Needless to say, these calculations are difficult to compare. Also, the calculations in Appendix A of the draft approval do not take into account the potential to emit values provided by DTG for the proposed maximum allowable annual operating rate of 1,000,000 cubic yards of materials received. DTG requests that the following summary table be used in place of the fugitive particulate matter calculations in Appendix A:

**Particulate Matter PTE by Category, based on 1,000,000 yd<sup>3</sup>/ yr Materials Received**

	PM2.5	PM10	PM
Haul trucks- Phase 2, gravel road use	0.58	5.55	22.07
Haul trucks- Quarry, gravel road use	0.32	3.07	12.20
Haul trucks - Phase 2, work area use	0.06	0.53	1.94
Haul trucks- Quarry, work area use	0.03	0.29	1.07
Haul trucks - Phase 2, paved road use	0.27	1.10	5.52
Haul trucks - Quarry, paved road use	0.16	0.66	3.31
Loaders, work area use	0.08	0.80	3.33
Bulldozers, work area use	0.03	0.34	1.39
Bulldozers, compacting c&D debris compaction	0.03	0.34	1.39
Light trucks, gravel road use	0.00	0.03	0.12
Light trucks, work area use	0.00	0.01	0.02
Light trucks, paved road use	0.00	0.04	0.20
Woodwaste Tub Grinder	0.20	0.33	0.55
Wood chip pile	0.00	0.00	0.00
<b>Total</b>	<b>1.78</b>	<b>13.10</b>	<b>53.13</b>

***Response- YRCAA will not respond to each statement/paragraph or sentence in this section as it is not helpful it will lead to sterile discussion and conclusion. We have been in discussion over the silt content and other issues back and forth for sometimes. That is why we strongly believe it will be again, unproductive discussion. However, YRCAA more than happy to look at the calculation and if a mistake is found it will be corrected prior to issuance of the permit.***

**Hydrogen Sulfide Emissions and Ambient Impact**

Hydrogen sulfide (H<sub>2</sub>S) gas can be emitted from both LPIs and municipal solid waste (MSW) landfills. H<sub>2</sub>S

emissions may be problematic at a landfill as they can cause odor, impact surrounding communities, or contribute to the formation of explosive conditions. H2S emissions at LPIs have often been attributed to the disposal of gypsum drywall. H2S emissions and resulting impacts to ambient air are regulated by Chapter 173-460 WAC. "Ambient air" is the air outside the boundaries of the facility undergoing new source review.

In accordance with Chapter 173-460 WAC, DTG calculated potential to emit H2S, and modeled impacts to ambient air using the model AERSCREEN, which indicated that the maximum H2S impact would be 1.06 microgram per cubic meter ( $\mu\text{g}/\text{m}^3$ ) on a 24-hr average, which is 53% of the 2.0  $\mu\text{g}/\text{m}^3$  acceptable source impact level (ASIL) for H2S listed in WAC 173-460-150.

YRCAA performed their own calculation, using the same areas and potential emission rates for Phases 1 and 2 of the LPL and arrived at 0.834  $\mu\text{g}/\text{m}^3$  ambient impact for H2S, which is 41.68% of the ASIL.

DTG requests that calculations performed by YRCAA be identified as such.

***Response- Not sure of what the point is. It is not pick and choose. We (YRCAA) will use the more stringent one. We will correct the names in the NSR application forms and other corrected information.***

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**Public Comments received (Saturday, September 16, 2023 1:34 PM) from Laurie Herman are as follows:**

“I write to you today with a deep concern with DTG's application to obtain an Air Operating Permit for its landfill and Material Recovery Facility. Your consideration of their application has been without sufficient public notification to review the permit and make thoughtful, evidence-based comments.”

***Response: YRCAA followed WAC 173-400-171(3)(n), the public comment was through the end of business day of September 25, 2023. Your comments was received on time September 16, 2023. In addition, we extended it by another 30 days through October 25, 2023 to accommodate any other public comments.***

“I join other concerned Yakima Valley residents in asking for an extension of the public comment period.”

***Response: YRCAA extended the comment period for another thirty (30) days through October 25, 2023.***

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**Public Comments received (Sunday, September 17, 2023 2:22 PM) from Sage Rat as follows:**

“I live very close to DTG operations. I am alarmed at the sloppy and dangerous practices DTG has followed in the past, and with their dishonesty and lack of concern for public safety that continues to this day. I am further disappointed that YRCAA is considering renewing DTG permit requests. The environmental damage and health risks already caused by DTG will last for decades, perhaps centuries. Allowing them to continue operations is foolhardy at best. I strongly urge you to deny their permit request. This is not the kind of business we need in our community. They are not good neighbors and have a blatant disregard for public health and the environment.”

***Response: YRCAA Order/Permit will elevate these concerns through compliance and enforcement when needed. The compliance and enforcement conditions of the Permit will eliminate those practices, if any. An air Permit/Order can be denied based on rules and regulations, and that is when the source does not meet specific thresholds of air emissions. For DTG permit, calculations were done utilizing worst case scenario and modeling, results shows that DTG will be below those thresholds; hence, YRCAA will not be able to deny the air permit. Their County land use permit allows them to have this business. In addition, other agencies are also part of the permitting and enforce their regulations.***

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**Public Comments received (Wednesday, September 20, 2023 6:30AM) from Mark Kody as follows:**

“I am a resident of the Coyote Canyon subdivision which lies right below the DTG land fill. I recently found out that the YRCAA has granted temporary approval for an Air Operating Permit. I am absolutely opposed to this Permit and am asking for an extension to give the public time to comment. In all honesty, I can not believe after reviewing the history of DTG that the Permit would even be considered at this time!”

***Response: YRCAA extended the comment period by another thirty (30) days through October 25, 2023. We understand your concerns, YRCAA have not issued a permit yet. We are taking all public comments into consideration including your comment. When and if YRCAA's Permit***

***is issued, it will also have a baseline on what and how they shall comply with the approval conditions in relation to air emissions. This will lead to a better monitoring, compliance and enforceability. In addition, YRCAA's Permit is one of multiple permits that they should have including the main permitting authority which is the Yakima Health Department.***

"The public has not be given sufficient notification to review any of the documents they have submitted for the Permit since you have given no press release. I recently found out about it through word of mouth. From what I see much of the information DTG has provided is outdated to underestimate the potential impact of their odious expansion plans."

***Response- YRCAA followed WAC 173-400-171(3)(n), the public comment was through the end of business day of September 25, 2023. Your comments were received on time September 20, 2023. However, to accommodate your comment YRCAA extended the public comments by another 30 days through October 25, 2023. Our calculations are based on allowable throughput and up to date information (Registrations from 2020, 2021 and 2022), as well as the maps generated by YRCAA. In addition, there is a stipulation in the approval conditions stating that the permit may be modified, suspended or revoked in whole or part for cause including, but not limited to, "Violation of any terms or conditions of this authorization"; or "If this authorization has been obtained by misrepresentation or failure to disclose fully all relevant facts."***

"Those of us living by DTH has lost all trust in the company. They have flouted the regulations meant to protect the public, time after time, resulting in the underground fire and the environmental and health mess we currently have. Granting this permit with little to no public input just serves to undermine our trust in our county regulators. You are here to protect the public and not promote a business that profits from being the dumping ground for western WA and Canada!! I wonder if the YRCAA members would grant the Permit if they were neighbors of DTG!"

***Response- The approval conditions purpose of compliance and enforcement in the permit are mainly for that, to be able to confirm they're adhering to what is permitted. It's not a final determination, it's a proposed draft. We will also address community concerns and include it in the permit pursuant to the rules and regulations that we have to adhere to. It's not within our authority or jurisdiction to determine whether they can or cannot accept waste from other counties or countries. Our permit is based on calculations and thresholds for air emissions from LPLs. As a matter of fact some of us are living in that neighborhood of DTG.***

"Please listen to the concerns of the public and seek more input before going forward with this Permit!"

***Response: YRCAA extended the comment period for another thirty (30) days which will end on October 25, 2023.***

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**Public Comments received (Sunday, September 24, 2023 6:37PM) from Eric Anderson as follows:**

“Dear Sir / Madam:

My comments to DTG's NSR Application & YRCAA pending approval process are as follows.

“1) YRCAA did not issue a public press release via newspaper / news media or directly notify concerned citizen groups of DTG's very lengthy and technical application. This is inappropriate given the huge amount of concern the public has already expressed about DTG's activities and negative environmental impacts! For that reason, an extension of the public comment period to at least the end of the year would be appropriate!”

***Response: YRCAA followed WAC 173-400-171(3)(n). YRCAA appreciate your comment and we did extended the comment period by another thirty (30) days thorough October 25, 2023.***

“2) It appears that DTG's NSR application is based on outdated data / information. This application should only be accepted if all data / info is up to date! Additionally, the site plan that reflects the landfill's footprint is from an earlier time (2015) and does not accurately reflect the current landfill footprint (2023) and the expanded neighborhood growth! Also, the aerial photos of the LPL and PCS are outdated and the application only considers landfill volume data up to 2021 and omits 2022 data, which contains the largest volume to date. This data has been readily available since April 2023 and needs to be included.”

***Response: Overall YRCAA based the calculations on up to date information and maps also generated by YRCAA staff. The footprint of DTG's may have changed since 2015 and the neighborhood has expanded, DTG's property boundary hasn't change (as a matter of fact, the area for DTG has increased) and that is what is used in Permit calculations. The data was taken from Registration Forms from 2020, 2021 and 2022 up to date. Nonetheless, YRCAA will ask the Permittee to submit all this information and up to date maps if different than what we have and what we downloaded. Moreover, what we are permitting is what we indicated in the proposed Permit not the whole DTG footprints/area.***

“3) Regulators have required and DTG agreed to place a liner on all future landfill cells, yet there was no mention of this liner in the application. Additionally, the work plan DTG submitted was from 2020 before any discussion of a liner took place. A leachate collection system for the liner is also required, and needs to be included in an updated work plan!”

***Response- Although the application does not mention the liner, YRCAA permit's conditions 1.10 stated that Cell #2, which is being permitted, shall be lined with geomembrane. The Operation and Maintenance Plan (O&M Plan) required by YRCAA (different than the one submitted in the NSR application) shall be developed to reflect all current operations, procedures and update it when there is any changes at the LPL or MRF, if any. Nevertheless, YRCAA will ask DTG to submit the complete MRF Operations Plan. YRCAA will include a condition to the leachate collection system in the conditions.***

“4) Given the huge amount of public concern, outdated DTG work plans, and past problems with this landfill, a new SEPA determination should be completed! The old SEPA DNS (1992) and subsequent 2015 SEPA Review is definitely outdated.”

***Response- YRCAA received other comments regarding the SEPA determination. During a Public Forum, and the Public Hearing of the DTG Draft Permit, YRCAA reached out to the Yakima County to discuss the SEPA process for DTG and the determination. YRCAA received a determination form the County which concluded that the Determination of Nonsignificance (DNS) 2015 for the SEPA process is valid and accurate and still valid to satisfy SEPA 's requirements.***

“DTG's operations should remain shut down until all of these requirements are satisfied. No permits of any sort should be issued without adequate up to date information and SEPA review! Thank you for considering these comments!”

***Response- YRCAA's air Permit is only one of the permits requirements for DTG. DTG still have to fulfill/satisfy the requirements of the Yakima Health District (YHD) which is actually the agency in charge of permitting this type of operations based on WAC 173-350 (Solid Waste Handling Standards).***

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**Public Comments received (Monday, September 25, 2023 8:53AM) from Becky Lang-Boyd as follows:**

“To Whom It May Concern,”

“I just recently became aware that DTG hopes to obtain an Air Operating Permit as part of its efforts to reopen the landfill. I also see that you, the YRCAA, are inclined to approve that request. Having just read through many pages of their application I must question your initial decision as DTG excludes all data from 2022 when the volume of their operation skyrocketed to over 695,000 cubic yards of waste (compared to approximately 149K in 2019).”

***Response- We considered the actual data from 2022 in our calculations as we asked DTG to submit the data for the missing years in the application. Also, the air emissions determination is based on potential and allowable to emit considering a higher amount of waste received than what was submitted for 2022.***

“I understand this is a complex issue but citizens rely on you to make decisions based on current factual information. DTG's application features old maps and photos, and their "Anticipated Actual Emissions" [4.2.1] is based on the annual waste acceptance rate from 2015 to 2021.”

***Response- YRCAA generated up to date maps to reflect more accurate footprint for DTG. Also, as mentioned above, for our calculations we considered the allowable, potential and the actual waste acceptance for air emissions.***

“I believe it would be poor policy to approve a new application based on old facts and figures. I am sorry to have missed your community forum on September 18th. Kindly extend the public comment period so more citizens can become educated and involved.”

***Response- The public hearing was on September 26, 2023 at 6:00PM. YRCAA used the most up to date data, figures and maps even though some figures may have been an old once in the application. For our calculations we considered the waste acceptance from 2022 and the potential and allowable- that they may receive in a year. YRCAA extended the comment period by another thirty (30) days through October 25, 2023.***

“Thank you,

Becky Lang-Boyd”

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**Public Comments received (Monday, September 25, 2023 9:52AM) from Tom Boyd MD as follows:**

“Members of YRCAA:”

“ I am deeply concerned about the pending application by “DTG’s New Source Review application.” I learned of the application *after* the 9/18/23 public meeting, so could not comment in person. DTG and it’s actual owner (Macquarie Infrastructure Holdings, LLC (NYSE: MIC)) have a very troubled history with their landfill operation in Yakima County. There should be an extension for review and public comments regarding their new application. This application was pushed forward without adequate public notice to allow review the 288-page application. It appears that accurate information from 2022 and 2023 DTG operation in Yakima County were not included in the analysis by Parametrix.”

***Response- YRCAA extended the comment period by another thirty (30) days to give people more time as requested. The YRCAA followed WAC 173-400-171(3)(n) for public comments. The public hearing was on September 26, 2023 at 6:00PM. The 18<sup>th</sup> of September was a public forum. The YRCAA considered the actual data from 2022 in the calculations and we (YRCAA) used an allowable waste acceptance.***

“ I was very frustrated to learn of YRCAA’s tentative approval without allowing genuine public comment. My quick review of the application by Parametrix/DTG suggests that none off the recent information about violations (sited by department of Ecology in late 2022) were mentioned in the application. Ironically, the well documented release of hydrogen sulfide, benzene and naphthalene into the air (by DTG) were not addressed. The longstanding underground fire at the DTG site also suggests mismanagement & inadequate oversight by DTG.”

***Response- YRCAA’s pending approval is a Draft Permit, the Public Hearing and the Comment Period were a genuine way to address comments from the public regarding Air Quality Issues before the actual permit is issued. Also, this tentative approval is based on calculations and thresholds determined by federal, state and local rules and regulations. The mismanagement you cited (gas emissions release and underground fire) are part of an Agreed Order (AO)***



*under the Model Toxic Control Act (MTCA) between DTG and Department of Ecology (ECY), in which YRCAA has no jurisdiction until ECY release a Non Further Action letter, then, YRCAA will revise the Permit at that time if needed. Moreover, under the MTCA the facility must and shall meet the substantives requirements for air, etc. This issue is also addressed in DTG's application Section 1.5. Again, the mismanagement you cited will be dealt with in a compliance manner.*

“I live on and run an orchard 2 miles southeast of the DTG site and am downwind of this facility. I am not confident that the concerns of local Yakima County residents have been taken into account.”

***Response: WAC 173-400-171 defines the requirements for notifying the public about air quality actions and to provide opportunities for the public to participate in those actions. Following WAC 173-400-171(3)(n) and (6)(a)(vii) a Public Comment Period ( for 30 days and was extended for another 30 days) and a Public Hearing was held as a consequence of a proposed draft permit action pursuant to WAC 173-400-171(5)(b)(ii).***

“Thanks you for your consideration,”

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**Public Comments received (Monday, September 25, 2023 3:46PM) from Nancy Lust as follows:**

“I appreciate the YRCAA extending the public comment period for an additional 15 days. As I mentioned in the Community Forum on Sept. 18th, perhaps a more effective way of communicating this type of information with the public would be to issue a press release and email the people/groups (such as Friends of Rocky Top) directly who you know to be interested in DTG's landfill operations.”

***Response- Thank you, we will take that in consideration for future projects but following and adhering to WAC 173-400-171, yet, YRCAA extended the comment period by another thirty (30) days through October 25, 2023. That is about 37 days from the forum date of September 18, 2023.***

**“Comments on DTG's New Source Review Application for YRCAA Air Operating Permit**

I urge YRCAA to postpone granting the Air Operating Permit to DTG until DTG puts forth a more rigorous, accurate, transparent, up to date application. Yakima County currently has two landfills with underground fires. This fact can only arise because the landfill operators disposed of material not permitted for their landfills AND from a history of lax oversight from regulators until relatively recently. DTG also created a MTCA toxic cleanup site. While the area of the landfill with the fire and the MTCA site are excluded from this permit, for reasons I understand, the very existence of these two problems at DTG's facility suggests the need for stricter scrutiny on the part of regulators and more thoughtful, transparent operating procedures on the part of DTG. For DTG's application to even be considered it needs to include the following:”

***Response- YRCAA will meet these expectations by enforcing permit conditions, based on up to date figures and data.***

**“Regarding Section 1.2 Site Description**

1. A site plan diagram / satellite map that reflects the CURRENT configuration of the site rather than one dated 2015, as shown in Figure 1 on page 2 of their application. DTG HAS one dated June 21, 2023 that they included in their memo to Luke Lemond from Michael Brady of Parametrix, dated September 6, 2023 regarding Thermistor Installation / Limited Remedial Investigation Work Plan.”

***Response- YRCAA used up to date maps generated by YRCAA staff to reflect more accurate footprint for DTG and to make the approval determination; however we will ask for that figure submitted on June 21, 2023 and use it, if it is different than the one YRCAA generated. Thank you for comments.***

2. “The aerial photo shown in Figure 2 on page 2 is also outdated, from 2016. DTG had drones flying over its facility this summer, so surely they have an aerial photo from summer of 2023 that would be more appropriate.”

***Response- We are not using that figure submit by DTG. We will use up to date photo.***

3. “The aerial photograph of the PCS area in Figure 3 on page 3 is also outdated. Although there is not a date associated with the photo, I took the picture below on September 18, 2023, and it bears little resemblance to the photo shown in the application.”

***Response- DTG’s application page 254 (PDF) shows a PCS Map as of 03/25/2020 different than the one showed in Figure 3. PCS can be moved within that specific area for treatment. However, we will use up to date photo.***

“These are important changes to make because the picture created by DTG’s current application leaves the reader with the impression that nothing at the facility has changed since Ron Anderson owned it. This is misleading because a lot has changed – it is a MTCA site; there is a fire; the first cell was built with a slope that was too steep and so DTG has had to purchase land from a neighbor to be able to deal with the fire and they had to place waste on the southern slope of cell #1 because they filled up the cell faster than anticipated and faster than they could obtain permission to expand into the next cell.”

***Response- YRCAA will use up to date Figures in the order of approval. Thank you, we will also request DTG to submit all up to date maps and aerial photos to add to their application. MTCA Site and underground fire are mentioned in the Proposed Draft Permit.***



**“Regarding Section 1.3 LPL Phase Planning**

1. DTG looks to be building a huge trash mountain behind Carole DeGrave’s home and those of the Coyote Canyon neighborhood and to the southeast of Paul Herke’s orchard. Given DTG’s poor track record of managing this landfill, I think Yakima County, Yakima Health District and YRCAA would be wise to require more than a 1000’ setback from a neighbor’s well. WAC 173-350-400 states 1000’ as a MINIMUM. Given the increasing population density, it is not unreasonable to require a greater setback for future cells. The current landfill is too close to neighbors, and DTG has already had to purchase property from a neighbor in order to deal with the operations of the existing cell. Requiring a 2000’ setback for future cells seems reasonable and prudent.”

***Response - Future Cell 2 (which is being permitted on the south of DTG Cell 1) is +1,000 feet from any neighbor’s well. However, your point is well taken. It is within WAC 173-350-400 which states that it should be 1000 feet at minimum from neighbors well. Water issues are really the YHD and Ecology’s jurisdiction / authorities not the clear air agency. However, we will state that in the permit. Our understanding of what you referred to as “a huge trash mountain” is gravel and concrete to be recycled not trash. We will state that in the permit too.***

2. “As part of the phase planning process, there needs to be an analysis of how the completed landfill would affect the amount of shade or sun reaching neighbors property. DTG needs to examine how the final fill, with elevation of 2,260’, will affect neighbors’ property – will Carole DeGrave need to spend more money heating her home in the winter when the sun is low because the sun is not

reaching her home? Will the odors for neighbors, who've made hundreds of odor complaints over the last few years, be even more concentrated because of the funneling effects created by the sides of the landfill? Will Paul Herke's fruit trees be negatively impacted by a frost pocket? DTG must explore the ramifications of its landfill in these ways."

