



Friends of Toppenish Creek

July 26, 2022

Dear Washington Environmental Justice Council,

I am the Executive Director for the Friends of Toppenish Creek (FOTC), a non-profit group from the Lower Yakima Valley (LYV). Let me acknowledge the Herculean task that Washington State government has presented to this Environmental Justice (EJ) Council.

For decades Washington government has ignored complaints from minority communities who suffer from air and water pollution. By creating this council, the legislature placed responsibility for addressing environmental injustice on the shoulders of those who suffer inequities. Is this good or bad? We do not know, but we do know that the legislature has not provided the EJ Council with sufficient funds and resources to do the work. You are unpaid volunteers, expected to self-educate and stand up to people who are paid and trained to maintain the status quo.

With this in mind, FOTC presents this description of one EJ community in the Lower Yakima Valley (LYV), knowing that our lives are different from the lives of marginalized people in South Seattle, in Vancouver, in the north country around Spokane, and elsewhere. We gladly share our knowledge of EJ in the Yakima Valley.

With this in mind, FOTC specifically asks the EJ Council to condemn the classification of manure digesters and biogas processors as offsets under cap and trade in WAC 173-446. This is a crucial action if Washington truly wants to reverse climate change:

- Because this methane would not exist in the first place if manure was not stored in anaerobic lagoons. There are other ways to manage manure.
- Because the digesters capture less than half of the methane that is produced by animals in concentrated animal feeding operations (CAFOs).
- Because the system of manure production and management simultaneously produces multiple additional air pollutants, along with egregious water pollution
- Because digestate from the biogas production adds more pollutants to the ambient air, including nitrous oxide which is more potent than methane
- Because emission of methane and other air pollutants is concentrated in an overburdened community that is poorly equipped to address the associated health impacts

Sincerely,

Jean Mendoza

A Description of Greenhouse Gasses and Environmental Justice in the LYV

By almost any definition the Lower Yakima Valley (LYV) population is marginalized¹. According to the 2010 U.S. census:

- Average per capita income in the LYV was \$16,698 compared to \$20,653 for Yakima County and \$32,999 for WA state.
- 56% of the LYV population had a high school diploma compared to 73% of Yakima County and 91% of WA state.
- 21% of the LYV population lived below the poverty level compared to 20% of Yakima County and 13% of WA state.
- Over 70% of the LYV population was Latino compared to 49% of Yakima County and 13% of WA state.
- 26% of the LYV population lacked health insurance compared to 13% of Yakima County and 7% of WA state.

According to the Lower Yakima Valley Groundwater Management Area (LYV GWMA) Final Report², “In Yakima County, 39.6% of the population over age 5 speaks a language other than English at home (predominantly Spanish). Additionally, 18.6 percent speak English less than “very well”, indicating that the other 21.0 percent are bilingual. In the GWMA, 60.6 percent of the population over age 5 speaks a language other than English at home, and 24 percent speak English less than “very well”, indicating that the other 36.4 percent are bilingual. (U.S. Dept. of Commerce, 2013)”

The LYV is subject to serious water pollution from concentrated animal feeding operations (CAFOs) that has been well described elsewhere.²

The LYV is subject to serious air pollution that has been well described elsewhere³. This puts the LYV near the center of efforts to address climate change.

To be more specific, one third of all Washington milk cows are housed in Yakima County’s lower valley. Milk cows, more so than other bovines, emit huge amounts of greenhouse gasses such as methane, along with hydrogen sulfide, volatile organic compounds (VOCs), and ammonia.

In 2019 FOTC conducted a study that found ammonia levels in the LYV ambient air were 66 times higher than levels in the Upper Yakima Valley (UYV).⁴

The WA State Dept. of Agriculture estimates that a third of all nitrogen compounds in dairy manure are volatilized – end up in the atmosphere. This reactive nitrogen is another contributor to global warming and climate change.²

Recently an industry group, Pacific Agriculture, has proposed a project named Sunnyside RNG that will harvest some of the methane from LYV dairies and turn it into natural gas. According to the proposal they will offset 155,000 metric tons of CO₂ equivalents per year. This is a lot of methane, and it only represents methane from several of the 40 CAFO dairies in the LYV that are close enough to the facility to make transport feasible⁵.

Furthermore, the facility will only process methane from “manure management”, specifically from wastewater storage ponds. “Manure management” accounts for less than half of the methane produced by dairy cows. A larger amount of methane is produced by enteric fermentation (burping and farting) and this methane goes up into the air. To the best of our knowledge, Ecology has not quantified the amount of methane emitted from the LYV every year.