**Response- Land concern/issue like "... the amount of shade or sun reaching neighbor's property", etc. is really not within our jurisdiction. Cell 2 height is approximately 17.45 meter; For odor, H<sub>2</sub>S can be detected by humans at a pretty low concentration, nonetheless, for DTG permit, calculations were done utilizing the worst case scenario, and used conservative and a more sophisticated model using the actual topography. The results shows that DTG will be below thresholds determined by the rules and regulations at the boundary lines; hence, DTG shall be on compliance with air quality emissions.**

3. "This document is very silent on DTG's agreement to make all future landfill cells lined. Such a commitment involves designing a functioning leachate collection system and collection pond. In addition, DTG has agreed to place its MRF building on an impervious surface, rather than move it around the landfill. These things are nowhere to be found in any diagrams in their application."

**Response- Thank you, that information were given to YHD and Ecology. It is a requirement of the WAC 173-350. It is a requirement by YHD and Ecology. YRCAA is aware of that and those letters will be included in YRCAA's DTG's file. Although the application does not mention the liner, YRCAA permit's condition 1.10 stated that Cell #2, which is being permitted, shall be lined with geomembrane. YRCAA will include the leachate collection system in the conditions. MRF's permit is developed by YHD. YRCAA will also coordinate that with YHD and Ecology's requirement.**

#### **"Regarding Section 1.4 Permits**

1. DTG mentions the Conditional Use Permit issued for the LPL in 2015. I know of the existence of CUP2015-051 and CUP2015-00051, both relating to the LPL. Both of these documents should be attached as appendices to the application. When dealing with permits that undergo many changes and modifications over the years, it is helpful to carry forward ALL the permitting documents each time there is a change. This way, the regulators, company, and public can clearly see the history and understand what is currently being required."

**Response- Those are conditional use permits. They were issued by the Yakima County, Department of Planning. These permits may also be available to the public through a public record request with the corresponding agency. Our understanding is that the area may be used for LPL. What YRCAA is permitting are the air emissions from the process.**

2. "The last line of this section states "The previous owner, Anderson Rock and Demolition Pits, did not obtain an Order of Approval from YRCAA for operation of the facilities." This is despite the stipulation in the CUP2015-051, section IV.2 which states "The applicant [Anderson] must obtain necessary permits and dust control plan approval from the Yakima Regional Clean Air Agency prior

to commencing ground disturbance as part of the expansion” (p 12). This is confusing to me. Why didn't this landfill operation ever obtain a valid permit from YRCAA? I want to understand why this is and how it happened. Did Anderson seek an Order of Approval for an Air Operating Permit and have it denied? Did he never bother to get one and YRCAA didn't notice? Did something in the law change between when Anderson got the LPL permitted and when DTG took over? Does each facility (LPL, PCS, MRF) need an Air Operating Permit from YRCAA? Would this be three separate applications and permits or all under one permit? If the LPL was supposed to have an Air Operating Permit in 2007 but didn't have one, why was DTG allowed to continue operating until June 30, 2023 without EVER securing one?”

***Response- As mentioned during the Public Hearing, it was a misunderstanding on whether they had a Permit or not since they started operations back in the late 90's. Our understanding it was rock crushing and selling gravel for many years, not operating as an LPL. The rules at that time for LPL were under WAC 173-304. Prior to 2006 the only air pollutant emitted was PM<sub>10</sub>. In 2016 Anderson submitted a NSR trying to expand its operations (new cell#2) and there was a stipulation from Yakima County Planning Department (CUP2015-051) to obtain a permit from our agency. YRCAA discovered they were operating without a permit, and it was an incomplete application. YRCAA continued the correspondence back and forth correspondence to have a complete application with Anderson until Mr. he decided to sell the landfill to DTG, after more correspondence, DTG decided to cease PCS material acceptance until they get a Permit from YRCAA, but will keep treating existing piles. Incomplete application from 2019, silt content tests, discovery of fractures at Cell 1., etc. leading to MTCA area which delayed the issuance of the NSR for DTG's operations; LPL, MRF and PCS can be included in a single Permit, but at this time, DTG ceased accepting PCS material until they get a Permit from YRCAA. DTG was allowed to continue operations because they were working on getting the NSR Application complete from YRCAA. And they have a permit from YHD to operate. We are not defending or finding any excuse for DTG or our agency, but operating without a permit is violation and YRCAA will deal with that separately for sure, regardless of any excuse. It is a violation.***

#### **“Regarding Section 1.5 Relevant Current Permit Activity**

This section states “This NSR application does not assess the emissions from the AO area as these are being addressed through other regulatory means. At the conclusion of the MTCA and YHD processes, if emissions do not meet the substantive requirements for air emissions, the Order of Approval may require revision.” It is my understanding that things like odors, dust, and litter from DTG's operations are not supposed to leave the boundaries of the facility. Yet, they do. So how are neighbors or trail-users who smell foul odors supposed to know if the odors are coming from the MTCA site, the landfill fire, or the newly permitted landfill cell? It seems that the complexities of having multiple agencies with multiple jurisdictions trying to regulate this facility is one of the problems which got us all into this mess. When residents seek redress from a regulator, they are often given a version of ‘that is not in our jurisdiction, you need to talk to so and so.’ But for these odors, how will Ecology, YHD and YRCAA decide whose odor problem it is?”

***Response- YRCAA modeled MTCA Area's emissions and assumes the highest concentration taken from monitoring data. This is not included in the Permit as we're not permitting that MTCA Area, but YRCAA made the calculations to make sure the emission from the whole DTG area are not going to exceed ASIL thresholds at the boundary line to be considered unsafe for the community. H<sub>2</sub>S odors can be easily detected, but the worst case scenario values are within the limits. YRCAA has to adhere to the regulation in particular MTCA. Still the AO and the method Ecology decides for the cleanup shall meet the substantive requirement of all media. YRCAA will respond to complaints. DTG will also be required by the permit to log all complaints and investigate the causes. Ecology, YHD and YRCAA are trying to resolve the issue, we are not saying who is jurisdiction it is to get rid of the issue, but we have to let you know the rules and regulation and some constraint we all have too.***

**“Regarding Section 1.6 Environmental Review (SEPA) and Section 3 SEPA Review**

1. Section 1.6 mentions the 1992 SEPA Determination of Non-Significance for the PCS operation done in 1992, and at least part of this document is included in Appendix C of DTG's application. It would be preferable to have the completed SEPA documentation, including the environmental checklist, be a part of Appendix C also.”

***Response- We can require DTG to provide this information. However, YRCAA only requires the SEPA determination for the NSR application. This proposed draft order of approval is not permitting the PCS operation. Currently, DTG is not accepting and will not accept PCS until they get a new permit.***

2. “Section 1.6 also refers to the 2015 SEPA review, complete with environmental checklist and Determination of Non-Significance, but these documents are not included in the application at all. Section 3 states that “a copy of the final Determination of Non-Significance has been provided in Appendix D.” Appendix D provides the DTG Recycle-Yakima Limited Purpose Landfill Operations Plan, and although this document has 5 appendices, none of these appendices contain the 2015 SEPA documents. DTG's application MUST include the full history of SEPA documents, from initial review and environmental checklists, to all subsequent reviews and findings.”

***Response- YRCAA believes “Appendix D” was a typing error and DTG was actually referring to “Appendix C”. Appendix C shows the 2 SEPA's Determination of Non Significance (DNS) that DTG has. YRCAA finds the Final DNS, not the complete checklist, as a sufficient prove to determine that DTG has gone through a SEPA process and we can start working on the New Source Review (NSR). Additionally, the Yakima County Planning Department confirmed that the SEPA of 2015 still stand and applicable.***

**“Regarding Section 1.8 PCS Operations**

1. With this current application, YRCAA appears to acknowledge in their Public Notice that DTG is seeking a permit for the LPL and for the MRF, but not the PCS site because DTG is currently not accepting any new PCS. Yet in DTG's application, under Section 1.8, they write “DTG intends to discontinue acceptance of PCS until such a time as an Order of Approval can be obtained from YRCAA, but the operations [to remediate the existing piles] will continue until all existing PCS has

been fully treated.” This suggests DTG is trying to obtain a permit to cover the PCS operation too. Please clarify whether YRCAA approval of this permit will result in a resumption of operations for DTG’s PCS facility.”

***Response- Currently, DTG shall not accept any PCS material and this will continue until a NSR Application is filled and submitted to YRCAA and a Permit for the PCS operation is issued. The facility has the right to submit any application they want, it may or may not be approved based on regulation. However, after the issuance of this Permit, DTG will have 364 days to treat the existing PCS piles, if not; they will have to remove them from this facility, the site.***

2. “Sections 1.8.1 Facility Operations states “The exact location of the salvage/recycling area will be determined by the need at that time and will be moved as conditions change. It will, however, remain within the approved LPL area.” This sounds like a cut and paste error for the operations plan for the MRF, not the PCS site. I would think the PCS site needs to remain located where it is.”

***Response- Yes, you are correct. Thank you. PCS area will remain located where it is right now as shown in the figures of the order of approval. It is for the bioremediation only (not receiving), will take place in the same place as shown on maps, during no more than 364 after the issuance of YRCAA’s permit, after that period, all PCS piles shall be either treated and disposed of pursuant to YHD permit, or total removal from the facility.***

3. “Furthermore, the original permitting document stated that the PCS site was supposed to have 3 groundwater monitoring wells. Those wells, unfortunately, were never drilled. They need to be in place prior to any permit to operate be granted.”

***Response- Water issues are not under YRCAA jurisdiction. It is YHD and Ecology. We understand that the Facility is working with Ecology and YHD to add some more wells.***

4. “Another thing that needs to be part of DTG’s PCS Operations plan is a stipulation saying that ONLY PCS can be stored in the designated PCS site, and not other types of soils or materials. Because the PCS soils must be labeled and identified and moving this soil around is part of the farming process, it is not best practice to allow other types of soil to be in the same area. This creates a condition where PCS and non-PCS soils could easily be mingled, thus diluting the amount of contamination without actually remediating the soil. In March 2022, I saw trucks entering the PCS area loaded with soil, and knew DTG was not supposed to be accepting PCS. So I notified Ted Silvestri, who investigated, and learned that these trucks contained soil from the Nelson Diversion Removal project, not PCS soil, but in his phone conversation with me, he remarked about the practice of storing both PCS and non-PCS soils in the PCS area, “I wish they wouldn’t do that.” Please stipulate only PCS soils be stored in the PCS area. This will aid transparency.”

***Response- Thank you, we will stipulate that the Permit. In addition, enforcement actions can be taken in case the conditions stipulated in the Permit is violated. The Facility is not allowed to accept any PCS.***

5. “In section 1.8.3 Waste Disposal Procedures, it states “The PCS piles are sampled and analyzed by an approved and certified laboratory on a periodic basis.” What, approximately, is this period of time? Weekly? Monthly? Please clarify.”

***Response- Our understanding it is based on bioremediation activity as well as the amount of contaminants on the piles. That should be stipulated on the YDH permit and we believe it is based on MTCA standards. YRCAA’s Permit gives DTG the option to either cleanup the piles or remove them within 364 days from the issuance of the Order, thus, the sampling must be done within this time frame. If and when a NSR Application is filled with YRCAA for PCS’s Operations, this period of time will be well defined, if a permit is issued.***

6. “How does the YHD or YRCAA know where a specific PCS pile is located once it leaves the PCS area and is put on the landfill? It is my understanding that this is part of the protocol, but it was not stated in section 1.8 on PCS Operations.”

***Response- YHD permit (page 67 of the PDF applications) states the minimum requirements to remove the PCS material from bioremediation area once it’s complete; one of the conditions is “the proposed location and end use of the material”. In the future, if a permit is issued for PCS, YRCAA will stipulate this condition and will require DTG to inform YRCAA and get a written approval. For now, again, the facility is not allowed to get any PCS.***

#### **“Regarding Section 2 - Fee**

DTG is now owned by Macquarie Asset Management, a global corporation with deep pockets. This landfill and PCS operation have created hundreds of hours of work for the YRCAA, and I suspect the agency has had to triage a few things because of the work being generated for them by DTG. YRCAA would be wise to implement a fee schedule whereby complaint-driven inspections and meetings that arise due to DTG’s mismanagement of its operations generate an invoice to the company to cover the costs of this excessive regulation. The taxpayers of Yakima County should not have to foot the bill for keeping a company in compliance. Past performance on DTG’s part suggests this is a fiscally responsible solution. A \$400 permit filing fee and the NSR fee are insignificant to a global conglomerate like Macquarie Asset Management.”

***Response- YRCAA’s filling fee (\$400) is the fee for the first step to determine whether a source needs a NSR, but the final bill once the permit is issued will be send to DTG including all the hours spent on drafting the permit, meetings, site visits, etc. YRCAA’s fees cannot be based on who the owner of the company is; it is based on YRCAA Regulation 1, as well as the approved current fee schedule. But the idea is a good one.***

#### **“Regarding Section 4.2 - Particulate Matter**

The 2022 volume numbers need to be included in DTG’s application and calculations. It is suspicious that DTG chose to only refer to landfill volumes between 2015-2021, despite having more recent data, especially since the 2022 landfill volumes were approximately 30% larger. I would think this may affect



the calculations for landfill emissions. I urge YRCAA, in conjunction with Yakima County Planning, to require trip counters on DTG's haul road. Such counters could record the date/time a vehicle crossed, and the general size or weight of the vehicle. Neither DTG nor the regulators have an accurate and transparent count for the number of trucks that use this road, which makes estimating the dust and vehicle emissions more challenging than it needs to be. Trip counters would also work to hold DTG in compliance for other permit stipulations, such as operating hours."

***Response- Overall YRCAA's preliminary determination and calculations were based on waste acceptance from 2022 submitted with the Registration Forms from CY 2022 and the potential (higher amount than the one submitted for 2022) that they may receive in a year to calculate the potential and the allowable air emission. This information, the average truck sizes and weights and the distance traveled were used to estimate the amount particulate matter emitted from DTG operations. To enforce this, YRCAA will ask for recordkeeping. These will be also verified during inspections, to make sure DTG is keeping track of every truck that goes in and goes out of theirs facility.***

#### **"Regarding Section 4.2.2 - Haul Road**

This section states "The paved portion of the haul road extends 0.63 miles from Summitview Road to the blue gate near the PCS area." Much of this road is in such poor condition, it can hardly be considered paved. The part of the road right off Summitview and the part near the PCS have virtually no pavement. Any observer can see the road needs to be repaved. YRCAA should, at a minimum, require DTG to resurface these parts of the road, and fix the potholes, so the road actually is paved."

***Response- YRCAA will consider this and hold the facility responsible for the 0.63 miles of the road as paved as considered in the calculation too. Road conditions changes with times. However, the Facility is responsible for dust control as it is private road and part of the facility. Thank you.***

#### **"Conclusion**

As you can see, Friends of Rocky Top contends DTG has significant work to do on their application to make it more accurate, up to date, transparent, and worthy of the public trust. We encourage you to require DTG to do this additional work and also for you to consider our suggestions and answer our questions."

***Response- Thank you, YRCAA can request DTG to submit an up to date and improved application to have a record that reflects the actual situation of the facility. However, YRCAA cannot guarantee that doing this will change the outcome of the proposed approval, because the values that were used in the calculations are up to date regarding volume waste received, the potential and allowable emissions and cell areas.***

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**Public Comments received (Monday, September 25, 2023 4:28 PM) from Bob Johnson as follows:**

"To whom it may concern,

"In regards to the Clean Air Permit that is currently in review for the DTG MTCA landfill I am submitting a public comment. I am shocked YRCAA would be considering a clean air permit for the expansion of

facilities at this location. DTG has already displayed a vast amount of gross negligence when it comes to public health and clean air. If past were any dictation of the present and future activities we can only assume the same activities are going to persist if YRCAA permits this facility to continue to accept Construction and Demolition wastes.”

***Response- The rules and regulations states if a source, DTG in this case, submit a NSR, YRCAA has the responsibility to review it and to take a decision based on calculations and thresholds determined by federal, state and local rules and regulations. Compliance and enforcement conditions in the permit will avoid noncompliance. i.e., issues you are referring to. We will make sure all the conditions are followed and are met by DTG, if not, enforcement actions, within YRCAA authority, will take place.***

“YRCAA duty's are to protect the public health from air hazards that will cause the public harm. The issue here is that this landfill has been allowed to dump large quantities of Gypsum Drywall into this landfill creating highly combustible and toxic H<sub>2</sub>S gas. This gas is highly flammable and is directly correlated to the fires that have been wreaking havoc to date.”

***Response- Yakima Health Department (YHD) issued a Limited Purpose Landfill (LPL) permit to DTG under WAC 173-350. In this permit, it's stipulated that DTG can accept construction & demolition material, which includes Gypsum Drywall. What YRCAA's permit will address is the H<sub>2</sub>S monitoring to ensure H<sub>2</sub>S emissions won't exceed state thresholds that can become harmful to people. If the operation procedures stated in YRCAA permit are followed, it shouldn't be concerns as it is below the threshold or the regulation based on modeling too.***

“Additionally, H<sub>2</sub>S gas has a rotten egg smell at very small low trace amounts less than 1 PPM. However, when heavy amounts of gypsum drywall decomposes in a landfill harmful levels of this gas can easily be achieved. There are many studies showing that at 200-300 PPM H<sub>2</sub>S gas can cause issues with breathing, headaches, and other health issues that are beginning to be found. Any levels above 300 PPM in air can paralyze someone's breathing ability and can lead to cardiac arrest and death.

H<sub>2</sub>S is a heavy gas and finds low areas to settle in. The concern by the public is this gas will ultimately contaminate all surrounding areas affecting residents living in the area.

Please see the chart below that shows warning levels of H<sub>2</sub>S.”



## Hydrogen Sulfide

- Decomposition of materials, human waste
- Naturally present in some oil/gas reservoirs
- Rotten egg odor at low concentrations
- Possibly no warning at high concentrations

PPM	Effect	Time
10	Permissible Exposure Level	8 Hours
50 - 100	Mild Irritation - eyes, throat	1 Hour
200 - 300	Significant Irritation	1 Hour
500 - 700	Unconsciousness, Death	1/2 - 1 Hour
>1000	Unconsciousness, Death	Minutes

***Response- We agree with you numbers and thank you for that. YRCAA’s permit is requiring DTG to do H<sub>2</sub>S monitoring at the property boundary to assure they won’t exceed the thresholds determined by federal, state and local rules and regulations.***

“Additionally, Why should Yakima be the dumping ground for Canada and the west side of Washington construction waste? Canada has banned gypsum drywall from being placed in their landfills, why? Well it's because there is enough data to support that there is a viable market for these materials and the health effects to the public are just too great.

This is why King County, Massachusetts, New Hampshire, Canada, and many other states and territories are banning this material from ending up in landfills.”

***Response- It’s not within our authority or jurisdiction to determine whether they can or cannot accept waste from other counties or countries. Although there’s data supporting Gypsum Wall viable market, DTG has the final decision on what they want to do with it as it’s an accepted material in Construction and Demolition Landfills based on rules and regulations. If drywall or construction and demolition materials will be ban in Yakima County, we will not issue a permit for LPL.***

“We hope this helps your decision making process to stir far away from permitting Construction and demolition materials at this landfill.”

***Response- Thank you, YRCAA will address public comments regarding Air Quality that are within its authority and jurisdiction. Again, if drywall, construction and demolition materials will be banned in Yakima County, we will not issue a permit for LPL. This needs to be done by the County and the Cities through resolutions or ordinances.***

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**Public Comments received (Monday, September 25, 2023 4:58 PM) from Wendy Wickersham as follows:**

“Hi! I am writing this letter in regards to DTGs current permit application.

I feel like it is a crime against humanity pushing through the permit process with little time for public input—please inform all neighbors and extend the public comment period. There is too much to look through and time is a requirement to be thorough. There are huge problems at both privately owned LPLs in Yakima County. Well...another LPL in Yakima County has been running without a permit since June 30th so there clearly are problems. They are still operating today, September 25, 2023. Why aren't they stopped? Is DTG really not running their LPL? Hmmm.....These problems all have a negative potential impact on neighbors and the environment. How are the neighbors and environment being protected?”

***Response- YRCAA extended the comment period for another thirty (30) days which will end on October 25, 2023 to give people more time as requested. A Public Forum and Public Hearing were held already; and Friends of Rocky Top have shared this information with neighbors. DTG is currently shut down and cannot operate the LPL based on YHD decision, but the Material Recovery Facility is allowed to continue operating. YRCAA made a visit to DTG and confirmed that the trucks that came in were for MRF operations. YRCAA's calculations were done utilizing worst case scenario and modeling for DTG proposed operations, results shows that DTG will be below thresholds defined by federal, state and local rules and regulations.***

“The fallacy continues...why are the maps outdated? Why are the aerial photos outdated? Why does nothing reflect the current LPL? Their permit should reflect the current data and intake of waste. Why are they not being forced to do a new SEPA if their waste flow is so high? Where is the required compliance?”

***Response- Although DTG submitted not up to date information, YRCAA's preliminary determination was based on data from 2022 submitted on the registration forms, as well as maps generated by YRCAA. YRCAA received other comments regarding the SEPA determination. After the Public Forum and Public Hearing of the DTG Draft Permit, YRCAA reached out to the Yakima County regarding the SEPA for DTG and the its determination. It was conclude that the Determination of Nesignificance (DNS) of 2015for the SEPA process is valid and accurate and can be used and no need for new SEPA.***

“Yakima County is a dumping ground for our state and country. Please re-examine if that is what our county should be known for...our future is in your hands.”

***Response- YRCAA has no jurisdiction on deciding if waste can be brought from Out of County or Out of Country to Yakima County. If drywall, construction and demolition materials will be banned in Yakima County, we will not issue a permit for LPL. This kind of restriction and ban is the authority of the County and the Cities through resolutions or ordinances.***

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**Public Comments received (Tuesday, September 26, 2023 1:45 PM) from Bill Bosch as follows:**

“Hi,

I am writing to oppose this operating permit. I intend to be at the public hearing this evening. The public was not given sufficient prior notification to review the permit and accompanying documents and make thoughtful, evidence-based comments. YRCAA posted a notice regarding this matter on August 24th, without issuing a press release, or notifying neighbors. There were hundreds of pages to digest, much of it technical in nature. Members of the public who did not regularly check the YRCAA website, would be unaware of this posting. Therefore, I urge you to extend the public comment period.”

***Response- YRCAA followed WAC 173-400-171(3)(n), the public comment was through the end of business day of September 25, 2023. However, YRCAA extended the comment period for another thirty (30) days which will end on October 25, 2023 to give people more time as requested.***

“DTG's New Source Review application relies on outdated information. The site plan showing the landfill footprint and surrounding area is from 2015 and bears little resemblance to the landfill of 2023, nor the growth of the neighborhood. The aerial photos of the LPL and PCS are similarly outdated. The application only looks at landfill volume data up to 2021 and omits 2022 data (the largest volume to date), despite the fact that this data was readily available since April 2023.”

***Response- YRCAA can request DTG to submit the most up to date site plans, aerial photos and maps. However, YRCAA based the air emissions calculations on waste acceptance from CY 2022 submitted with the Registration Forms from CY 2022 and an allowable and the potential (higher amount than the one submitted for 2022). YRCAA realized that some figures are outdated, we used up to date maps generated by YRCAA staff to reflect more accurate footprint for DTG and to depict the current time. They will be reflected in the updated draft permit.***

“Regulators have required and DTG has agreed to place a liner on all future landfill cells, yet there was no mention of such a liner, and the work plan DTG submitted was from 2020 before any discussion of a liner took place. A liner requires a leachate collection system, yet there was no mention of this either. DTG needs to update its work plan.”

***Response- Although the application does not mention the liner, YRCAA permit's conditions 1.10 stated that Cell #2, which is the being permitted, shall be lined with geomembrane. The Operation and Maintenance Plan (O&M Plan) required by YRCAA (different than the one submitted in the NSR application) shall be developed to reflect all current operations and procedures for the LPL and MRF. YRCAA will include the leachate collection system in the conditions. Thank you.***

“The SEPA (State Environmental Policy Act) Determination of Nonsignificance for the landfill was from 1992, with another SEPA review in 2015. The 2015 SEPA review was mentioned in the application, but not included in Appendix C with the 1992 SEPA Determination of Nonsignificance. Given all the problems

with the landfill (MTCA Toxic site, landfill fire) and growth in the neighborhood, we think it is reasonable to request a new SEPA determination be completed.”

***Response- YRCAA received several comments regarding the SEPA determination. After the Public Forum and Public Hearing of the DTG Draft Permit, YRCAA reached out to the Yakima County to discuss the SEPA process for DTG and its determination. It was determined by the county that 2015 SEPA determination is valid and accurate and can be used and no need for new SEPA process.***

“As a regional clean air authority, your first obligation should be to maintain public health for local citizens, not to maintain corporate profits for a business that I understand largely brings waste in from out-of-county. Yakima also needs to be very mindful of how vitally important our natural resources are to the economy here. Yakima county is filled with people who love to hunt, fish, hike, and recreate outdoors. Tourists from all over visit this valley to enjoy our wine and beer industries, but also enjoy getting away from the density of the big cities to enjoy our trails and the lovely outdoor weather we experience so much of the year. Please protect this vital element of our community.”

***Response- You are correct, YRCAA mission is to protect and maintain public health, but these actions are accomplished based on rules and regulations that we are bound with in relations to air emissions. We determine if a facility can or cannot obtain a Permit to operate regarding air quality based on those regulations. The same process was followed with this NSR for DTG, and the outcome is based on calculations’ results that do not exceed the thresholds determined by federal, state and local rules and regulations. YRCAA has no jurisdiction on deciding if waste can be brought from Out of County or Out of Country to Yakima County. If the LPL will be banned in Yakima County, we will not issue a permit for them. This kind of restriction and ban is the authority of the County and the Cities through resolutions or ordinances.***

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**Public Comments received (Tuesday, September 26, 2023 3:47 PM) from John Menard as follows:**

“Hello,

I am writing to request an extension of the public comment period for DTG Recycle’s permit application. Given the potential environmental impact of the operation of this site, it is necessary that the public have the necessary time to fully comment on the proposed permit.”

***Response- YRCAA extended the comment period for another thirty (30) days which will end on October 25, 2023 to give people more time as requested.***

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**Public Comments received (Monday, September 25, 2023 2:08PM) from James C. Carmody-MEYER, FLUEGGE & TENNEY, P.S.-as follows:**

“Dear Sir/Madam:

We represent Carole DeGrave and Friends of Rocky Top (FORT) with respect to DTG Enterprises ("Applicant") application for New Source Review (NSR) permit related to operation of a Limited Purpose Landfill (LPL) and associated facilities at 41 Rocky Top Road, Yakima, WA 98908. The LPL facility includes a Material Recycle Facility (MRF), a wood chipper/grinder, Petroleum Contaminated Soil (PCS) facility, and mining and processing land uses. Despite several decades of operation, neither the Applicant nor its predecessors have applied for or received a NSR permit for the operations or facility. This comment will supplement other comments provided by our clients and impacted neighbors.

We will limit our comments to compliance with the State Environmental Policy Act (SEPA). The *NSR General Application* represents that the LPL operation underwent SEPA environmental review on two separate occasions:

(1) review of a 15-acre expansion of PCS operations that included a Determination of Nonsignificance dated September 10, 1992; and (2) review of land fill expansion that resulted in issuance of Determination of Nonsignificance dated September 9, 2015. *NSR Application Sections 1.3 and 6*. The referenced threshold determinations were attached in *Appendix C* to the *NSR Application*. No other environmental information, documentation or certification is provided with the land use application.”

***Response- Determination of Nonesignificance from the lead agency Yakima County Public Work, Planning Department for the landfill expansion and PCS were attached in Appendix C of the NSR application as you indicated. The former is signed by Thomas Carrol for Lynn Detrick and the latter signed by Steve Erickson. However, we are permitting only Cell 1 and Cell 2 except the area under MTCA in Cell 1. PCS is not permitted in this process and will not be permitted unless the facility goes through a new NSR process.***

The *NSR Application* requires certification from a governmental agency " ... that the SEPA has been satisfied or this project is exempt:...." DTG did not include the required governmental certification. While DTG checked the box that "...I certify that the SEPA has been satisfied or this project is exempt... ", the *NSR Application* does not include the required signature from the governmental agency. The application simply inserts the name of Gary M. Cuillier, Hearing Examiner, Yakima County (File No. CUP 08-074) with a date of April 29, 2009.<sup>1</sup> Neither of the submitted SEPA threshold determinations are related to File No. CUP 08-074.<sup>2</sup> The *NSR Application* was not certified by Yakima County's SEPA Responsible Official.

***Response- It is true that the NSR application stated " ... that the SEPA has been satisfied or this project is exempt:....". However, Determination of Nonesignificance from the lead agency Yakima County Public Work, Planning Department for the landfill expansion and PCS were attached in Appendix C of the NSR application. The former is signed by Thomas Carrol for Lynn Detrick and the latter signed by Steve Erickson. In addition, YRCAA clarified that with the Planning Department, the 2015 DNS is still valid for cell #2.***

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<sup>1</sup> The attached threshold determinations reference File Nos. ER-43-1992 and SEP 2015-00024.

<sup>2</sup> It should also be noted that the referenced certification was by Gary M. Cuillier, Yakima County, Hearing Examiner. The Yakima County Hearing Examiner is not the SEPA Responsible Official for Yakima County. The attached threshold determinations include the signature of the SEPA Responsible Official at the time of environmental determination - Steve Erickson (September 10, 1992) and Lynn Detrick, AJCP (September 9, 2015).

YRCAA neither adopts nor incorporates the environmental threshold determinations as a component its environmental and application review process. In order to comply with SEPA review requirements, the reviewing agency may utilize all or part of an existing environmental document through either "adoption" or "incorporation by reference". WAC 197-11-600(4). YRCAA has not followed required processes for either process. See e.g. WAC 197-11-630 and -635.

***Response- YRCAA adopts WAC 197-11. WAC 173-11-600- When to use existing environmental documents. WAC 173-11-600***

***“(1) This section contains criteria for determining whether an environmental document must be used unchanged and describes when existing documents may be used to meet all or part of an agency's responsibilities under SEPA.”***

***(2) An agency may use environmental documents that have previously been prepared in order to evaluate proposed actions, alternatives, or environmental impacts. The proposals may be the same as, or different than, those analyzed in the existing documents.***

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***(4) Existing documents may be used for a proposal by employing one or more of the following methods: (a) "Adoption," where an agency may use all or part of an existing environmental document to meet its responsibilities under SEPA. Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document; or (b) "Incorporation by reference," where an agency preparing an environmental document includes all or part of an existing document by reference. (c) An addendum, that adds analyses or information about a proposal but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document.”***

***Based on the above, one can say an existing document can be used... further, YRCAA analyze air emissions for the project. YRCAA requires a NSR for the project to analyze the effects. Furthermore, WAC 197-11-918 Lack of agency procedures states “ If an agency fails to adopt rules, ordinances, resolutions, or regulations implementing SEPA within the one hundred eighty-day time period required by RCW 43.21C.120, the rules in this chapter shall be applied as practicable to the actions of such agency.”***

WAC 197-11-600(3)(b) limits an agencies authority to adopt or utilize prior threshold determinations. The limitation is clear and unambiguous:

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

(Italics added). There should be no question that new information has been developed with respect to the use and operation of the DTG Enterprise facility located at 41 Rocky Top Road in Yakima, Washington. Since the date of the referenced threshold determinations, benzene and naphthalene were detected in ambient air at concentrations exceeding outdoor air quality standards under the Model Toxics Control Act (MTCA), Department of Ecology (Ecology) listed the site under MTCA authority, and the property owner and Ecology entered into an Agreed Order (AO) for cleanup work at the site. The AO required delineation of hazardous compounds and gas originating in the waste and groundwater monitoring to identify if hazardous compounds have reached groundwater. Landfill fires were identified at a depth of 10 feet below the landfill's surface. Further information confirmed that 743 cubic yards of PFAS contaminated soil was delivered to the landfill. Neighbors have registered and substantiated many other significant environmental impacts arising from or related to the



landfill. This is all new information which requires withdrawal of existing threshold determinations and reinstatement of environmental review processes.

**Response- WAC 173-11-600(3) states “(3)Any agency acting on the same proposal shall use an environmental document unchanged, except in the following cases: Certified on 2/20/2023 Page 52 (a) For DNSs, an agency with jurisdiction is dissatisfied with the DNS, in which case it may assume lead agency status (WAC 197-11-340 (2)(e) and 197-11-948). (b) For DNSs and EISs, preparation of a new threshold determination or supplemental EIS is required if there are: (i) Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or (ii) New information indicating a proposal's probable significant adverse environmental impacts. (This includes discovery of misrepresentation or lack of material disclosure.) A new threshold determination or SEIS is not required if probable significant adverse environmental impacts are covered by the range of alternatives and impacts analyzed in the existing environmental documents.”**

***It is clear from the above, “A new threshold determination or SEIS is not required if probable significant adverse environmental impacts are covered by the range of alternatives and impacts analyzed in the existing environmental documents.” the purpose of the NSR is to analyze that air impacts of the project. If the data shows that the source/facility will not meet the applicable standards with in the regulation, a permit will not be issued. The MTCA is under the Department of Ecology’s (Ecology) jurisdiction, as stated above, an AO was signed by the facility and Ecology which shall meet the substantive requirement of air, water etc.***

YRCAA is the lead agency for review of the *NSR Application*. WAC 197-11-050. The lead agency is required to prepare its own threshold determination and/or environmental impact statement (EIS) at the earliest possible point in the planning and decision-making process. WAC 197-11-055(2). If information on significant adverse impacts is essential to environmental review, the lead agency shall rely upon applicants to provide the necessary information. WAC 197-11-080(4). The agency is prohibited from taking any action on a proposal until a final threshold determination or environmental impact statement has been prepared for the project proposal. WAC 197-11-070(1).

We request that YRCAA take the following steps with respect to environmental review:

1. As lead agency, YRCAA either prepare an environmental checklist or require the applicant to prepare an environmental checklist. WAC 197-11-315(4).
2. As lead agency, YRCAA undertake a complete and appropriate review based on a complete and thorough SEPA checklist reflecting current use components and data/information known as of this date.
3. As lead agency, YR.CAA determine that the current landfill operation would have a probable significant adverse environmental impact, issue a Determination of Significance (OS), and require preparation of an Environmental Impact Statement (EIS) in accordance with WAC 197-11-360(1).

The continued operation of the landfill and associated activities have already proven to have probable significant adverse environmental impacts. YRCAA is not authorized to proceed with review of the *NSR Application* until full and appropriate environmental review has been completed with respect to the project. SEPA demands a "thoughtful decision-making process" where government agencies "conscientiously and systematically consider environmental values and consequences." *ASARCO Inc. v. Air Quality Coalition*, 92 Wn.2d 685, 700, 601 P.2d 509 (1979). While SEPA does not demand any particular substantive result in governmental decision-making, it " ... is an attempt by the people to shape their future environment by deliberation, not default". *Wild Fish Conservancy v. Washington Department of Fish & Wildlife*, 198 Wn.2d 846, 872-73, 502 P.3d 359 (2022). "SEPA constitutes an environmental full disclosure law." *Norway Hill Preservation & Protection Ass'n*.

v. *King County Council*, 87 Wn.2d 267,272, 552 P.2d 674 (1976). This is a case that requires appropriate environmental review.

***Response- YRCAA is not the lead for the SEPA process, but the lead for the NSR. The NSR process analyzes the air emissions impacts. YRCAA consulted with the lead agency for the SEPA as indicated above and maintained the old SEPA still stand. However, we appreciate your recommendation for the NSR part. It is true, the purpose of the NSR is to analyze that air impacts of the project. If the data shows that the source/facility will not meet the applicable standards with in the regulation, a permit will not be issued. For the MTCA's part it is under Ecology's jurisdiction, as stated above, an AO was signed by the facility and Ecology which shall meet the substantive requirement of air, water etc.***

Thank you for your consideration of our comments.

Very truly yours,  
MEYER, FLUEGGE & TENNEY,P.S.

James C. Carmody

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**Public Comments received (Monday, September 25, 2023 3:57PM) from Scott Cave as follows:**

Subject: Comments on DTG New Source Review Application and proposed YRCAA Air Permit

On behalf of Carole DeGrave and Friends of Rocky Top (FORT), we respectfully submit the following prepared comments on DTG's New Source Review (NSR) Application to the Yakima Regional Clean Air Agency (YRCAA), and to the extent possible, on the YRCAA's proposed Order of Approval for DTG's Limited Purpose Landfill Air Operating Permit.

Background

To appreciate neighbor and local concerns about landfill operations and permitting at this location, it's important to review the Anderson site history, which began with a special property use permit issued by Yakima County on July 18, 1983 to Ron Anderson for a 10-acre surface mining permit (SPU-27-1983; Permit #675), with expiration set for December 31, 2003. A second special use permit was issued in 1987, allowing establishment of an asphalt plant and increasing the amount of material mined annually (SPU-21-87; Permit #906).

In 1988/89, state and local agencies approved disposal of demolition waste in the Anderson Site unlined surface mining pits located near the intersection of Summitview Road and Rocky Top Road, as evidenced by multiple sources including: Yakima County code enforcement officer complaints reporting demolition pit fires in July 1989 (Swackhammer ERTS complaints), and Yakima County Planning Department approval of Anderson's Sanitary Landfill to Process Contaminated Soil (SPU-41-91), 4. Current Zoning and Use which states:

*There are three quarries operated by the applicant in the vicinity, and two additional quarries operated by others to east across Summitview Road. The applicant's pit located at the northwest corner of Summitview and Rocky Top Roads is being refilled with waste materials from the demolition of buildings. A solid waste permit was issued by the Yakima Health District for this purpose.*

And under 5. Project Description

*Soil contaminated by petroleum products is brought to the site for treatment, where it is spread, aerated, and retested until it meets state clean-up standards for "problem wastes". The soils are then either used as a cover for the existing construction waste disposal pit on the site or crushed on site for use in making asphalt.*

*This site has been licensed since 1989 by the Washington State Dept. of Ecology. Originally DOE controlled operation of the site because the regulatory framework had not yet been established as to how to deal with this new activity. Now DOE is transferring control with respect to permitting the land use to the local jurisdiction, being Yakima County in this instance, and is also remanding*

*control to the Yakima Health District with respect to monitoring the operation and issuing a solid waste permit. Accordingly, this permit is simply to replace the current regulatory framework.*

Anderson Rock & Demolition Pits, Sanitary Landfill to Process Contaminated Soil  
Yakima County Special Permit Use SPU-41-91, Zoning Adjustor's Decision, Sept. 12, 1991

As described above, the unlined demolition pits were originally “licensed” by Ecology and received waste in 1988/1989, and in 1991. The County approved Anderson’s unlined 15-acre Petroleum Contaminated Soil (PCS) remediation facility (SPU 41-91) and added sanitary landfill disposal in 1992 (SPU-29-92), and the demolition pits were allowed to be covered with remediated PCS.

Anderson was soon accepting PCS from all over the state, including Puget Sound and the U.S. Army Yakima Training Center (YTC). As Ecology disclosed in a letter to the Yakima Health District, this included 743 cubic yards of PFAS contaminated soil in 2004 for remediation and landfill use and/or disposal (see Rivard letter to Magee, YHD, Jan 19, 2023). Critically, it was during this time (1989-1990) that Ecology transferred solid waste facility permit and enforcement authority to local agencies (Yakima County and Yakima Health District).

What makes the unlined demolition pits covered with remediated contaminated soils a growing concern is the fact that this material was marginally regulated, and routinely reported on fire, requiring dousing with water. As regulator’s are aware, no groundwater monitoring wells were ever required or established for the demolition pits or PCS site (although 3 monitoring wells were recommended for the PCS site per SPU-29-92, #13) which are closer to Cowiche Creek than the LPL, MTCA site, or the PCS facility.

The proximity of the demolition pits to nearby Cowiche creek (approximately 1 mile) is concerning because fire dousing has the potential to leach waste contaminants (leachate) into the subsurface and eventually groundwater resources, which here are likely in communication with the creek. The burned material may have included tires which, along with roadway tire dust, can leach a toxic chemical; 6PPD-quinone. According to Ecology, tires release this toxin that ends up in roadway dust, and via water, can enter stormwater systems, drainage areas, groundwater, and sources that feed creeks and streams (see Ecology news release, Saving Washington’s salmon from toxic tire dust, January 25, 2023). The Yakama Nation are re-introducing steelhead into this stretch of the river.

#### Problematic groundwater monitoring and sampling

Notably the unlined demolition pits at/near the current landfill office, and the unlined PCS remediation site were never included in the groundwater monitoring system, which started in 2006 with two wells completed in separate water bearing zones. After landfill neighbors exposed the weakness of DTG’s two wells in separate water bearing zone system through multiple technical memorandum in 2021, Ecology pushed the company in early 2022 to drill wells and further investigate groundwater conditions.

DTG’s John Martin claimed to regulators that DTG was “*eager to develop a concrete action plan to work with Yakima Health to address the points in your February 11, 2022 letter*” (see John Martin email to James Rivard, re DTG Yakima LPL – Virtual Review Meeting, February 15, 2022 9:40:18 AM and James Rivard letter to Shawn Magee, YHD, re DTG LPL New Cell Development – Hydrogeology Comments,

February 11, 2022 letter).

Rivard's February 11, 2022 letter confirms the inadequacy site characterization and resulting groundwater interpretations, and critically, that the existing monitoring network does not meet WAC 173-350-500 requirements. Rivard recommends DTG conduct additional field work, including drilling multiple wells. While Martin committed his company was eager to do just that, the reality is DTG was more committed to keep costs down and delay this work during negotiations that summer with Macquarie Asset Management for sale of *all* of DTG's assets, including this landfill that was spewing toxic odors and was under investigation. As we know, the LPL would be confirmed a few weeks later as a state Model Toxic Control Act cleanup site.

The landfill's two well monitoring system continued under DTG management until July 2022, when the company begins and quickly end their so-called "*concrete action plan*" to meet the requirements of WAC 173-350-500 after drilling one well (50 feet), and then stopping during the drilling of a second well due to *budget implications*. DTG's termination of this necessary field work meant DTG would not be able to generate the required data to address regulator's expressed concerns for permit renewal in June, 2023.