Sunnyside RNG plans to generate income by selling offsets and by selling natural gas. The more manure they process the more money they will make. Sunnyside RNG does not account for the greenhouse gasses that are generated when the manure is produced. Sunnyside RNG does not acknowledge that this methane would not even exist if manure was not stored in anaerobic wastewater treatment ponds. Sunnyside RNG does not measure emissions from the manure as it is transported from dairies to the digester. Sunnyside RNG does not account for emissions from the digestate that remains after methane is extracted from manure. Sunnyside RNG does not tell the public how many animal carcasses will be included in digester inputs.

Applying California Regulations to Washington

WAC 173-446-505 (3) states:

An ecology offset credit must result from the use of one of the following compliance offset protocols:

(a) The California Air Resources Board, Compliance Offset Protocol Livestock Projects, October 20, 2011, and Compliance Offset Protocol Livestock Projects, November 14, 2014, are adopted.

At first glance this seems reasonable. California is a leader when it comes to addressing climate change. But Californians do not agree on how to address greenhouse gas emissions from animal agriculture. Six environmental groups have petitioned the California Air Resources Board to exclude all fuels derived from bio-methane from dairy and swine manure from the California low carbon fuel standard program.⁶ Their reasoning is sound and applies equally well in Washington State:

Since the Legislature enacted AB 32 in 2006, both the predicted and actual climate change related harms have become more dire. The methane generated by factory farm dairies in California alone accounts for approximately 45 percent of the state’s total methane emissions that contribute to these harms. And the Intergovernmental Panel on Climate Change recently declared a climate code red when it called for strong, sustained, and rapid methane reductions to stabilize our climate.

CARB must grant this petition and reform the LCFS. Rather than allow factory farm gas reductions to substitute for emissions increases from the transportation sector, CARB should amend the LCFS to exclude factory farm gas from this pollution trading scheme. If CARB instead decides to continue allowing Big Oil & Gas to offset their transportation fuel emissions with factory farm gas, then CARB must (1) ensure that the LCFS does not inflict disparate impacts in violation of CA 11135, CA 12955, and Title VI of the Civil

Rights Act; and (2) adopt all alternative LCFS amendments requested here to ensure LCFS integrity and protections for rural communities.

CARB must take this opportunity to reform a pollution trading scheme that has gone off the rails. The LCFS incentivizes more of that which it purports to control, allows inflated and illusory credits from factory farm gas to authorize more emissions from transportation fuel, refuses to acknowledge the truth that liquefied manure is intentionally created and not somehow naturally occurring awaiting only abatement, and authorizes non-additional credits generated at projects receiving massive incentives from public funds and the Aliso Canyon settlement agreement. This pollution trading scheme merely shifts emissions; it benefits Big Oil & Gas to allow more pollution from their transportation fuels. It benefits, entrenches, and expands the industrial dairy and pig industry with a revenue stream more valuable than milk. And it benefits the gas utilities that desperately attempt to perpetuate the combustion of gas in the face of a future where electrified buildings and transportation are the only routes to achieve California's climate goals. San Joaquin Valley communities should not suffer the discriminatory effects of CARB's pollution trading scheme, and CARB should grant this petition and deliver environmental justice.

FOTC invokes these EJ arguments and asks the WA Environmental Justice Council to include our concerns regarding offsets from manure methane in your correspondence with Ecology regarding implementation of the Climate Commitment Act.

Sincerely,

Jean Mendoza

Jean Mendoza

Executive Director, Friends of Toppenish Creek

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Sources:

¹ Lower Yakima Valley Groundwater Management Area Minority Report (2019) Available at <https://www.yakimacounty.us/DocumentCenter/View/18990/FOTC-Minority-Report>

² Lower Yakima Valley Groundwater Management Area Final Report (2019) Available at <https://www.yakimacounty.us/DocumentCenter/View/22177/GWMA-VolumeI-July2019>

³ WA State Department of Ecology (2015) Yakima Air Winter Nitrate Study. Available at <https://ecology.wa.gov/DOE/files/a6/a67789dd-aed4-461e-b138-e77537dd1952.pdf>

⁴ Friends of Toppenish Creek (2019) Study Finds Elevated Ammonia Levels at Lower Yakima Valley Site Near Large CAFO Dairies. Available at <http://www.friendsoftoppenishcreek.org/cabinet/data/EPA%20Air%20Attachment%2019%20Ammonia%20Levels%20in%20Yakima%20County%20FOTC.pdf>

⁵ Sunnyside RNG LLC (2022) Notice of Construction Application Supporting Information Report. Available on request.

⁶ Petition for rulemaking to exclude all fuels derived from biomethane from dairy and swine manure from the low carbon fuel standard program. Available at <https://food.publicjustice.net/wp-content/uploads/sites/3/2021/10/Factory-Farm-Gas-Petition-FINAL.pdf>