In early 2023 it was clear DTG was still not going to address the identified groundwater monitoring system and permit issues described above because the facility became a state Ecology MTCA site, which has paused its investigation due to a preeminent issue – a multi-layered fire in the MTCA site area of the landfill.

Not surprisingly, DTG's permit renewal was denied by YHD on June 27, 2023 for multiple reasons as noted above. As a result, DTG's landfill is not permitted to operate and will not be permitted until further groundwater investigations are conducted and regulatory concerns are fully met.

As has been widely acknowledged by regulators and reported in the media, DTG landfill operations have disclosed a range of significant adverse impacts and concerns upon adjoining and nearby property owners. Relevant to this permit, these impacts include the inhalation of harsh, eye-watering toxic gasses from DTG's operations experienced by landfill neighbors, people recreating near the facility, and those living over ¼ mile away on Summitview Road, reported to facility regulators -- including the YRCAA, Yakima County Code Enforcement, Yakima Health District, and state Ecology -- since DTG ownership. These citizen odor complaints led to regulatory investigations that eventually required DTG to sample ambient air and soil gas, detecting volatile organic compounds (VOCs) at the facility in December 2021 and confirmed in July 2022. Benzene and naphthalene were detected in ambient air at concentrations exceeding outdoor air quality standards under the Model Toxics Control Act (MTCA).

In 2023, Ecology and East Mountain Investments, Inc. and DTG Enterprises, Inc., negotiated an Agreed Order (AO) for cleanup work at the site. The AO requires delineation of hazardous compounds in gas originating in the waste and groundwater monitoring to identify if hazardous compounds have reached groundwater. Because the landfill was approved without the required standard liner, and surrounding neighbors all rely on groundwater for their drinking water supply, there is heightened concern about potential future contamination given the history of demolition pits, fires, suspect disposal, PCS remediated

soils used on site and disposed, including 743 cy of PFAS contaminated soils from the Yakima Training Center between 2003-2006. One round of well sampling of some neighbor wells was completed last year with no detections of concern. However, no PFAS monitoring is planned of neighbor wells.

With three monitoring wells located in different water bearing zones, DTG isn't monitoring groundwater per state requirements. Unfortunately, the company's lack of serious site characterization and groundwater monitoring to date hasn't prevented it from operating, regardless of state groundwater monitoring requirements. Equally important, less monitoring wells means less sampling locations, and less chances to detect landfill contamination.

Why is this so important to neighbors? In March 2023, DTG contractors identified temperatures greater than 500°F at a depth of 10 feet below the landfill's surface. These high temperatures and gas readings collected from within the landfill confirmed the fire beneath the surface. A fire suppression plan is being implemented. In addition, significant amounts of gypsum and organic material are being accepted for disposal at this facility.

Consequently, it appears the application and agency are unaware of important changes in the management of both. In 2022, Washington passed legislation (ESSHB 1799) requiring establishment of local *Compost Procurement Ordinance Adoption and Reporting Requirements* to divert organic material from disposal. Related, an increasing number of governments have banned landfilling gypsum to eliminate toxic and odorous hydrogen sulfide gas which is more flammable than methane (see comments on both below). The landfill fire is a catalyst for chemical decomposition and leachate generation, increasing the risk to groundwater resources.

Consequently, it is of serious concern to neighbors and the public – particularly facility neighbors who rely on groundwater for their drinking water -- that DTG was allowed to operate this landfill without an air operating permit from YRCAA for fifteen years, and continues to delay drilling required monitoring wells to meet state standards and conduct ample sampling to confirm local groundwater quality, including for PFAS. Lately, DTG informed regulators they will begin this work in the winter of 2023/24, nearly two years after committing to be “*eager to develop a concrete action plan to work with Yakima Health to address the points in your February 11, 2022 letter*”.

Specific comments provided below.

## **I. DTG's NSR Application**

### **Comment #1: General**

DTG has submitted multiple NSR LPL applications to YRCAA since 2020, and there have been numerous communications with agency staff regarding the requirements for a complete application. Consequently, it is disturbing that DTG's application was considered acceptable for approval as it relies on outdated information, plans, figures and graphs that combined, misrepresent site conditions and threat to nearby

neighbors. Old and stale information is insufficient to evaluate current conditions that are evolving and subject to current investigation. Consequently, we respectfully request the YRCAA require the application to be withdrawn and resubmitted with current, updated information.

DTG's application identifies the presence of the MTCA area, the Agreed Order, and Ecology's paused but on-going investigation, but never evaluates how these multiple evolving regulatory agency actions and decisions at this facility that may impact the YRCAA air permit process for this applicant. As the MTCA investigation is just now being restarted as the landfill fire is slowly being smothered with layers of compacted soil, much of which included excavation of the natural soil liner that was part of a geologic formation known as the Vantage Interbed. All of this occurred at a time when DTG disposed of over 700,000 cy, setting another annual disposal record.

Since this is a private facility that is permitted to accept waste from anywhere, and recycle only what it deems to be economically beneficial, it flowed significant volumes of waste to Yakima, not for recovery, but primarily disposal (see **Comment #12**).

The application continues with the same accepted waste and unrestricted disposal policy that allowed the company to increase its flow of material for disposal, including drywall/gypsum and organic matter that combined in a landfill, contribute to hydrogen sulfide gas production. Neighbors do not support this outdated, misleading, inaccurate application (see comments) and respectfully request the YRCAA to deny the application.

***Response- It is true that several applications were submitted by the facility. This is part of the process for a NSR application. Overall YRCAA based the calculations on up to date information and maps generated by YRCAA staff. We understand that DTG's footprint has changed since 2015, but DTG's property boundary hasn't change. YRCAA used in Permit calculations, up to date volume data was taken from Registration Forms from 2020, 2021 and 2022. We believe the figures and the maps used in the permit are up to date.***

***For the MTCA's part, it is really under Ecology's jurisdiction. MTCA's rules states that the facility has to meet the substantive requirements for air, water etc. We believe Ecology will impose these requirements.***

***For accepting materials from anywhere it is really beyond the scope of the air permit and YRCAA jurisdiction.***

***For the air permit, we consider the design capacity of the cells. For the accepted materials, it is really what is allowed by WAC 173-350. Any restriction, should be imposed by Department of Health.***

**Comment #2: Section 8 states:**

*“Public notice should not be required because the application does not ask for or require any of the actions subject to a mandatory public comment period per WAC 173-400-171(3).”*

Comments/Questions: We understand that public notice and comment is required as there is substantial public interest in this matter. We cite two regulations:

- WAC 173-400-171(3): The permitting authority must provide public notice and a public comment period before approving or denying any of the following types of applications or other actions:  
(n) An application or other action for which the permitting authority determines that there is significant public interest.
- 40 CFR 51.161 which is under Subpart I: Review of New Sources and Modifications state that "The legally enforceable procedures in § 51.160 must also require the State or local agency to provide opportunity for public comment on information submitted by owners and operators."

YRCAA currently provides public notice of new applications and permits by posting them on its website. The assumption being that interested parties will be sure to check this location in order to respond and provide timely input. In this instance, impacted neighbors became aware of the YRCAA DTG document posts from a third party on September 6<sup>th</sup>, leaving 13 business days to review the application, permit, source materials, and related federal, state and local regulations.

To insure adequate public notice and timely engagement from interested parties, public entities generally provide notice of upcoming actions including permit approvals to their local media and interested agencies. Also, 30 days appears to be the routine time given for public comment. We respectfully encourage YRCAA to consider adoption of similar public notice policies to ensure compliance with the aforementioned regulations and increase public engagement.

***Response- YRCAA followed WAC 173-400-171(3)(n), the first public comment was through the end of business day of September 25, 2023. Your comments were received on time September 25, 2023. In addition, and to accommodate your comment and others, YRCAA extended the public comments by another 30 days through October 25, 2023.***

### **Comment #3: Section 1.2**

Comments: This description contains incorrect and misleading statements and should be rewritten.

- A. The PCS facility is 15, not 7, acres ever since 1991, see SPU 41-91
- B. The LPL footprint was 125 acres, but because of four changes, it will be reduced
  - 1) 1,000 ft setback from residential supply well (setback was about 400 ft)
  - 2) 100 ft property setback (setback was 50 ft)
  - 3) Installation of landfill liner and leachate collection system and collection pond
  - 4) Installation of MRF building with impervious floor

These and other potential landfill construction and engineering alterations will require DTG to reconfigure



the 2015 footprint, which it references throughout this 2023 application. Doing so presents an inaccurate and confusing portrayal of DTG’s application scope, site management, and current facility operations, including the landfill’s cell development and footprint.

**Response-** *YRCAA air permit is not allowing any PCS operation in the proposed draft air permit. The present PCS must be removed or treated within 364 days. Setbacks must be monitored, enforced by YDH and Ecology. If the drawings are not accurate, YHD and Ecology shall measure that. We are permitting Cell 1, 2 except the MTCA area and MRF. For the MRF, we will be specific about the impervious area and other specification.in addition, it is stated in the proposed draft, thePermittee must comply with all federal, state and local rules and regulation.*

C. The description states: *“The permitted MRF operation occurs within the LPL footprint.”*

While regulators initially permitted the MRF to be located near the landfill working face, this is no longer true. Facility regulators have negotiated with DTG to construct a MRF building with an impervious floor. Consequently, creating this structure and related traffic routes will further reduce the LPL footprint.

**Response-** *Not sure what is the point- however, building a structure and an impervious area, reducing n LPL footprint is a good thing.*

D. The description states: *“There are private residences and orchards to the north and northeast of the facility. The area to the southwest, west, south, and southeast is vacant arid land.”*

DTG’s Rocky Top operations, including the LPL, are surrounded by dozens of residences and orchards to the northwest, north, northeast, and east. Consequently, neither the site description or Figures 1,2,3 & 7 (discussed next) acknowledge the people who have been and will continue to be the most impacted by their operation and the YRCAA’s permit decision. It also fails to identify public trails and recreational areas within the immediately surrounding area.

**Response-** *YRCAA calculate air emissions and do the modeling of those air emissions at the boundary line of the facility. For this NSR permit, YRCAA did both the most conservative and the less conservative specific model for the whole area, the source passed both models.*

#### **Comment #4: Figures**

Comment/Questions: The YRCAA permit corrects multiple faults in the application, including providing the company’s updated site plan (see Figure 1 *Current site plan of LPL showing various site operation; PCS, Rock Quarry, and LPL temporary expansion fill area, and LPL Phase II site*, page 18). This updated aerial photo and site plan was not included or referenced in DTG’s revised Application August 2023. Instead, DTG relabeled the Anderson 2015 Site Plan from Brown & Caldwell, and an outdated LPL aerial (see Figure 1. DTG Site Plan and Figure 2. LPL Aerial, page 2).

A. Figure 1. DTG Site Plan

This figure is the 2015 Anderson Site Plan, generated by Anderson's contractor, Brown & Caldwell, that DTG labeled *DTG Site Plan* which as you can see, does not include any of the primary developments discussed in the NSR application and required by regulators for future permitting and site development. As you may or may not be aware, DTG was scolded by Ecology for modifying the sealed 2015 LPL permit application document with an annotation on the title page stating "*Submitted by and updated for DTG Enterprises, Inc. after acquiring Anderson Rock and Demolition Pits.*" This apparently was untrue. (see Ecology letter to YHD re Anderson LPL, PCS site and MRF Application, Jan. 23, 2020).

***Response- Thank you for pointing out that, YRCAA used the most current figure as you pointed out in our proposed draft.***

#### B. Figure 2. LPL Aerial

This is an outdated photo of closed cell designated with a *Working Face* misrepresents current LPL conditions of Phase 1/Cell 1 where the company is battling an ongoing landfill fire that has delayed the state's MTCA cleanup investigation of a large section. None of these current conditions are provided in this Anderson 2015 LPL permitting application aerial photo.

***Response- Thank you for pointing that out, YRCAA used the photo as a general not specific. However, we will add another figure to update that.***

#### C. Figure 3. PCS Facility

This is an outdated photo prior to DTG ownership/operation. The PCS site is not being permitted and apparently, may never have received an air operating permit (more on below). Again, the PCS site proximity is not provided in the site photos or identified in the text or figures, thereby downplaying the known impact this operation has on DTG's existing neighbors. Importantly, regulators are aware of the odors generated from this facility because of odor complaints of rotten eggs, burning smells, acetone and other toxic smells that burned eyes and throats, making some nausea and forced to go back inside. The YRCAA should review the years of odor complaints and consider coming to neighbor's properties to understand their proximity to this facility and the air currents that largely flow the upgradient PCS site and landfill odors towards the north, northwest and northeast. To date, YRCAA staff have not visited DTG's closest and most impacted neighbors.

***Response- Thank you for pointing that out, YRCAA will use another figure to show the PCS area. However, YRCAA is not permitting any PCS and the facility is not accepting any PCS, and any remaining PCS must be done within 364 days the most.***

#### D. Figure 7. Conceptual Final Fill

These four figures present a misleading picture of actual site operations and conditions, and their proximity to many adjacent rural residential properties and apple orchards. Below is a Property Report Card from Yakima County’s website for 390 Pioneer Way, Carole DeGrave’s property and residence, highlighted in green (downloaded 9/20/2023).



As you can see, this aerial from Yakima County Public Services, Planning Division, YakiMap tool provides a current view of the LPL, Rock Quarry and PCS site and their proximity to Rocky Top neighbors, including twelve residences in the Coyote Canyon Neighborhood Association and multiple orchards

(Herke, Steenbergen, WGE).

***Response- YRCAA will add another Figure using Yakimap or Google map to show the LPL total area and the surrounding.***

### **Comment #5: Section 1.3**

This Section states that the scope of the NSR application is limited to Phase 1 and 2.

Comments/Questions: This application raises various questions regarding the bounds of application scope:

- Redesignation of old Phases (Figure 1) to the new Phases (Figure 4). Provide necessary details on the old Phases (e.g., which Phases were filled with waste etc.) and how new Phases relate to those old Phases so that scope of this application can be defined.
- Figure 1 shows “LPL Expansion Area”. It is unclear whether this area was just shown for preliminary planning, or this expansion area received necessary permits for landfill construction and operations. Either way, the scope of this application should be clearly defined as proposed Phase 2 (Figure 4) likely falls in this “LPL Expansion Area” limits (Figure 1).

- Application states that the application is related to Phases 1 and 2. It also states that Phase 1 is at capacity. Two questions:
- If Phase 1 is at capacity, then it should have gone through the NSR process and have an order of approval. The application fails to provide necessary details regarding what aspects of Phase 1 are requested as part of this application, i.e., only the phasing designation change, or Phase 1 does not have an order of approval and it is requested through this NSR application.
- Figure 7 muddles the scope of this application further. It shows additional fill over areas previously filled with waste and additional fill over Phase 2 fill shown on Figures 5 and 6.
- Anything that is not part of this NSR application scope, should be clearly identified, e.g., Figure 7, Phase 3 (new per Figure 4).
- How can there be a modification on expansion of something that was never approved? Or mathematically, how do you expand something you never had?

***Response- YRCAA will make sure and specify that in the Figures and the approval conditions in the order of approval, to state that we are approving only Cell 2/Phase 2 and Cell 1/Phase 1 except the MTCA area and the MRF area. We added Cell 1 to include the H2S air emissions from it. In the old WAC 173-304 it was for inert material. Emissions from inert materials were mainly PM<sub>10</sub> only as there was no PM<sub>2.5</sub> at that time.***

#### **Comment #6: Section 1.4**

Last paragraph states: “The previous owner, Anderson Rock and Demolition Pits, did not obtain an Order of Approval from YRCAA for operation of the facilities.”

Comments/Questions: We assume that violations of operating without a permit are or will be addressed by appropriate regulatory authorities. Pertinent to this application, it appears that this is the initial NSR application for this facility. If that’s true, the scope of this application should also cover existing landfill areas containing waste. As stated in comments above, this application fails to provide clear understanding of the scope boundaries.

***Response- As we stated above, Anderson Rock and Demolition Pits facility was a rock crusher not landfill. Nonetheless, this Order of Approval needs to fix any shortfall in permitting and have it up to date. On the other hand, you are correct; violations will be addressed in a separate action through compliance/enforcement. YRCAA need to address the permitting and place the Facility into compliance first.***

#### **Comment #7: Section 1.5**

Last paragraph states: “This NSR application does not assess the emissions from the AO area as these are being addressed through other regulatory means. At the conclusion of the MTCA and YHD processes, if emissions do not meet the substantive requirements for air emissions, the Order of Approval may require revision.”

Comments/Questions: This NSR application appears to be the initial application for this facility. This

section details that there are known landfill gas emissions in a localized area of the facility. This information raises questions regarding what waste types have been landfilled in the existing landfill areas so far and what is their emissions potential, especially given localized landfill gas emissions.

***Response- YRCAA understanding is that this is LPL and started as an inert materials i.g., demolition and construction materials. As LPL evolves, they are allowed to receive materials as specified in the application. The AO for the MTCA part, the facility must meet the substantive requirement for permitting including the air. The facility must meet the best available control technology (BACT) in remediating air emission. Ecology shall make that decision and ultimately approves the BACT. YRCAA will evaluate the process and the output. YRCAA will render its opinion at that time. The paragraph and the statement is wrong to say” ..if emissions do not meet the substantive requirements for air emissions, the Order of Approval may require revision.” It should say it must meet the substitutive requirement.***

**Comment #8: Section: 1.6 and 3** (pages 6 and 11)

The NSR Application does not include the required State Environmental Policy Act (SEPA) Environmental Checklist. NSR Application simply states that “...the site operations have undergone SEPA Environmental Review through the YPD.” The referenced environmental documents include, in Appendix C, the following: (1) Determination of Nonsignificance (DNS) for 15-acre petroleum contaminated soil remediation facility dated September 10, 1992; and (2) Determination of Nonsignificance for 64-acre expansion of limited purposes landfill (LPL) dated September 9, 2015. The NSR Application is a new application that evaluates a proposal that is different from that considered in the referenced and attached NSR Application – Appendix C. The submission also fails to include the SEPA Environmental Checklist submitted with the referenced land use applications and environmental comments and application conditions with respect to the remote projects.

Comment/Questions: YRCAA have neither adopted nor incorporated the referenced documents as part of the environmental review of the NSR Application. WAC 197-11-600(4). WAC 197-11-600(3)(b) further require preparation of a new threshold determination in the following instances:

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

The NSR Application relates to a fundamentally different project proposal than the two referenced threshold determinations. The first DNS related to a 15-acre project for petroleum contaminated soil that was prepared thirty-two (32) years ago. More significantly, there exists significant new information

regarding the proposal probable significant adverse environmental impacts related to the landfill fires, MTCA determinations, denial of LPL application extension, groundwater and air contaminants, and a multitude of other site specific environmental impacts.

The NSR Application also incorrectly states that a "...DNS or EIS has been issued by another agency for *this Project* ...." There has been no environmental review for the current integrated project that is subject to the NSR Application. The General Application also purports to include a certification from Gary M. Cuillier, Hearing Examiner, Yakima County, dated April 29, 2009. The application does not include an original signature even though it purports to include the Government Agency certification "...that the SEPA has been satisfied or this project is exempt." The project is not exempt and SEPA has not been satisfied for purposes of the NSR Application.

***Response- Determination of Nonesignificance from the lead agency Yakima County Public Work, Planning Department for the landfill expansion and PCS were attached in Appendix C of the NSR application as you indicated. The former is signed by Thomas Carrol for Lynn Detrick and the latter signed by Steve Erickson. However, we are permitting only Cell 1 and Cell 2 except the area under MTCA in Cell 1 and the MRF. PCS is not permitted in this process and will not be permitted unless the facility goes through a new NSR process. In addition, YRCAA clarified that with the Planning Department, the 2015 DNS is still valid for cell #2.***

***About the WA 197-11, YRCAA adopts WAC 197-11. WAC 173-11-600- When to use existing environmental documents. WAC 173-11-600***

***"(1) This section contains criteria for determining whether an environmental document must be used unchanged and describes when existing documents may be used to meet all or part of an agency's responsibilities under SEPA."***

***(2) An agency may use environmental documents that have previously been prepared in order to evaluate proposed actions, alternatives, or environmental impacts. The proposals may be the same as, or different than, those analyzed in the existing documents.***

***.***  
***.***  
***.***

***(4) Existing documents may be used for a proposal by employing one or more of the following methods: (a) "Adoption," where an agency may use all or part of an existing environmental document to meet its responsibilities under SEPA. Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document; or (b) "Incorporation by reference," where an agency preparing an environmental document includes all or part of an existing***

*document by reference. (c) An addendum, that adds analyses or information about a proposal but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document.”*

*Based on the above, one can say an existing document can be used... further, YRCAA analyze air emissions for the project. YRCAA requires a NSR for the project to analyze the effects. Furthermore, WAC 197-11-918 Lack of agency procedures states “ If an agency fails to adopt rules, ordinances, resolutions, or regulations implementing SEPA within the one hundred eighty-day time period required by RCW 43.21C.120, the rules in this chapter shall be applied as practicable to the actions of such agency.”*

*For the WAC 173-11-600- WAC 173-11-600(3) states “(3)Any agency acting on the same proposal shall use an environmental document unchanged, except in the following cases: Certified on 2/20/2023 Page 52 (a) For DNSs, an agency with jurisdiction is dissatisfied with the DNS, in which case it may assume lead agency status (WAC 197-11-340 (2)(e) and 197-11-948). (b) For DNSs and EISs, preparation of a new threshold determination or supplemental EIS is required if there are: (i) Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or (ii) New information indicating a proposal's probable significant adverse environmental impacts. (This includes discovery of misrepresentation or lack of material disclosure.) A new threshold determination or SEIS is not required if probable significant adverse environmental impacts are covered by the range of alternatives and impacts analyzed in the existing environmental documents.”*

*It is clear from the above, “A new threshold determination or SEIS is not required if probable significant adverse environmental impacts are covered by the range of alternatives and impacts analyzed in the existing environmental documents.” the purpose of the NSR is to analyze that air impacts of the project. If the data shows that the source/facility will not meet the applicable standards with in the regulation, a permit will not be issued. The MTCA is under the Department of Ecology’s (Ecology) jurisdiction, as stated above, an AO was signed by the facility and Ecology which shall meet the substantive requirement of air, water etc.*

*Moreover, YRCAA is not the lead for the SEPA process, but the lead for the NSR. The NSR process analyzes the air emissions impacts. YRCAA consulted with the lead agency for the SEPA as indicated above and they maintained the old SEPA still stand and no new SEPA is required. It is true, the purpose of the NSR is to analyze that air impacts of the project. If the data shows that the source/facility will not meet the applicable standards with in the regulation, a permit will not be issued. For the MTCA’s part it is under Ecology’s jurisdiction, as stated above, an AO was signed by the facility and Ecology which shall meet the substantive requirement of air, water etc.*

### **Comment #9: Section 1.7.2**

This section states that, “The inorganic permitted waste types are considered to be inert, or non-biodegradable; therefore, emissions of landfill gases such as methane, carbon dioxide, nonmethane organic compounds (NMOCs), and individual air pollutants from municipal solid waste landfills are assumed to be negligible”.

Comments/Questions: The known landfill gas emissions in a localized area of Phase 1 (Figure 4) indicates presence of potential biodegradable waste types in the existing landfill. The application cites quarterly landfill gas monitoring data that shows gas detections below actionable levels. In absence of that data and understanding that there are biodegradable wastes landfilled in the Phase 1, this NSR application requires evaluating emissions generation potential of existing landfilled waste. We note that ambient air results are not the best indicators for landfill sites with limited landfill gas emission generation as emissions tend to significantly dilute after leaving waste mass and when entering atmospheric conditions. However, that does not mean that landfill does not have potential to emit landfill gas emissions.

***Response- This is a LPL and started as inert materials i.g., demolition and construction materials. As LPL regulations evolve they are allowed to receive materials as specified in the application section (1.7.2). These materials are permitted as per WAC 173-350. We understand your point and comments. Construction materials i.g., wood (construction materials) are organic in nature, they biodegrade at a very slow rate in comparison with households waste. Air emissions can be generated from organic and inorganic materials when burned. Under normal conditions, emissions from LPL should be very slow and minimal. However, in this case, Cell 1 in particular there is fire beneath the surface which causes air emissions. Currently that part of the cell is under the MTCA regulation and the facility has an AO which should address this issue.***

### **Comment #10: Section 1.7.3**

This section states that, “The waste will be placed in lifts up to 15 feet in depth with perimeter slopes of 2:1 or flatter”.

Comments/Questions: Unless waste mass has big bulky material, standard industry practice for landfills is 3:1 slope. In some cases, steepness can increase to 2.5:1. This question is relevant to the capacity as capacity feeds into emissions that are within bounds of the NSR application.

To the surprise of landfill neighbors, in July 2022 facility regulators approved DTG’s request to change the LPL side slopes from 3.0H:1.0V, to “final side slopes in excess of 300 high and inclined at a ratio of 2.0H:1.0V”, adding valuable landfill airspace for disposal, based on DTG’s consultant’s analysis that provided this recommendation:



*“Based on our analysis, adequate factors of safety are present for the LPL embankments inclined at slopes up to 2H:1V for both static and seismic loading conditions. Therefore, we recommend that a maximum LPL slope of 2H:1V be used for design purpose.*

*This evaluation is limited to global stability of the waste fill and does not evaluate the stability of the soil cover material. Shallow skin slides based in the near-surface cover soil layers may occur after long wet periods (a low probability for this site). However, these are not considered a threat to global stability of the embankment but should be considered a potential maintenance requirement.”*

HWA GeoSciences, Inc., Technical Memorandum to John Martin  
GEOTECHNICAL STUDY  
CDWEMBANKMENT SLOPE STABILITY EVALUATION  
DTG-YAKIMA LIMITED PURPOSE LANDFILL,  
YAKIMA COUNTY, WASHINGTON  
July 25, 2022

Since ownership, DTG dramatically increased annual LPL waste disposal, with a record 477,599 cy in 2021 according to annual report (ECY 040-178 filed with YHD and Ecology. This material was disposed in the combined area of Phases 1,2 and 4, referred to as cell #1 in the YRCAA Permit, and the location of the MTCA site and landfill fire.

According to DTG’s landfill fire consultants, LANDFILL FIRE CONTROL INC’s (LFCI) memo to Health and Safety, Fire Control and Monitoring Plan for DTG’s LPL, submitted to Ian Sutton, DTG’s Director of Engineering, dated May 9, 2023, page 6:

*“In reviewing the Parametrix data set, LFCI notes that oxygen levels in all of the sampling locations were above 20%, indicating that substantive air intrusion into the landfill was occurring.”*

*“It is apparent that due to steep side slopes and poor soil cover, conditions at the DTG site were ideal for spontaneous combustion to develop.”*

The combination of poor daily cover and waste compaction, lax regulatory oversight, and aggressive disposal allowed the company to create steep side slopes (between 2.0 & 1.4H:1.0V) with a pyramid shape, rising above its original permitted elevation. In short, a 300% increase in waste transport and disposal, mixed with slip-shod landfill disposal practices, created ideal conditions for fire production, that hindered efforts to investigate and remediate the fire.

***Response- Slopes for landfill is not within the scope of this air permit or within the regulations or air program. It is the responsibility of the YHD and Ecology. However, your point is well take in relation to the capacity. For this permit with the new cell number 2, we considered the total volume based on drawing area with the height without consideration to slope, hence, volume should be higher than the actual. Hence, it is more conservative estimate with higher value.***

Minimal property setbacks from neighbors has created multiple problems and recently resulted in a required purchase of a neighbors' property to remediate the LPL fire. Regulators must require ample setbacks for necessary environmental controls required, including the installation of vegetative screening and other mitigation measures.

***Response- Property setbacks for LPL is are the responsibility of the YHD and Ecology. It is not within the scope of air emissions regulations. Our understanding is that YHD and Ecology is making sure that the setback and the slope to be followed and implemented as required by regulation.***

**Comment #11: Section 1.8**

Paragraph no. 2 states: “As stated previously, DTG intends to discontinue acceptance of PCS until such a time as an Order of Approval can be obtained from YRCAA, but operations will continue until all existing PCS has been fully treated.”

Comments/Questions: We assume that violations of operating without a permit are or will be handled by appropriate regulatory authorities. Pertinent to this application, we understand that “intend to discontinue” needs a hard discontinuation date.

***Response- As stated in the proposed draft order of approval PCS will be discontinued and will be removed from the facility within 364 days from the issuance of the order. Compliance and enforcement will be dealt with from compliance prospective. For permitting it is what is in the order of approval.***

**Comment #12: Section 4.2**

DTG uses unverified numbers for annual volumes of waste accepted, disposed and recovered at the LPL for projections of emissions. Specifically, the application relies on unverified 2021 data when actual 2021 and 2022 facility data exist, and is provided in the table below. The source is Ecology form ECY 040-176 filed annually (in cubic yards) of waste accepted, recovered and disposed.

	Annual Disposed C&D, PCS & Lime	Wood Waste	Land Clearing Debris Accept	Land Clearing Recovered	Land Clearing Stockpiled	Land Clearing Disposed
2019	152,683	0	11,322	0	11,322	0
2020	170,700	0	49,418	500 (1%)	11,318	37,600
2021	481,093*	0	32,725	25,737 (78%)	0	6,988
2022	709,769**	0	22,698	8,736 (100%)	0	13,962

*\* Includes disposal of 456,442 cy C&D, 17,488 cy of inert waste, 6,988 cy of land clearing debris, 175 cy of lime, & 164,400 cy of Canadian drywall backing paper (ground gypsum product)*

**\*\* Includes disposal of 688,108 cy C&D, 7,609 cy of inert waste & 13,962 cy of land clearing debris**

**Section 4.2.1** states: *DTG accepted 512,794 cubic yards of demolition waste and 29,231 cubic yards of wood waste, for a total of 542,025 cubic yards of waste in 2021.*

Question/Comment: As DTG reported and noted in the above table, the 2021 total disposal was 481,093 cubic yards, not 542,025. In addition, no wood waste was accepted. While land clearing debris was, and largely recovered. Consequently, the disposal variance between DTG's claimed disposal of material and actual reported is 64,426 cy. Why did DTG add 29,231 cy of wood waste to this YRCAA NSR application that is inconsistent with the company's annual report to facility regulators? When DTG submitted this inflated figure with the added wood waste, the facility had just confirmed toxic gasses and was under agency investigation. Adding volumes of disposed wood waste could added biodegradable feedstock to LPL disposal, supporting the company's narrative that the emissions were from an identified green waste source. The public expects accountability and transparency by permitted solid waste facilities in reporting wastes accepted, refused, disposed, stockpiled and recycled.

Paragraph no. 2 states: Emissions due to diesel fuel consumption are not included in this application because these emissions are emitted by exempted nonroad engines and nonroad vehicles.

Comments/Questions: Does the engine meet the exemption criteria in 40 CFR Part 1068 Subpart C? If so, please mention more details on the exemption criteria or appropriate certification/label if applicable.

***Response- We understands the argument. For this Order we used the numbers that was given for the registration. It is higher than what is in the application. Nonetheless, we also consider the design capacity for the cell.***

***For the diesel part, we are talking about machineries (mobile vehicles) Air emissions from vehicles are controlled by the manufacturers our agency do not permits this sources.***

### **Comment #13: Section 4.2.8**

The following equation is used in paragraph no. 2 to calculate emissions from Gravel Road Use by Light Trucks.

Emissions were calculated using Equation 1b, Section 13.2.2, AP-42:

$$E = \left( \frac{k \times \left(\frac{s}{30}\right)^d}{\left(\frac{M}{3}\right)^b} \right) - C$$

Where:

$E$  = size-specific emission factor (lb/VMT)

$s$  = silt content, %

$M$  = surface moisture, %

$C$  = emission factor for 1980's vehicle fleet exhaust, brake wear and tire wear

$VMT$  = vehicle miles traveled

Comments/Questions: The highlighted equation is not the same as Equation 1b, Section 13.2.2.

The equation should be revised as per the guidelines in Section 13.2.2 of AP-42 and the emissions should be re-calculated.

**Response-** *If you look at the calculation in our spreadsheet, you will find out that we used the equation you are refereeing to. Still we will make sure that the right equation is used in the calculation.*

#### Comment #14: Section 4.2.10

In page 22, line 5, the following equation is used to calculate annual size-specific emission factor extrapolated for natural mitigation (lb/VMT) for Paved Road Use by Haul Trucks.

The Equation 1a and 1b emission factors can be extrapolated to annual average uncontrolled conditions (but including natural mitigation) under the simplifying assumption that annual average emissions are inversely proportional to the number of days with measurable (more than 0.254 mm [0.01 inch]) precipitation:

$$E_{ext} = E \times \left[ \frac{(365 - P)}{365} \right]$$

Where:

$E_{ext}$  = annual size-specific emission factor extrapolated for natural mitigation (lb/VMT)

$E$  = emission factor from Equation 1a or 1b of Section 13.2.2, AP-42

$P$  = number of days in a year with at least 0.01 inch of precipitation

Comments/Questions:

- The precipitation correction term used in the equation for  $E_{ext}$  in this section of the application is  $[(365 - P)/365]$  which is for unpaved roads. But in this section of the application, emissions are calculated for paved road use by haul trucks. Therefore, the precipitation correction term for

paved roads should be used here instead. The precipitation correction term for paved roads is incorporated in Equation 2, Section 13.2.1 of AP-42.

The equation for Eext used in section 4.2.10 of this application should be replaced with the correct equation from Section 13.2.1 of AP-42 and the emissions should be recalculated.

- It is written in line 8, page 22 that “E = emission factors from Equation 1a or 1b of Section 13.2.2, AP-42”. Section 13.2.2, AP-42 is for unpaved road conditions. Since this section in the application is calculating emissions for paved road conditions, E should be emission factor from Equation 1 of Section 13.2.1, AP-42. This statement should be revised.

***Response- In our calculation we did. However, we will make sure that the right equation is used in the calculation for paved and unpaved roads.***

#### **Comment #15: Section 4.2.11**

This section calculates emissions from paved road use by light trucks. It does not mention which precipitation correction factor are used here, if any. If the precipitation correction term used here is the same as Section 4.2.10, this section will also need to be revised as per comment no. 10.

Comments/Questions: If the precipitation correction term used here is the same as Section 4.2.10, this section will also need to be revised as per comment no. 14.

***Response- In our calculation we did. However, we will make sure that the right equation is used in the calculation for paved and unpaved roads. In addition, in the approval conditions, it is a requirement to “Apply dust palliative material or water on unpaved roads and unpaved areas as needed to minimize airborne dust emissions”***

#### **Comment #16: Section 4.3**

Comments/Questions: This section overall uses generic data, not specific to the site, to establish H<sub>2</sub>S formation factors and calculate H<sub>2</sub>S emission. C&D materials consist of biodegradable materials/compounds. DTG LPL receives a significant amount of C&D waste. As documented in prior comments, landfill gas is a concern at this site. It is unknown why the NSR application does not take into consideration:

- Wastes types that are landfilled at present and model gas generation potential for that waste.
- Since some toxics may be of concern (as landfill gas is a concern), this application will benefit from site specific toxics analysis through EPA method TO-15. It is typical of C&D landfills to have some TO-15 compound detections, and those are necessary to evaluate this NSR application.

The scope of emissions evaluation and associated BACT analysis may change after TO-15 analysis.

- It is prudent that landfill gas samples should be collected and analyzed for total sulfur compounds due to known quantities of gypsum board and other sulfur containing wastes. Emission calculations should be revised accordingly. The scope of emissions evaluation and associated BACT analysis may change after total sulfurs analysis.

***Response- LPL air emissions are mainly PM and H<sub>2</sub>S from C&D as you stated. We calculated air emissions based on the operation for PM and based on the area of the cells for H<sub>2</sub>S. The hydrogen sulfide emissions factor used is based on study done at the State of Florida, which means air emissions are overrated. In addition, modeling was done for several scenarios of air emissions and the source based air emissions at the boundary line.***

### **Comment #17: Land Use**

Yakima County's failure to enforce existing required land use conditions for privately operated limited purpose landfills is a growing community concern, and raises important questions about future government approvals for these facilities, given the unwillingness of the County to regulate and enforce land use conditions, statutes and policies.

At this location, the County failed to enforce numerous conditions of Ron Anderson's gravel mining Conditional Use Permit (see CUP 03-112 Final MDNS), including mitigation for air quality and environmental health by these three conditions:

- Restriction on hours of operation (limit 6am to 6pm)
- Installation and maintenance of Vegetative Screening north of current mining area (see attached letter to Tommy Carroll, July 2023)
- Limitations on vehicle traffic on DTG's three permitted operations:
  1. Gravel mining limit 0-20 round trips/day on average. Assumes 30 trips/day during 7-8 months year; and less 4-5 months to average 20 per day limit
  2. Inert waste fill limit 0-25 round trips/day
  3. PCS remediation site limit 0-20 round trips/day

After years of neighbors reporting after hours operations to all facility regulators, finally Yakima County sent a letter to DTG requesting them to respect the operating hour limits (see Carroll letter, November 1, 2022) and address the required vegetative screening. While the company finally stopped after-hours operations in 2023, it has not addressed the required vegetative screening, prompting a follow-up letter from neighbors to Yakima County (see Cave letter to Carroll, July 2023).

When the County permitted this facility, SEPA considered and identified the acceptable vehicle traffic in the MDNS. As noted above, waste flow and disposal has increased annually under DTG, and in 2022 was

over 700,000 cy. When the LPL was permitted and scoped, its 2008 annual waste disposal was just over 115,000 cy with these vehicle limits. H

Comment/Question: How can DTG increase annual disposal and not violate the county vehicle limits for the LPL? According to DTG, the average volume of waste per load is 32.48 cy. At this rate, 20 loads generates 649.6 cy per day. Assuming 310 working days, that would generate 201,376 cy, less than a third of the total accepted and disposed here in 2022.

The lack of any enforcement of the condition for installation of vegetative screening and vehicle limitations are more than just negligent; they are essentially compromising local neighbors to endure the nearby mining, landfilling and PCS operations sans County enforcement.

***Response- Our agency cannot enforce the Yakima County's permit. However, we will reference the operating hours in the Yakima County permit and what our calculation is based on. Allowable 12 hours per day for 6 days per week!? See County permit? what is the operating hours?***

### **Comment #18: Gypsum**

Drywall installation across the nation has steadily increased due to population growth, which in turn has increased the volume of drywall waste generated at construction sites, and resulted in millions of tons disposed in landfills. However, when drywall (gypsum) is mixed with organic materials in an air free environment it creates highly toxic hydrogen sulfide gas. As a result, England, Wales, Canada, King County and other state and local municipalities across the country have placed bans on drywall disposal at landfills to prevent the build-up of hydrogen sulfide gas which is both toxic and odorous.

Shortly after acquiring the Anderson operations, DTG began importing significant volumes of “drywall backing paper” from Canada, reporting 19,394 cy in 2020, and 164,400 cy in 2021 not for recovery but disposal. Neighbors provided regulators with photos of this material spread like a blanket across the LPL in 2021. As DTG acknowledges, in 2021, YHD received odor complaints and observed visual vapor plumes emanating from fissures within the landfill. DTG neighbors submitted photos of Canadian vehicles bringing in the waste, the huge gypsum mound onsite, and the material layered over most of the landfill, including the current MTCA site.

Hydrogen Sulfide smells like rotten eggs, and is heavy, so it flows near the ground and can settle in low areas. DTG landfill neighbors and recreationalists complained of this odor on adjacent lands in 2021 & 2022 prompting ambient air and soil gas sampling of the LPL in December 2021 and July 2022 that confirmed the toxic gasses, which triggered the state's MTCA determination. Further investigation found and confirmed a landfill fire, which is under remediation. The MTCA investigation will restart once the fire is contained, with the drilling of wells and sampling of groundwater, the key concern of neighbors given their close proximity to multiple known and unknown suspected contamination sources.

The amount of gypsum disposed at this facility is more than the Canada waste stream, as more regulatory scrutiny of DTG's MRF operations, material transport, potential violations of flow control ordinances and related assessment of DTG's claims reveal evidence of disposal, not recovery or recycling. The good news is gypsum is recyclable, and there is demand and a ready market for this material from wallboard manufacturers to reconstitute it into drywall, and from agriculture (hops, apples) as a soil amendment. The gypsum industry is growing the necessary infrastructure in our state to recover nearly 100% of this material.

Comment/Question: As long as Yakima County continues to allow the transport, acceptance, and low cost disposal of uninspected and unlimited amounts of organic material and drywall waste to flow into Yakima for disposal, hydrogen sulfide emissions will be common. How can the YRCAA reliably protect neighbors from exposure to hydrogen sulfide gas that will drift downwind, downhill onto their properties, as has been reported to the YRCAA and facility regulators hundreds of times over the last 2 - 3 years by neighbors and recreationalists, including Carole DeGrave, Cindy Reed, Randy Abhold, Stan Askew, Brenda Yost, Nancy Lust, Paul Herke, Mark Koday and others?

YRCAA should evaluate the beneficial use of gypsum, the harmful health impacts of hydrogen sulfide gas emissions reported by landfill neighbors, and why DTG should be permitted to continue to dispose of gypsum material and generate toxic harmful gasses instead of recovering this marketable valuable commodity for beneficial reuse.

***Response- It is true that LPL air emissions are mainly PM and H<sub>2</sub>S from C&D as you stated. YRCAA calculated the air emissions based on the operation for PM and based on the area of the cells for H<sub>2</sub>S. The hydrogen sulfide emissions factor used is based on study done at the State of Florid, which means air emissions are overrated. We then modeled those air emissions for several scenarios. Air emissions are within the rules and regulation at the boundary line. The facility is LPL and proposing landfilling, YRCAA cannot force a facility to do what we may think and believe is a good or other method of process. It is beyond the authority of this agency. .***

### **Comment #19: Organics Management Bill**

Comment/Question: Since DTG ownership, green waste and organic material generally reserved for composting operations has been accepted, largely for disposal here, according to DTG Annual Reports (ECY 040-176). The regulatory agencies have broadly interpreted the term 'land-clearing debris' to allow acceptance of literally all organic material.

However, the application and permit's broad interpretation and allowance of organic flow to this facility is contrary to the recently passed state Organics Management Bill which requires Yakima County to adopt a compost procurement ordinance (CPO) to flow organic material from disposal facilities to designated compost operations. DTG is not a permitted compost facility. Municipalities are required to start reporting



to Ecology total tons of organic material collected at public or private (3<sup>rd</sup> party) drop sites, and volumes collected from curbside programs.

The bill's intent is to provide policy and infrastructure for communities to divert organic material from disposal to local compost facilities for processing into a useable soil product/amendment. The DTG YRCAA application should address how continued acceptance of organic material, an important known ingredient for production of hydrogen sulfide gas, for disposal is compliant with local implementation of this law.

***Response- YRCAA is not the County or the City and we do not implement a curbside program. It is really upon or up to the County, the cities how to implement or adopt a compost procurement ordinance (CPO). Most likely the County knows about the "passed state Organics Management Bill" you stated in your comment, and you should ask them directly what are they doing with that. Thank you.***

\*\*\*

**Public Comments received (Friday, September 29, 2023 2:44 PM) from Mark Koday as follows:**

“This is my second comment concerning the DTG temporary Air Operating Permit. DTG’s history of compliance to past requirements has been abysmal. They have not yet dug all the required monitoring wells, dug through the natural protective liner, there is no vegetative buffer between DTG and its neighbors, the slope of the original cell was greater than allowed and of course we are having to deal with an underground fire.”

*Response- YRCAA's Permit will include Compliance and Enforcement conditions to confirm if DTG is following what is permitted, if required, enforcement actions will take place in accordance with the rules and regulations that YRCAA adhere to. Installation of monitoring wells, probes and thermistors is on the MTCA Area under Ecology, which is not being permitted in YRCAA's Order. Although the application does not mention the liner, YRCAA permit's conditions 1.10 stated that Cell #2, which is being permitted, shall be lined with geomembrane. Vegetative buffer is one of the requirements per WAC 173-350-400 as a final closure design, thus, this is only for Cell #1 at this moment and the closure plan will be submitted to YRCAA, mentioned in the Order, after the MTCA Area is cleaned up. Thank you, YRCAA will include conditions regarding an appropriate slope in its Permit (already mentioned in YHD permit) to remark this and avoid having the same issue with the new Cell #2.*

“Due to their poor compliance, I believe it is imperative of your department to require the following before issuing any temporary permit:”

*Response- What YRCAA posted on its website it's not a temporary permit, it's a Draft Permit, it's has not been issued and DTG cannot use this to continue with the process of obtaining the Yakima Health District Permit.*

- “Require a new SEPA to account for the numerous issues that have changed as a result of their disregard for regulations.”

*Response- YRCAA received other comments regarding the SEPA determination. After the Public Forum and Public Hearing of the DTG Draft Permit, YRCAA reached out to the Yakima County to discuss the SEPA process for DTG and the determination. It was conclude that the Determination of Nesignificance (DNS) 2015for the SEPA process is valid and accurate and can be used and no need for new SEPA. A new SEPA is required when the facility changes the operations being done, expands the land being use, etc., at this moment, DTG's operations are the same as they were in 2015 when they obtained the DNS.*

- “Require independent 3<sup>rd</sup> party air monitoring along with the monitoring required in the current proposed permit. This could go a long way in improving the public's distrust of this company”

*Response- Thank you, YRCAA can consider requesting 3<sup>rd</sup> party air monitoring to be done more frequently. During the Public Hearing, a DTG's representative explained that currently Firestone, a 3<sup>rd</sup> party company, has been doing air monitoring.*

\*\*\*

**Public Comments received (Monday, October 2, 2023 2:54 PM) from Sara Cate as follows:**

“To Whom It May Concern,

I am very concerned about DTG Enterprises application for New Source Review permit related to their operation of the Limited Purpose Landfill and associated facilities at 41 Rocky Top Road, Yakima WA 98908. This company has not shown itself to be a responsible landfill business given the events of the past few years. Daily odors emanating from the landfill for several years with the concerns of neighbors ignored or denied by DTG until regular meetings with county regulators encouraged a closer examination of the operations there. Odors are improved but continue. And what of the adverse health impacts of these odors? I would request that no further permits be authorized to DTG until a full environmental review of the impacts of this facility are made. Thank you very much for your consideration of this request.”

*Response- YRCAA can and does take care of air quality issues. The proposed Draft Permit for DTG is based on potential and allowable emissions of the operations being done at the facility. The calculations obtained by YRCAA show that the emissions will not exceed the thresholds determined by federal, state and local rules and regulations that YRCAA has to adhere to.*

\*\*\*

Comments received on or before 10/25/2023

**Public Comments received (Wednesday, October 25, 2023 2:53PM) from Scott Cave as follows:**

This comment letter was submitted via email to: [permits@yrcaa.org](mailto:permits@yrcaa.org)

To: Hasan Tahat, Engineering and Planning Supervisor  
Yakima Regional Clean Air Agency  
186 Iron Horse Court, Suite 101  
Yakima, WA. 98901

From: Scott Cave, President  
S.C. Communications  
205 W. Sixth Avenue  
Ritzville, WA 99169

Subject: Additional written comment on DTG's NSR Application and YRCAA's  
Operating Permit

On behalf of Carole DeGrave and Friends of Rocky Top (FORT), we respectfully submit the following prepared comments on DTG's NSR Application and the YRCAA's proposed Order of Approval for DTG's Limited Purpose Landfill Air Operating Permit.

## **II. DTG's NSR Application**

### **Comment #1: Appendix D, LPL Operations Plan Appendix C – Sampling and Analysis Plan (SAP)**

DTG submitted the NSR Application to YRCAA with HWA GeoSciences outdated *Anderson 2007 Groundwater Sampling and Analysis Plan* (GW SAP) instead of an updated GW SAP that reflects changes in state law, and requires sampling of likely groundwater contaminants given the multiple known sources of potential contamination (see Cave 9/25/23 written comments, *Background*) at this location.

The submission of this particular outdated 2007 GW SAP has occurred with nearly every application submitted by DTG to local and state regulators. As regulators know, HWA GeoSciences has prepared multiple updated GW SAPs for DTG (see; Feb/2017, Feb/2020, Nov/2022), yet the company prefers to submit outdated, less restrictive groundwater sampling plans. Neighbors expect facility regulators to require the company to generate an updated 2023-24 GW SAP that includes monitoring for contaminants identified through the on-going MTCA investigation and cleanup, as well as the landfill fires, and newly confirmed PFAS and incorporate the changes to state law for ground water sampling Why in August, 2023 did DTG again be allowed to submit the outdated 2007 GW SAP, and for the YRCAA to present this outdated document to the public, without acknowledging in the application that this GW SAP is

not the appropriate groundwater sampling procedure, and that an updated GW SAP has been or is being developed for this site.

I first raised DTG's reliance on, and regulators acceptance of, the submission of this outdated GW SAP with applications in 2020, and more recently via email May 18th & 19th, 2022, pasted below on the following pages. My concerns are discussed and then advanced by Ecology (James Rivard & Luke LeMond) with Hasan Tahat. Although Hasan categorizes my concern as jurisdictional, i.e., unrelated to air quality, and therefore the platitude of Ecology, the state agency disagrees, and points out how the air monitoring needs to capture what is really happening at this facility, and not to rely on the same typical monitoring that was used here and didn't detect ANY of the toxic air quality reported by neighbors over years and confirmed by ambient air and soil gas sampling in December 2021 and July 2022, which along with temperature detections, led to the LPL MTCA area determination and confirmation of at least two landfill fires.

The following pages (2 thru 6) are the email messages, sequentially, from most current to the first email initiated by me on May 18<sup>th</sup> 2022 3:38 pm to YRCAA and Ecology regarding why the NSR Application should include an updated GW SAP. The highlighted yellow text are key critical comments from Ecology to YRCAA.

**From:** Hasan Tahat <hasan@yrcaa.org>  
**Sent:** Thursday, May 19, 2022 12:25 PM  
**Cc:** Wade Porter <wade@yrcaa.org>  
**Subject:** FW: DTG GW SAP

James,

For sure, you guys can really ask for what your needs, i.e., health and OSHA regulations requirements are. In our case it is a little different as it is LPL. At any rate, I will cc you with our letter when I send it out. Thanks.

**From:** Rivard, James (ECY) [<mailto:JRIV461@ECY.WA.GOV>]  
**Sent:** Thursday, May 19, 2022 12:01 PM  
**To:** Hasan Tahat; LeMond, Luke (ECY)  
**Cc:** Rounds, Megan (ECY)  
**Subject:** RE: DTG GW SAP

One the recommendations that we will probably make is doing the probe sampling at least twice under different barometric events, to help ensure something wasn't missed if only done once. As you know changes in barometric pressure and other environmental conditions can effect sampling. Landfills somethings can exhibit an inhale / exhale effect with changes in barometric pressures and landfill gases. It could help explain why odors come and go.

We want to ensure the probe sampling planned is compressive to identify species of VOC's, and includes H2S and CO. The CO testing is critical to help determine if a underground landfill fire might be present.

We have talked briefly (on a high surface level) with the company about the difference between probe sampling to capture emissions to help satisfy YCRCAA, but further continuous monitoring maybe needed to ensure any 24-hour exposure is safe by health or OSHA regulations.

**From:** Hasan Tahat <[hasan@yrcaa.org](mailto:hasan@yrcaa.org)>  
**Sent:** Thursday, May 19, 2022 11:40 AM  
**To:** Rivard, James (ECY) <[JRIV461@ECY.WA.GOV](mailto:JRIV461@ECY.WA.GOV)>; LeMond, Luke (ECY) <[llem461@ECY.WA.GOV](mailto:llem461@ECY.WA.GOV)>  
**Cc:** Rounds, Megan (ECY) <[MROU461@ECY.WA.GOV](mailto:MROU461@ECY.WA.GOV)>  
**Subject:** RE: DTG GW SAP

James,

I am working on our letter on and off, as I can, with the other works I have. You will get a copy of the letter when I sent it. The only reservation I have for GW SAP it is within the WAC 173-350, I believe. We do not have authority on that for GW. But I will be more than happy to answer or help in this issue. Of course, I can read your letter, and give some input if you like. Thank you.

Regards,

Hasan

Hasan M. Tahat, Ph.D.  
Interim Executive Director  
Compliance, Engineering and Planning Division Supervisor  
Yakima Regional Clean Air Agency  
186 Iron Horse Ct. Suite 101. Yakima, WA. 98901  
Tel: (509) 834-2050 ext. 105  
Fax: (509) 834-2060  
E-mail: [hasan@yrcaa.org](mailto:hasan@yrcaa.org)

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**From:** Rivard, James (ECY) [<mailto:JRIV461@ECY.WA.GOV>]  
**Sent:** Thursday, May 19, 2022 11:26 AM  
**To:** Hasan Tahat; LeMond, Luke (ECY)  
**Cc:** Rounds, Megan (ECY)  
**Subject:** RE: DTG GW SAP

Hi Hasan,

I think we will be sending out another letter early next week, so if you wanted to read that before your

send out yours, you are welcome to if it helps.

**From:** Hasan Tahat <[hasan@yrcaa.org](mailto:hasan@yrcaa.org)>  
**Sent:** Thursday, May 19, 2022 11:12 AM  
**To:** LeMond, Luke (ECY) <[llem461@ECY.WA.GOV](mailto:llem461@ECY.WA.GOV)>  
**Cc:** Rivard, James (ECY) <[JRIV461@ECY.WA.GOV](mailto:JRIV461@ECY.WA.GOV)>; Rounds, Megan (ECY) <[MROU461@ECY.WA.GOV](mailto:MROU461@ECY.WA.GOV)>  
**Subject:** RE: DTG GW SAP

Thank you Luke!

**From:** LeMond, Luke (ECY) [<mailto:llem461@ECY.WA.GOV>]  
**Sent:** Thursday, May 19, 2022 11:00 AM  
**To:** Hasan Tahat  
**Cc:** Rivard, James (ECY); Rounds, Megan (ECY)  
**Subject:** RE: DTG GW SAP

Unfortunately, the latest information I have is from the December and January gas surveys where VOCs were detected. I am working to get updated groundwater data, but due to the location of the wells I am not expecting any new insights from that data. I will give you whatever new information we receive.

**Luke LeMond, LHG**  
Hydrogeologist  
Solid Waste Management Program  
Washington State Department of Ecology  
Central Regional Office  
1250 West Alder Street  
Union Gap, WA 98903  
Cell: 509-379-3961



**From:** Hasan Tahat <[hasan@yrcaa.org](mailto:hasan@yrcaa.org)>  
**Sent:** Thursday, May 19, 2022 10:56 AM  
**To:** LeMond, Luke (ECY) <[llem461@ECY.WA.GOV](mailto:llem461@ECY.WA.GOV)>  
**Cc:** Rivard, James (ECY) <[JRIV461@ECY.WA.GOV](mailto:JRIV461@ECY.WA.GOV)>; Rounds, Megan (ECY) <[MROU461@ECY.WA.GOV](mailto:MROU461@ECY.WA.GOV)>  
**Subject:** RE: DTG GW SAP

Luke,  
Thank you for the information. If you have the latest info from the facility or you will have new one and you could share with us will be appreciated. I do not think we can do much about the GW part or

sampling and it analysis. As you know, the voc's and other compounds in GW can give a lot of information and indictors. Please do not hesitate to send us any new submittal to you your office regarding this subject. Thank you.

Best regards,

Hasan

Hasan M. Tahat, Ph.D.

Interim Executive Director

Compliance, Engineering and Planning Division Supervisor

Yakima Regional Clean Air Agency

186 Iron Horse Ct. Suite 101. Yakima, WA. 98901

Tel: (509) 834-2050 ext. 105

Fax: (509) 834-2060

E-mail: [hasan@yrcaa.org](mailto:hasan@yrcaa.org)

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**From:** LeMond, Luke (ECY) [<mailto:llem461@ECY.WA.GOV>]

**Sent:** Thursday, May 19, 2022 10:35 AM

**To:** Hasan Tahat

**Cc:** Rivard, James (ECY); Rounds, Megan (ECY)

**Subject:** RE: DTG GW SAP

Hasan,

I am unfamiliar with all the material that you are reviewing for the NSR, but I would suggest that you not rely on the DTG's existing SAP at all (including the 2020 version). The existing SAP has no analyses of VOC's in air or groundwater, no sulfur compounds, no carbon monoxide, and has not been successful in identifying any methane, which I have no doubt is being produced. In addition, the existing permit does not reference the SAP at all. None of the constituents of concern that have been identified at the site were discovered through routine sampling under the SAP. I suggest that you require whatever analyses you deem necessary, which I imagine includes methane, sulfur compounds, and VOCs, and we will work to make sure that the new SAP and operating permit(s) incorporate your requirements.

As always, we are happy to discuss this with you at anytime.

Sincerely,

**Luke LeMond, LHG**

Hydrogeologist

Solid Waste Management Program

Washington State Department of Ecology



Central Regional Office  
1250 West Alder Street  
Union Gap, WA 98903  
Cell: 509-379-3961

**From:** Hasan Tahat <[hasan@yrcaa.org](mailto:hasan@yrcaa.org)>  
**Sent:** Thursday, May 19, 2022 10:24 AM  
**To:** Scott Cave <[scomm@sosmail.us](mailto:scomm@sosmail.us)>; Rivard, James (ECY) <[JRIV461@ECY.WA.GOV](mailto:JRIV461@ECY.WA.GOV)>  
**Cc:** Rounds, Megan (ECY) <[MROU461@ECY.WA.GOV](mailto:MROU461@ECY.WA.GOV)>; LeMond, Luke (ECY) <[llem461@ECY.WA.GOV](mailto:llem461@ECY.WA.GOV)>  
**Subject:** RE: DTG GW SAP

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attachment or the link**

Thank you Scott!

**From:** Scott Cave [[scomm@sosmail.us](mailto:scomm@sosmail.us)]  
**Sent:** Thursday, May 19, 2022 10:19 AM  
**To:** Hasan Tahat; 'Rivard, James (ECY)'  
**Cc:** 'Rounds, Megan (ECY)'; LeMond, Luke (ECY)  
**Subject:** RE: DTG GW SAP

Hi Hasan

While I agree Ecology is the authority for groundwater, DTG's NSR Application before the YRCAA contains the old, 2007 Anderson GW SAP, which may not be compliant with changes in prepared for DTG for this facility. While Ecology has recommended the SAP be updated to include VOCs which I strongly support, that has not occurred. I wanted you to be aware of this situation because the NSR GW SAP is outdated, and should not have been approved or provided with DTG's Application. Consequently, I respectfully request that DTG's NSR GW SAP be replaced with the February 2020 GW SAP or the updated SAP recommended by Ecology, prior to YRCAA approval.

Scott

**From:** Hasan Tahat <[hasan@yrcaa.org](mailto:hasan@yrcaa.org)>  
**Sent:** Thursday, May 19, 2022 9:23 AM  
**To:** Scott Cave <[scomm@sosmail.us](mailto:scomm@sosmail.us)>; Rivard, James (ECY) <[JRIV461@ECY.WA.GOV](mailto:JRIV461@ECY.WA.GOV)>  
**Cc:** Carole Degrave <[lusciouslupine@icloud.com](mailto:lusciouslupine@icloud.com)>; 'Rounds, Megan (ECY)' <[MROU461@ECY.WA.GOV](mailto:MROU461@ECY.WA.GOV)>; Kimberly Grieves <[Kimberly.grieves@ecy.wa.gov](mailto:Kimberly.grieves@ecy.wa.gov)>  
**Subject:** RE: DTG GW SAP

Scott,

Ground Water is Ecology's jurisdiction and I think you got the answer from Megan and Luke. Thank you.

Regards,

state law since. My understanding is the application should contain the February 2020 GW SAP  
Hasan M. Tahat, Ph.D.  
Interim Executive Director  
Compliance, Engineering and Planning Division Supervisor

**From:** Wade Porter  
**Sent:** Wednesday, May 18, 2022 5:13 PM  
**To:** Hasan Tahat <hasan@yrcaa.org>  
**Subject:** RE: DTG GW SAP

Scott has a valid point.

**From:** Hasan Tahat  
**Sent:** Wednesday, May 18, 2022 5:00 PM  
**To:** Wade Porter  
**Subject:** FW: DTG GW SAP

What is this about?

**From:** Scott Cave [<mailto:sccomm@sosmail.us>]  
**Sent:** Wednesday, May 18, 2022 3:28 PM  
**To:** Rivard, James (ECY); Hasan Tahat  
**Cc:** Carole Degrave; 'Rounds, Megan (ECY)'; Kimberly Grieves  
**Subject:** DTG GW SAP

James & Hasan

I'm contacting you both to alert you to a potential issue with DTG's New Source Review (NSR) Application. I notice that DTG's revised January 2022 NSR Application includes an operating plan with an outdated groundwater Sampling and Analysis Plan (GW SAP), dated March 17, 2007. Attached are two recent HWA GeoSciences GW SAPs prepared for the Anderson Limited Purpose Landfill, including one commissioned by DTG, dated February 22, 2020 that was intended to be used for all DTG submissions after that date. As you know, the older plan may not reflect state legislative changes. You may recall that I alerted your agency in mid-2020 to the fact that DTG's LPL permit applications (with Operating Plans and GW SAPs) submitted in March, May and June 2020 included the outdated 2007 GW SAP. I expressed concern that if the agencies approved the permit with the 2007 GW SAP, the company could claim it was allowed to operate under it, instead of the updated version. At the time, the agency acknowledged they overlooked this matter, and assured me it would be remedied without issue. However, because I have found the outdated 2007 GW SAP included with the NSR submission that is under review for approval by YRCAA, and Ecology has not confirmed that they updated DTG's permits to include the 2020 GW SAP, I respectfully request your confirmation that DTG is operating under the 2020 GW SAP, and that your agency will coordinate with YRCAA to ensure the 2020 GW SAP is included with DTG's NSR application.

I appreciate your attention to this matter and look forward to your reply.

Sincerely,

Scott Cave  
Representing Carole DeGrave

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Comment: An updated GW SAP is required for the LPL, including the never permitted and unlined Phase 1/Cell 1 that contains a state determined MTCA cleanup site and multiple fires, requiring unexpected purchase of neighboring property for remediation. Additionally, Ecology has notified the YHD that PFAS contaminated soils (743 cy) from the U.S. Army Yakima Training Center were remediated and disposed in Phase 1/Cell 1 between 2003 and 2006, before it was permitted as an LPL. Consequently, the bottom layers of the unlined, unpermitted LPL is likely laden with PFAS contaminated soils. This means any future air and groundwater monitoring system will require a coordinated state and local regulatory monitoring system for this location to prevent another MTCA site in Cell 2. Relying on outdated GW SAPs and SEPA to avoid the first serious review of the current air quality impacts and emerging threat to groundwater from DTG operations is more than disingenuous, as it will allow continued adverse impacts on its neighbors, violating County regulations and permit conditions. Regulators, including the YRCAA, should jointly investigate how DTG created this toxic landfill to protect the public from this situation occurring again. What in the NSR Application addresses DTG's history of non-compliance and known impacts on neighbors? I respectfully request the YRCAA provide the updated GW SAP with the next revision of DTG's NSR Application for public review and comment, and partner with YHD, Ecology and Yakima County to better enforce all local and state permit conditions and regulations.

***Response- Thank you for your comments DTG is operating under the approved submitted Groundwater Sampling and Analysis Plan (GW SAP) of 2023. We will specify that in the permit. This was confirmed with the Department of Ecology too.***

### **Comment #2 YRCAA must require an environmental review to satisfy SEPA**

None of the above concerns were considered in the referenced SEPA documents from 1992 and 2015, or other SEPA reviews to date, yet here we are considering the first air permit for a landfill that has been in operation as an inert fill and LPL since the 1990s.

The changes on Rocky Top since DTG acquisition have been front page news since September, 2022, with multiple editorials. However, comments from YRCAA staff and DTG at the recent hearing on the company NSR application suggest the agency and DTG are unaware of these articles and editorials, and the heightened level of community concern

about Rocky Top air quality. The news coverage by the Yakima Herald Republic and Northwest News Network (NPR) have been highly informative and revealing, and will be submitted separately as support documents.

***Response- The YRCAA is aware of the news. Thank you.***

In comments at DTG's NSR hearing, Ian Sutton, DTG's Engineer and long-time Anderson consultant, informed the community that the 1992 and 2015 SEPA were adequate because "nothing has changed". Review of facility operational changes, required acquisition of neighbor property, record of complaints and facility violations, confirmed adverse air quality, landfill fires, and Model Toxic Control Act cleanup site have occurred during DTG ownership, and support the YRCAA requiring further environmental review. Specific changes include:

1) Addition of a **Material Recovery Facility**. Without any public review or comment, DTG was allowed to install a MRF at the working landfill face. By definition, a MRF is located on an impervious surface, in a building with a roof to protect the material from precipitation, a leachate conveyance system from the tipping floor, and ancillary areas to collect the leachate, to control discharge, with pollution control measures to protect air quality. Engineering reports and operations plans are also required. Here, the "MRF" was simply a pick line with no impervious surface, no roof, no air quality controls. While the YHD required DTG to only accept recyclable material at the MRF, and to return non-recycled residuals to the originating jurisdictions for disposal, the company records show no evidence of this required transfer and disposal, confirming what neighbors and some regulators think - that the "MRF" was largely a ruse to reduce regulatory concerns of increased disposal. Can facility regulators name another permitted, uncovered MRF operating at a landfill working face in Washington?

DTG's "MRF" operation helped the company legitimize the huge volume increases for disposal at the LPL (next point) and mismanagement that created the state MTCA designation and on-going landfill fire(s), and their respective associated investigations, cleanup and remediation. According to YHD, they are requiring the future MRF to be in a building with an impervious floor, and hopefully, comply with all of the other performance standards in WAC 173-350-040.

**Comment:** The MRF is evolving and the YRCAA can't assess air quality conditions of something that is still being designed, and hasn't been located or built. At this point, shouldn't the MRF component of the NSR Application be removed pending further YHD & DTG MRF planning and approvals? If the MRF is included, this facility operational change is another reason for a new SEPA review.

***Response- YRCAA will clarify the conditions in the order of approval. We will also confirm the conditions that the facility will be operating under the YHD approval. Air emissions will be and are included from the MRF. In another words, it will clarified.***

2) **Increased disposal volume and corresponding truck traffic** DTG LPL disposal increased to nearly 500,000 cy in 2021, and 700,000 cy in 2022, a staggering 600% increase over the disposal level the LPL was permitted for in 2007 and again in 2015. To neighbor's horror, the YRCAA is proposing allowing DTG to ramp up annual disposal to 1.0 m cy per year. 1 million cy of waste transported to Yakima from all over the country and Canada for disposal is not anticipated in prior SEPA, and such an increase would easily violate the current vehicle limitations set forth by Yakima County for the LPL, surface mining and PCS remediation site in the *Final Mitigated Determination of Non-Significance (MDNS) for the Anderson CUP 03-112/SEP 03-55; A. Impacts to air quality*, which states:

*The proposed mining activity is estimated by the applicant to generate an average of 20-round truck trips per day. As most active mining operations are conducted within a 7-8 month period each year, this estimate would mean that the average number of round trips during the active time of the year would be about 30 (or 60 one-way trips per day). Assuming a 10-hour workday, 7 days a week, this would equate to a truck passing by every 10 minutes. This traffic, combined with the estimated 0-20 round trips per day for the soil remediation use, and 25 round trips per day for the demolition landfill, totals 55-75 round trips or 90-150 one-way tips per day by the various Anderson operations during the 7-8 month period the mining activity mostly occurs. Assuming a 10-hour workday, 7 days a week, this would equate to a truck passing every 4 to 6.6 minutes. If a 6 day workweek was followed, and all other factors were equal, it would equate to a truck passing every 3.4 to 5.7 minutes.*

The substantial increases in 2021 and 2022 violated the County vehicle limits for the LPL set at 25 truck trips per day. Higher daily vehicle levels have never been assessed or approved by any regulatory agency. While the County has not enforced the vehicle limits it set, it has also not reconsidered traffic increases in any other county SEPA for this location.

Yakima established these vehicle limits to protect the public, County roads, and control impacts. DTG has been allowed to increase waste disposal and corresponding truck traffic without limitation in the name of free enterprise, but in doing so, they violated the above conditional use permit and created toxic air quality that the YRCAA did not seriously investigate regardless of the hundreds of air quality complaints registered over years with facility regulators (see below ). Unfortunately, Yakima County has not assessed vehicle traffic flow to determine whether or not to enforce the above vehicle limits. The significant change in disposal volumes and truck traffic were not considered in prior SEPA and is a primary reason for a new SEPA review.

Comment: There has been no environmental review of the increased LPL vehicle traffic that has occurred during DTG's ownership. The YRCAA is the responsible agency for air impacts and should require a new SEPA review that assess the proposed increase in waste acceptance, disposal and corresponding vehicle/truck traffic.

**Response- YRCAA included the air emissions from the vehicles transport based on the design**

*capacity volume. YRCAA is not the responsible official for the SEPA, Yakima County is. We confirmed with the county that the 2015 SEPA is still valid. For the enforcement of number of trips, etc. from the county planning department, YRCAA has no jurisdiction. The number of hours and days of operation will be specified in the permit.*

3) **The landfill footprint has changed and is changing.** Cells will be approved as the facility develops. While the NSR application is for Cell 2, the LPL will be re-structured to accommodate new infrastructure including the presumptive composite liner design of 2 feet layer of clay like compacted soil overlain by a high-density polyethylene (HDPE) 60 mil welded liner. This will require engineering schematics, drawings and reports for construction and future leachate control/conveyance systems. These and other potential landfill construction and engineering alterations will require DTG to reconfigure the 2015 footprint, which it references throughout the application. Doing so presents an inaccurate portrayal of DTG's application scope, site management, and current facility operations, including the landfill's cell development and footprint.

**Comment:** Has Phase 2/Cell2 been approved for construction by YHD and Ecology? If so, why doesn't the Application reflect the installation of required infrastructure per WAC 173-350-400, including:

- a) Limited Purpose Landfill liner
- b) Leachate Collection and Control System, including lined Pond

**Response- This question/comment should be asked or directed to YHD and Ecology. However, In the order of approval we specified that a liner should be installed (HDPE) 60 mil welded liner. In addition figures will be added to specify that.**

4) **PFAS disposal.** Increased study of PFAS toxicity has prompted new stricter federal and state regulations and controls to protect the environment and human health. The U.S. Army Yakima Training Center was allowed to send 743 cy of PFAS contaminated soils to the Anderson facility for remediation and disposal in Phase 1/Cell 1 between 2003 and 2006, before the landfill was permitted as an LPL. Consequently, the bottom layers of the unlined, unpermitted LPL is likely laden with PFAS contaminated soils.

**Comment:** The level of threat this disposed material poses has increased exponentially since the MTCA determination and landfill fires which are likely to generate toxic leachate that can threaten groundwater resources.

**Response- YRCAA believes that Ecology and the YHD are asking for PFAS testing in the ground water. That was discussed in one of the FORT meeting at Ecology's**

*office. We are not sure if YHD has any PFAS report!.*

5) **MTCA cleanup site under investigation.** This is the beginning of a multi-year process to determine the nature and extent of contamination, and threat it poses to landfill workers, neighbors and the community. The process includes legal agreements, interim actions, a site hazard assessment, remedial investigation, feasibility study, cleanup action plan, engineering design, clean up of the site, future infrastructure for monitoring and site use controls, and on-going review to ensure cleanup is occurring, and opportunities for public participation and throughout the cleanup process. The YRCAA should be working with sister regulatory agencies to reduce and control air quality impacts from the LPL, regardless of which LPL Cell. Remember, the MTCA cleanup is in Phase 1/Cell 1, that YRCAA did not issue an air operating permit for, violating the first and second conditions of CUP2015-00051:

1. *The applicant shall obtain all necessary local, state, and federal permits relevant to the operation of the Limited Purpose Landfill prior to the expansion and commencement of use...*

2. *The applicant must obtain necessary permits from the Yakima Regional Clean Air Agency.*

Comment: When solid waste facility regulators fail to do their job, the community suffers. DTG's neighbors witnessed and reported the company's questionable operations and slipshod management to regulators for years as the company created the MTCA site, and how their hundreds of odor complaints assisted regulatory oversight. They also learned how agencies have not done their jobs in multiple instances at this location, including the YRCAA's abdication of its responsibility to issue this facility an air operating permit or notice of violation. YRCAA should accept its responsibility for air quality and fully evaluate air impacts through a new SEPA review.

***Response- YRCAA understand your comment. As stated in the previous responses, YRCAA is not the lead agency for the SEPA, it is the county. The facility started to receive inert materials under WAC 173-304. YRCAA is trying to permit the facility so as to be in compliance with the current rules and regulation. YRCAA is working "with sister regulatory agencies" to solve the permitting issues first. For the facility's violation, it will be dealt with in a compliance matter in a separate issue than permitting. Please see also the previous responses for the SEPA.***

6) **Multiple landfill fires under remediation.** The toxic fumes and fire reflect suspect disposal, poor landfill management, and weak regulatory oversight. As YRCAA admits, the agency was required to issue an air operating permit for the LPL in 2007 and 2015, and chose not to. This decision does not sit well with neighbors.

Comment: The YRCAA staff comment that they are looking forward, not backward, is admission the agency wishes to sweep the toxic air on Rocky Top created under its watch

because it failed the public and is embarrassed. The agency should be more concerned with understanding how this situation occurred, and repairing its relationship with landfill neighbors.

***Response- I do not believe that YRCAA ever said we “chose not issue a permit” in 2007 or 2015. That is not true. We have been working for a while with the facility to issue a permit for the facility. Yes, we are looking forward not backward, to resolve the problem, issue a permit and put the facility in compliance. We will be more than happy to listen to any other suggestion.***

7) **DTG buys neighbor property to control LPL fire.** The lack of normal facility setbacks and management controls for slope and compaction, helped create the LPL fire, which requires remediation. The consultant plan required soil cover and compaction to reduce oxygen and smother the fire. It also required the purchase of adjacent property because the landfill was permitted to be right on top of its neighbors.

Comment: The lack of adequate setbacks and limited groundwater monitoring system will continue to foster conflict with DTG neighbors. The YRCAA should evaluate why this fire occurred, and the air quality threats to be monitored, given what is actually being disposed and management practices, instead of relying on projected hydrogen sulfide modeling based on disposal of 1.0 m cy and questionable assumptions about DTG C&D material loading, compaction and weighing, and the amount of organic, biodegradable waste disposed.

***Response- We do not know why did the neighbor sold his property etc. It is none of anyone business, but the parties involved. It is your opinion and you are entitled to it. That section is under the MTCA AO and Ecology and the facility are trying to resolve the issue.***

8) **YRCAA never issued a required air operating permit or notice of violation.** As noted in the permit and prior comments, YRCAA allowed the Anderson/DTG/Macquarie landfill to operate without the required air operating permit that it today wishes to grant the applicant.

Comment: The agency needs to explain why it chose to allow this landfill with a known capacity to generate adverse air impacts, was not permitted or issued a notice of violation, per state and local regulations.

***Response- YRCAA understand your comment. Again, the facility started to receive inert materials under WAC 173-304. YRCAA is trying to permit the facility so as to be in compliance with the current rules and regulation. YRCAA is permitting Cell 2/phase 2 too in which it is still under construction. YRCAA is working with other regulatory agencies to solve the permitting issues. The facility is permitted by YHD. For the facility’s violation, it will be dealt with in a compliance matter in a separate issue than permitting.***



9) **DTG removed the natural soil “alternative liner” approved by YHD.** Ian Sutton, the company’s engineering consultant oversaw the purposeful excavation of the Vantage Interbed, the natural soil layer the company said would remain in place to protect groundwater. This unpermitted excavation added important disposal capacity at the LPL, Sutton’s primary concern apparently. The alternative soil layer was approved by regulators instead of the normal prescriptive liner of 2 feet of compacted soil and HDPE, with the necessary collection and conveyance system for removing leachate. Its important for the public and regulators to recognize that DTG/Sutton did not do the right thing and disclose this erroneous excavation to regulators because of its obvious financial benefit to the company with increased air space.

Comment: DTG should have been required to cease disposal immediately in this unprotected, unlined temporary cell when Ecology discovered this egregious violation. The YRCAA should establish permit controls to ensure DTG facility operations and decision-making do not allow similar advantageous permit violations to occur. This unpermitted and suspect excavation was not considered or anticipated in prior SEPA.

***Response- YRCAA understands your comment and will let Ecology and YDH know that if they are not aware of it and fix the problem. Currently, Cell #2 is required to have a 2 feet of compacted soil and HDPE and will be added tour permit. Not sure how someone can anticipate this kind of action / issue in a SEPA?***

**DTG removal and redispense of waste in temporary cell.** As noted above, DTG illegally excavated the protective soil layer and the YHD has required the company to remove and redispense of all this material and the soil cover from the temporary cell to a new, lined cell, presumably Cell 2.

Comment: This significant operational challenge was not considered or anticipated in prior SEPA.

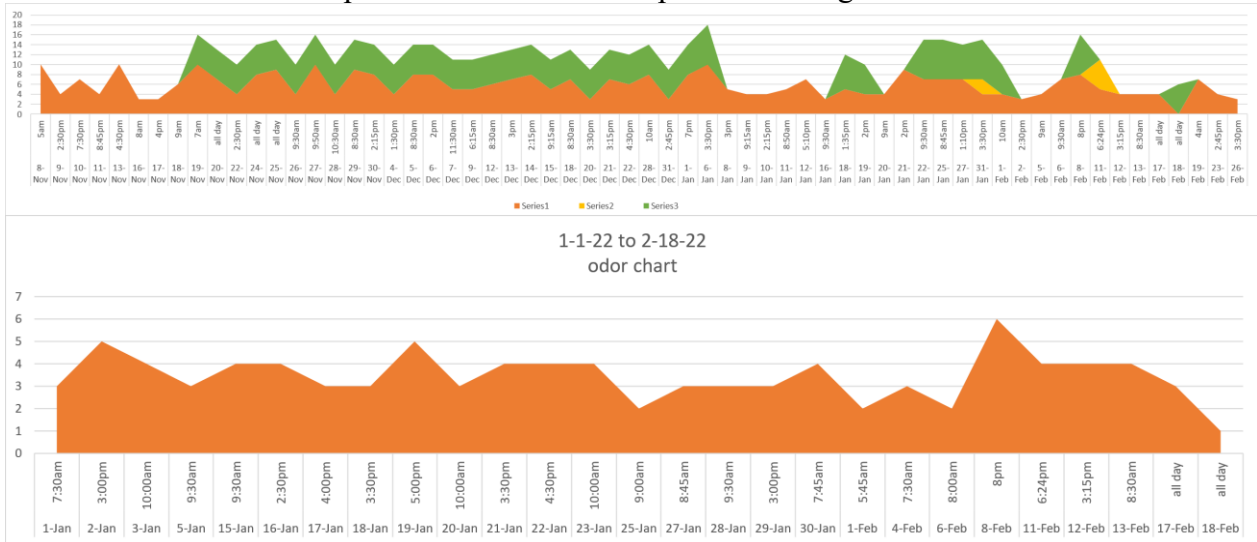
***Response- YRCAA understands your comment and will let Ecology and YDH know that if they are not aware of it and fix the problem. However, currently, Cell #2 is required to have a 2 feet of compacted soil and HDPE and will be added tour permit. Not sure how would someone anticipate this kind of issue in a SEPA?***

10) **Installation of required Vegetative Screening per Vegetative Screening.** The DTG mining area is within 250 feet of the DeGrave residence. The required installation of vegetative screening five years prior to mining in this area to abate known identified air quality impacts has not occurred. The assumption that this nearest residence will be protected because of this condition is no longer valid. Unfortunately, facility management and County planning and code enforcement dropped the ball. Four years after DTG ownership and instead of vegetative screening the company installed blue bins, noticeable in this picture (following page) taken from DeGrave’s roof top looking south over the top of her maintained

natural shrub steppe property and her self-installed and maintained, largely deciduous grove of trees. Currently, there are no plans for installation of this required screening.



Fortunately for regulators, DeGrave has documenting daily residential adverse odors since mid 2020. Here’s an example of the charts she has provided to regulators:



ODOR SCALE

- 1- MINIMAL BUT AWARE OF IT
- 2- NOTICEABLE
- 3- OBTRUSIVE
- 4- VERY IRRITATING
- 5- SICKENING
- 6- VERY SICKENING
- 10- DEFINITE BODY RESPONSE- EYES WATERED, THROAT AND NOSE BURNED, IMMEDIATE HEADACHE

Comment: The application should acknowledge the County required screening has not been installed or established per the required timing, five (5) years prior to the beginning of mining operations, and that the lack of this required mitigation must be addressed prior to commencement of the planned crushing and grinding

***Response- YRCAA understands your comment and will let County, Planning Department know that and we will include that in the air permit.***

Overall Comment: All of the above require operating plans that have not been developed or included with this application. How can the public evaluate this proposal when it isn't available for review? These changes under DTG ownership were not considered in prior SEPA and require the YRCAA to request a new SEPA review.

***Response- YRCAA understands your comment and will let County, Planning Department know that and we will include that in the air permit to be compliant with all other rules and regulations, which includes other agency. In addition, YRCAA consulted with the lead agency for the SEPA, they maintained that the old SEPA still stands. Please contact YHD and Ecology for the operating plan. They have a copy to my understanding.***

**Comment #3: Stockpiling of concrete and asphalt for grinding w/out County required vegetative screening violates DeGrave**

DTG and its contract manager Granite have been stockpiling concrete and asphalt for months, and although the YHD issued a letter for them, neighbors continue to report additional material delivered to the site and these piles. This area is planned for future disposal. Regarding the citing of solid waste facilities and protecting neighbors, Yakima County Code Title 19 Unified Land Development Code, 19.18.440 Solid Waste Handling and Disposal Sites:

*(b) provide for the protection and preservation of land uses that might be adversely impacted by solid waste handling and/or disposal*

Regarding the air quality impacts from future crushing of this stockpiled inert material, the YRCAA should be aware of Anderson CUP 03-112/SEP03-55, Findings & Decision (e)

Impacts to air and water quality states: *The crusher and asphalt plant will be located at least 1,500 ft from any residence.*

***Response- Please contact the Yakima County, Code enforcement, if it was a condition for the 1500 feet, they must be a way 1500 feet away from the residents. YRCAA will observe the distance during the operation. We believe it is more than 1500 feet away, but will confirm that.***

ANY odors that leave DTG's property violates the facility air permit. As has been identified in her numerous complaints filed with facility regulators regarding noise, dust, after hours operations, litter, and especially eye-watering, headache generating odor impacts since DTG ownership which include charts of daily odor levels (scaled) from her residence over years. Yet, YRCAA has visited only once and Yakima County Public Services or Code Enforcement have never visited her location. After reporting daily violations for years, regulators should visit this close location that they permitted to be inundated with operational impacts to truly understand this growing nightmare for her and nearby neighbors.

It is clear by review of the site map and proposed cell development plans, DTG intends to create a large mountain of waste in the current mining area near DeGrave's residence and the Herke Orchards. Walking neighboring property, it becomes clear how the facility development and topography create the conditions observed in odor complaints submitted from facility neighbors, and how it will worsen if the facility is allowed to expand into the current mining area and onto the adjacent 240-acre parcel Rocky Top proposed for mining and future landfill.

Comment: As the above DeGrave air quality daily records demonstrate, regulators have failed to prevent adverse impacts from DTG's LPL, PCS and mining operations on its closest neighbor, Carole DeGrave, whose property is specifically protected by the above land use code and the required vegetative screening. What happens when these protections are not in place as required? Where in the permit does YRCAA assess the huge stockpiles of inert material, and address the future emissions and this 1,500 ft setback from residences as required by the above land use approval?

***Response- Please contact the Yakima County, Code enforcement, if it was a condition for the 1500 feet, they must be a way 1500 feet away from the residents. YRCAA will observe the distance during the operation. We will include that in the air permit to be compliant with all other rules and regulations, which includes other agency. Please understand that YRCAA cannot enforce County conditions neither has jurisdiction over land use. Stockpiles emissions will be included in the calculations for DTG.***

**Comment #4: Same staff, same operations, same results ahead**

DTG's outdated and inaccurate permit application and retention of the same facility staff (Dan Guimont, Brooks Franklin and Ian Sutton) sends a clear message to the community – that the company intends to operate the landfill just as it has in the past, with the same key staff in control of flow of materials and facility operations, including disposal and engineering, monitoring, and waste acceptance, odor control, etc., which all rely heavily on an honor system.

Importantly, material transported from DTG facilities outside of Yakima to the Yakima LPL and MRF are not allowed to dispose of any residual waste at this landfill. Regardless, DTG never shows this required outgoing waste stream in their annual reports, or explain in their operations plan how waste is set aside, reloaded, and transferred to Snohomish, King, Pierce, Kitsap, Island, Thurston and other jurisdictions where this material originates and is required to be disposed. Consequently, it's likely this out of county recycling waste has been disposed here, in violation of the operating permit and contributed to the state Model Toxic Control Act cleanup designation in September, 2022.

Operationally, this DTG trio oversee tremendous disposal, complaints, violations and routinely failed to properly manage and dispose of material brought to the facility (see photo below of DTG's tipper and waste disposal operations on Rocky Top, 2021).



The NSR and Operating Permit assumes that DTG should be allowed to continue to operate this LPL as it has over the past four years regardless of the

facility and operational changes, including infrastructure and management of a landfill fire and toxic cleanup site and associated plans and approvals.

Dan Guimont, Founder & owner retired in October 2022 after selling DTG to Macquarie, earning him a reported \$100+ million. However, the company's fortunes changed sharply when Macquarie learned of DTG's pump and dump scheme to flow tons of material to an unlined, gaseous disposal site under investigation with huge uncertain costs ahead. Guimont was forced out of retirement to address DTG's problems surfaced this spring, leading to high profile losses including CEO Tom Vaughn, Associate General Counsel, John Martin and Mike Sheldon, Chief Compliance Officer.

Ian Sutton, DTG Engineer, was the engineering consultant for Ron Anderson, including providing testimony in support of the alternative liner and minimal air monitoring. In the Yakima County Hearing Examiner's review of the 2008 Anderson LPL (CUP 08-074; SEP 08-0041; PRJ 08-0801) dated April 29, 2009, when the Yakima Health District and Ian Sutton were asked why gas monitoring wells were not required for the Anderson landfill, here's what they testified:

Ted Silvestri's said:

*“that methane gas monitoring wells are not necessary in this climate where there is not much moisture.”*

and Ian Sutton, Brown & Caldwell engineer who prepared both the Anderson 2008 LPL application and the 2015 LPL application, added:

*“agreed that methane gas monitoring wells are not required for this facility because the material that is accepted is mainly inorganic material that does not break down so as to generate methane and would not become explosive in any event due to the lack of any barriers confining it below the surface. He indicated that there nevertheless will be quarterly ambient tests with a handheld device to detect and monitor the presence of methane at the site.”*

In December 2021, Freestone Environmental confirmed presence of toxic odors from the landfill that have been inhaled daily by Carole DeGrave (see her daily odor reports) and her Rocky Top neighbors and trail users, violating County codes. Why did these gases generate here at these toxic levels? Neither the YRCAA or Ian Sutton want to answer that question for good reason; investigating will only reveal the real picture of what was disposed, the failure of regulatory oversight to prevent the landfill from suspect disposal and landfill operator

(Brooks Franklin) mismanagement that led to the LPL fire, according to DTG's own landfill fire experts:

*"In reviewing the Parametrix data set, LFCI notes that oxygen levels in all of the sampling locations were above 20%, indicating that substantive air intrusion into the landfill was occurring."*

*"It is apparent that due to steep side slopes and poor soil cover, conditions at the DTG site were ideal for spontaneous combustion to develop."*

Comment: Why should the public believe that the DTG management and operational team that caused the current facility problems and decision-making will operate this facility any different? How will facility regulators ensure this team does not create another MTCA site on Rocky Top?

***Response- YRCAA assurance at this point in time is through the Order of Approval and the compliance and enforcement conditions within the permit which aim to ensure adherence to authorized regulations and prevent any unauthorized practices. Non-compliance will triggers enforcement actions. YRCAA's Order seeks also to address these concerns through compliance and enforcement as needed.***

### **III. YRCAA's proposed Order of Approval**

#### **Comment 1 Proposed Air Monitoring and Remediation Plan**

Landfill permits and operational documents generally include language specifying whenever landfill gas (methane [fire/explosion risk] and H<sub>2</sub>S [odor & other risks]) pose a risk to human health and environment. As a result, remedial actions (including monitoring) are required. Landfill gas concerns at DTG's LPL have been well known to the surrounding communities and the general public well before this initial new source review application was submitted and the resulting associated permit was drafted.

Comment: Therefore, the agency can and should list those remedial actions (H<sub>2</sub>S, CH<sub>4</sub> and PM) as permit conditions based on a written remediation plan that DTG should draft and submit to the permitting agency. Negotiations over permit conditions between the permittee and the agency should occur only after the remediation plan is submitted. The onerous is on the permittee to determine how they are going to mitigate for the pollutants associated with their industrial activity. To date I am not aware of such a remediation plan that properly addresses the how DTG is proposing to protect the environment and public health.

During the September 26th Public Hearing Hasan Tahat provided minimal details on the proposed monitoring program for dust particulates and H<sub>2</sub>S, and specifically how the permittee monitoring or “sampling” would occur. Specific to H<sub>2</sub>S considerations for location, weather conditions, sampling technique (distance from ground), and SOPs (Standard Operating Procedures), must be addressed and documented in a written plan provided by DTG. This should be included in the remediation plan mentioned above. Additionally, it was not made clear how the agency would receive and review the data once it is submitted by DTG. Those types of important details are needed to provide transparency to the public. Without a written procedural sampling plan there will be no accountability by the permittee. Due to the lack of information provided is it unclear as to what guidance documents or industry best practices were used in develop this permit condition for sampling.

For an example of an odor control plan, I will submit the SCS Engineers plan prepared for *Orange County Utilities Department Solid Waste Division, March 2016*. I would note this plan is very detailed and ideally, the YRCAA could develop something similar to the air permit that includes the means and methods for odor control and monitoring.

***Response- Thank you, YRCAA appreciate your comment. We will ask DTG to submit a Monitoring, Remediation/Control and Reporting Plan for methane, hydrogen sulfide and particles. This Plan will be reviewed and approved by YRCAA within 90 days of issuance of the permit including the Operation and Maintenance (O&M) Plan that was already asked on the Proposed Draft Permit Condition 3.2.8 and 3.3.***

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**Public Comments received (Wednesday, October 25, 2023 4:12PM) from Jean Mendoza as follows:**

October 25, 2023

Yakima Regional Clean Air Agency  
186 Iron Horse Ct #10  
Yakima, WA 98901

Public Comment re New Source Review for DTG Limited Purpose Landfill

Dear Yakima Regional Clean Air Agency,

Friends of Toppenish Creek (FOTC) is a 501 C (3) non-profit group dedicated to protection of the air, water, soil, plants, animals and people of Yakima County.

This is an FOTC request for the Yakima Regional Clean Air Agency (YRCAA) to delay issuance of an air quality permit for a Limited Purpose Landfill (LPL) at 41 Rocky Top Road, Yakima WA, until a proper review under the WA State Environmental Policy Act (SEPA) has been completed. On a scale of 0 to 10, the importance of our request is a 10. For too long Yakima County and the YRCAA have treated SEPA like a nuisance.<sup>1,2</sup> In reality SEPA is designed to protect us from exploitation by people who would take advantage of our good nature and use our county as a cheap dumping ground.

***Response- YRCAA is not the leading agency for SEPA. The SEPA includes several areas, YRCAA looks at the air part / section, and the New Source Review (NSR) helps to make sure that the air emissions will be within thresholds established in federal , state and local laws, rules and regulations. YRCAA is not the lead for the SEPA process, but the lead for the NSR. The NSR process analyzes the air emissions impacts. YRCAA consulted with the lead agency for the SEPA as indicated above and they maintained the old SEPA still stand.***

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<sup>1</sup> In June 2019 the Yakima Regional Clean Air Agency (YRCAA) issued a New Source Review permit for Ostrom's Mushrooms to install five new boilers for the Ostrom facility. According to an email received through a public record request,

*The Port of Sunnyside MDNS is what Ostrom used to satisfy the SEPA. The City of Sunnyside signed off on this.*

In 2021 this was the YRCAA response to a complaint about odors from Ostrom's Mushrooms:

*Description alleged violation: CP says that the Ostrom Mushroom facility is causing extremely bad "rotting" odors.*

*Findings: I parked in the parking lot for about 30 minutes and did not smell any "rotting odors". Odor level 0 – no odors present.*

*Actions taken: RL-4 Ostrom Mushrooms is an agricultural entity and thus is exempt from odor and dust complaints as stated in RCW 70A.15.4530*

<sup>2</sup> In May 2023 the City of Sunnyside asked the YRCAA to provide comments as an agency with expertise on a SEPA Review for a Renewable Natural Gas Bio-digester. YRCAA later said staff must have mislaid the request, thus YRCAA did not provide air quality input on this SEPA threshold determination and air was not addressed. According to the YRCAA Regulation 1 page 8, approval of SEPA documents is the responsibility of the YRCAA Air Pollution Control Officer (APCO).

### **Washington Law**

Washington SEPA law, RCW 43.21C.010, states:

*The purposes of this chapter are: (1) To declare a state policy which will encourage productive and enjoyable harmony between humankind and the environment; (2) to promote efforts which will prevent or eliminate damage to the environment and biosphere; (3) and [to] stimulate the health and welfare of human beings; and (4) to enrich the understanding of the ecological systems and natural resources important to the state and nation.*

1. WAC 197-11 implements SEPA and WAC 197-11-920 states that Regional Clean Air Agencies are agencies with expertise for air. Thus, YRCAA is responsible for thoroughly evaluating the impact this Limited Purpose Landfill (LPL) will have on the Yakima environment and our quality of life. YRCAA cannot do this without a well done threshold determination and, in our opinion, a well done environmental impact statement (EIS).

***Response- YRCAA respects your opinion about EIS. The leading agency for the SEPA is Yakima County. YRCAA is responsible for evaluation of the impact of the projects related to the air quality. It was done by following the rules established on WAC 173-400 and 173-460, where thresholds for Toxic Air Pollutants are determined. YRCAA evaluated the impact that the Limited***

***Purpose Landfill (LPL) will have by doing calculations and air emissions modeling to make sure the results will comply with the thresholds established by the state in WAC 173-460-150. The purpose of the NSR is to analyze that air impacts of the project. If the data shows that the source/facility will not meet the applicable standards with in the regulation, a permit will not be issued.***

2. It would be a blatant abdication of duty for the YRCAA to rely on a 2015 Threshold Determination of Non-Significance (DNS).<sup>3</sup> The fact that fires are burning beneath the landfill site is evidence that the 2015 DNS was inadequate. An underground fire is a significant adverse environmental impact, as defined in WAC 197-11-794. Few of the details in the 2023 DTG permit application were available, or even known, in 2015.

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<sup>3</sup> FOTC still has been unable to find the environmental checklist for this DNS.

***Response- WAC 197-11-330 establishes that “The lead agency decides whether an EIS is required in the threshold determination process”, YRCAA consulted with the lead agency (Yakima County Planning Division) for the SEPA as indicated above and maintained the old SEPA still stand. For the underground fire, it is under MTCA Ecology’s jurisdiction, thus Ecology is the lead agency. An AO was signed by the facility and Ecology which shall meet the substantive requirement of air, water etc., this includes the SEPA requirements under WAC 197-11-253 through WAC 197-11-268. YRCAA is not abdicating its authority, and we help any way that Ecology asks us for the MTCA site.***

3. WAC 197-11-060(4)(c) says,  
*Agencies shall carefully consider the range of probable impacts, including short-term and long-term effects.*

In 2015 the Yakima Health District (YHD) apparently did not believe that a synthetic liner was necessary to protect groundwater. Now YHD does. The 2015 site plan in Figure 1 of the DTG permit application is quite different from the 2023 site plan in Figure 4. The 2015 SEPA Review did not and could not address the impacts that are evident today. The 2015 SEPA review is outdated and no longer pertinent.

***Response- Specification for permit requirement- design are pursuant to WAC 173-350-400(4). Departments of Health may specify with liner should be used. For this cell number 2 or phase 2, synthetic liner what is required and YRCAA specified that in the Order of Approval.***

4. FOTC has studied WAC 197-11-253 through WAC 197-11-268. Based on this reading we asked whether a new SEPA review is required for the area being addressed under the Model Toxics Control Act (MTCA). The MTCA area did not exist when the 2015 SEPA review was conducted.

***Response- The underground fire is under Ecology's jurisdiction, thus Ecology is the lead agency. An AO was signed by the facility and Ecology which shall meet the substantive requirement of air, water etc., as specified in the MTCA regulations.***

5. WAC 197-11-330 says that an Environmental Impact Statement (EIS) is required when:

*(2) In making a threshold determination, the responsible official should determine whether:*

*(b) Environmental analysis would be more useful or appropriate in the future in which case, the agency shall commit to timely, subsequent environmental review, consistent with WAC 197-11-055 through 197-11-070 and Part Six.*

*(3) In determining an impact's significance (WAC 197-11-794), the responsible official shall take into account the following, that:*

*(c) Several marginal impacts when considered together may result in a significant adverse impact;*

*(d) For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted or values cannot be quantified.*

*(e) A proposal may to a significant degree:*

*(i) Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or wilderness;*

*(ii) Adversely affect endangered or threatened species or their habitat;*

*(iii) Conflict with local, state, or federal laws or requirements for the protection of the*

*environment; and*

*(iv) Establish a precedent for future actions with significant effects, involves unique and unknown risks to the environment, or may affect public health or safety.*

These criteria and risks apply to the proposed DTG landfill, thus a new SEPA review is warranted. WAC 197-11-400 – Purpose of EIS - applies to the proposed DTG operation.

***Response- YRCAA consulted with the lead agency for the SEPA, Yakima County as indicated above and maintained the old SEPA still stand.***

6. RCW 43.21C.020 states:

*(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:*

*(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;*

*(b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;*

*(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;*

*(d) Preserve important historic, cultural, and natural aspects of our national heritage;*

*(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;*

*(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and*

*(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.*

The DTG landfill impinges on the Cowiche Canyon Nature Conservancy, a unique

and irreplaceable area. An EIS is necessary to determine the impact on: Odor; Climate; Plants and animals: Habitat for and numbers or diversity of species of plants, fish, or other wildlife; Unique species; Fish or wildlife migration routes; Scenic resources; Aesthetics; Recreation; Historic and cultural preservation; Parks or other recreational facilities, all of which are listed in WAC 197- 11-444. Despite many, many comments from people who claim their connection with nature in Cowiche Canyon, this aspect of SEPA is absent from the documents that promote the DTG LPL.

***Response- We understand your comment. Yakima County is the lead agency for SEPA. We contacted the department and maintained the SEPA they have done still stands. For our part, YRCAA has jurisdiction over air quality issues only, and the calculations done by YRCAA demonstrate that the air emissions from the facility passed the threshold. The property is a private property and owners of properties they may limit access to their land. That is our understanding.***

### **Accountability**

1. The 2015 Conditional Use Permit (CUP) for this LPL stated:

*The applicant must obtain necessary permits from the Yakima Regional Clean Air Agency.*

*A New Source Review (NSR) application must be submitted to YRCAA, and an order of approval permit must be issued prior to the start of any work*

Yet, it appears that this did not happen. The 2023 YRCAA NSR Draft Permit states in Section 1.9:

*The Facility had never been issued Order for LOL operations by the YRCAA office; thus this expansion is subject to NSR requirements and considered after the fact.*

As a point of interest, how can the public hold officials accountable for failure to do what they promise?

***Response- Again, we understand your comment. YRCAA has been working on the NSR for a while. The permit will address the compliance also. The regulatory process for addressing non-compliance /violations will be addressed in a separate action through compliance/enforcement, such as penalties, fines, or other appropriate enforcement measures in line with the regulatory***

*procedures. We will be taking the necessary enforcement actions to place the facility into compliance; this includes the issuance of the New Source Review (NSR) permit to fix any shortfall in the permitting and have it up to date. YRCAA will enforce environmental regulations to protect public health and the environment. In cases where there have been lapses or non-compliance, we will take the appropriate steps to rectify the situation and improve our oversight processes to prevent similar issues in the future.*

2. The 2015 CUP for this LPL stated that a liner for an LPL is not required if:

*Explosive gases generated will not exceed 25 percent of the lower explosive limit for the gases in facility structures, the lower explosive limit in soil gases or ambient air at the property boundary or beyond, or 100 parts per million by volume of hydrocarbons in offsite structures.*

Now, in section 3.3.6, the YRCAA proposed NSR permit requires DTG to:

*Take weekly methane ambient air readings at the property boundary which shall not be between Lower Explosive Limits (LEL) and Upper Explosive Limits (UEL) of 5 – 15%.*

Trust is lost when agencies state permit conditions, do not follow through and then quietly dilute agreed upon conditions later.

***Response- YRCAA condition is more stringent than CUP condition; also the purpose from YRCAA's condition for monitoring methane concentrations is in the ambient air. We have changed the conditions to accommodate the comments and in line with YHD permit. The facility is required by our permit and by the YHD to install a liner. The facility cell 2 will be lined with high-density polyethylene (HDPE) 60 mil welded liner.***

### **Details**

1. Section 1.13 of the Proposed Draft Air Permit: Please itemize the relevant sections of the Federal Clean Air Act.

***Response- 40 CFR Part 50 and FCAA Title I, Section 109 "National primary and secondary ambient air quality standards" and Section 112 are relevant to this permit condition.***

2. In 2009 a massive landslide, about twenty miles northwest of Rocky Top, blocked

Highway 410 and rerouted the Naches River.<sup>4</sup> A possible cause was gravel mining in the immediate area. A smaller slide into Highway 410 followed in 2012. In 2018 a hillside next to the Yakima River just south of Union Gap began sliding into a gravel mining operation. This slide continues today.

*WAC 173-350-400(3)(a) says: No landfill may be located over a Holocene fault, in subsidence areas, or on or adjacent to an unstable slope or other geologic features which could compromise the structural integrity of the facility*

Please provide documentation with proof of geological stability at the proposed DTG site. Given the findings that deeper geology impacted the 2009 landslide, it would be prudent to conduct deeper studies of the geology beneath the DTG operation

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<sup>4</sup> THOMAS C BADGER, ERIC L SMITH, STEVE M LOWELL; Failure Mechanics of the Nile Valley Landslide, Yakima County, Washington. Environmental & Engineering Geoscience 2011;; 17 (4): 353–376. doi: <https://doi.org/10.2113/gseegeosci.17.4.353>

***Response- Geological stability for landfill is not within the scope of this air permit or within the regulations of air program. It is the responsibility of the YHD and Ecology. YRCAA has no jurisdiction over geological stability; the main permit for the Limited Purpose Landfill (LPL) pursuant to WAC 173-350-400 is issued by Yakima Health Department (YHD).***

3. Section 3.2.2 of the Proposed Draft Air Permit references the Model Toxics Control Act (MTCA) but does not itemize specific sections. When you reference the MTCA do you include both RCW 70A.305 and WAC 173-340 in their entireties? These are long complex statutes. It places a huge burden on readers to study them and determine which sections apply to DTG. Greater specificity would be helpful.

***Response- Section 3.2.2 was included as reference to MTCA's area. YRCAA has no jurisdiction over that area, but RCW and WAC's references can be found in the Agreed Order No. DE 21624 between the Department of Ecology, East Mountain Investment, Inc. and DTG Enterprises, Inc.***



4. The DTG permit application says on page 9:

*DTG intends to discontinue acceptance of PCS until such a time as an Order of Approval can be obtained from YRCAA.*

The DTG permit application then delineates procedures for petroleum contaminated soil (PCS) treatment and disposal. DTG says:

*Approved PCS will be dumped by the hauler at the PCS remediation site*

But the draft permit says in section 1.9:

*The PCS operation is not part of the Order as the Facility will not be permitted to accept any PCS as it ceased operation.*

Please clarify: Is there a possibility that DTG will resume treatment of PCS materials in the future?

***Response- We understand the confusion. Currently, DTG is treating the remaining PCS at the site from previous years, but it shall be completed treated within 364 days from the issuance of the New Source Review Permit. Overall, the Draft Permit Conditions 1.9, 3.2.3, 3.7 establish the procedures regarding PCS operation and these conditions state that DTG will not accept more PCS for treatment. However, thank you for your comment; we will make it clear that DTG can resume the acceptance and treatment of PCS materials if and only if a New Source Review order of approval is issued by YRCAA. Moreover, the facility may or may not apply for a new process/operation if they want. A permit may be issued if the facility meets the applicable requirements. That is really up to the facility's future plan. Currently they are not permitted to treat new PCS or receive any new once.***

Thank you for considering FOTC concerns and for protecting air quality in Yakima County

***Response- Thank you for your comments.***