OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20460

August 20, 2026

Kyle Moring
[redacted]

Re: Freedom of Information Act Request –2026-EPA-07202
Fee Waiver Determination

Dear Kyle Moring:

This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA), National FOIA Office (NFO) on August 19, 2026 in which you are seeking: "This is a new, targeted FOIA request concerning Walmart Supercenter #131, 2311 South Jefferson Avenue, Mount Pleasant, Texas, and two related record streams: (1) the Tire & Lube Express renovation-waste event associated with EPA Tips 342051/FY26-342051-3708 and 342053/FY26-342053-3709-CV; and (2) the separate asbestos NESHAP matter associated with TCEQ ECU screening S-FY26-074, DSHS Case 1410260119, Inspection 56114, and Notification 2025004375.

The request seeks complete tip files; routing and referrals; case-number mapping; EPA communications with TCEQ, DSHS, the City of Mount Pleasant, Walmart, and related parties; native video and evidence-handling records; screening, investigation, and disposition records; waste-characterization and disposal documentation; asbestos NESHAP referral and state-proceeding records; and limited search records for prior EPA FOIA requests 2026-EPA-00415 and 2026-EPA-02223.

Please assign a new tracking number and cross-reference the two prior requests, but do not close this request as duplicative. The attached request provides the complete numbered record categories, custodians, identifiers, search terms, date ranges, requested production format, preservation notice, and fee-waiver justification. (Date Range for Record Search: From 06/01/2025 To 08/17/2026)."

EPA has received your request for a fee waiver. Your request for a fee waiver was evaluated based upon the information you provided in support of your request for a fee waiver and EPA regulations concerning requests for a fee waiver. Your request does not contain enough information to support a finding that a fee waiver may be granted. Therefore, your request for a fee waiver is denied because your submission failed to demonstrate that the information disclosed in response to your request is likely to contribute significantly to public understanding of the operations or activities of the government.

EPA regulations provide a mechanism for requesters to seek records responsive to a FOIA request "without charge or at a charge reduced below" the agency FOIA fee schedule when the National FOIA Office determines "based on all available information, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 40 C.F.R. § 2.107(n)(4) (2023). EPA's regulations, consistent with guidance from the Department of Justice, identify six factors for the Agency to consider, four for the contribution to public understanding and two for the requester's commercial interest.

To evaluate the contribution to public understanding, the Agency considers the following four factors: (1) the subject of the request; (2) the informative value of the information to be disclosed; (3) the contribution to an understanding of the subject by the public is likely to result from disclosure; and (4) the significance of the contribution to public understanding. *See* 40 C.F.R. § 2.107(n)(5)(i)-(iv) (2023). Fee waiver requests must address each of the factors.

For the third factor above, EPA's regulations state that "The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. The Agency will consider a requester's expertise in the subject area and ability and intention to effectively convey information to the public. The Agency presumes that a representative of the news media will satisfy this consideration." *See* 40 C.F.R. § 2.107(n)(5)(iii) (2023).

For the reasons below, your fee waiver justification failed to adequately demonstrate that the information will be disseminated for the "public's understanding." S*ee* 40 C.F.R. § 2.107(n)(5)(iii) (2023). Your fee waiver justification stated: 'Disclosure will contribute significantly to public understanding of EPA's complaint-intake, interagency-referral, case-tracking, evidence-handling, and enforcement activities involving EPA Headquarters, Region 6, CID, TCEQ, DSHS, and the City of Mount Ple [sic.].'

Additionally, you included further information to support your fee waiver justification in the attachment you provided.

Your fee waiver justification submitted in the attachment stated: 'I submit this request for noncommercial purposes and have no commercial interest in the records. I request a fee waiver under 5 U.S.C. § 552(a)(4)(A)(iii) because the records concern EPA's performance of federal complaint-intake, interagency-referral, case-tracking, evidence-handling, and enforcement functions. Available public records do not explain how EPA Tips 342051 and 342053, TCEQ complaint 449134, screening S-FY26-074, and any CID or ECU matter relate; which components handled the evidence; or how EPA's referral reached and was handled by the local government. Disclosure would contribute meaningfully to public understanding of how a complaint involving a national retailer moves among EPA criminal enforcement, EPA Region 6, a state environmental agency, a state health agency, and a local government. Public sources do not document how the alleged Asbestos NESHAP violations at this facility were resolved. State records show that § 61.145(b)(1) was recorded at inspection and recommended for enforcement in a November 2025 DSHS draft, but omitted from the February 2026 Notice of Alleged Violation. DSHS closed my request for the case file as complete on July 15, 2026 without producing an explanation, proof or return of service, response, payment, final order, or closure record. On August 12, 2026, the Texas Attorney General's Open Records Division closed its file based on DSHS's representation that all existing responsive information had been released and explained that it does not inspect records held by another governmental office. The records available to me reflect no state review of that representation. I have assembled the source chronology and can analyze and explain responsive records in context. I will disseminate non-exempt records and a factual chronology through direct electronic distribution to interested members of the public, journalists, and public-interest and government-oversight organizations. The requested records concern government operations, and I seek no commercial transaction, business advantage, or other commercial benefit.'"

However, you have not addressed the EPA's regulatory third factor with enough detail. You have not specified how your work using FOIA material will specifically be distributed to a *reasonably broad audience* of persons interested in the subject. Additionally, you had not provided details about an *ability and intention* to effectively convey information to the public. The Agency may presume that a representative of the news media may satisfy this factor, but you have not provided information regarding a *news media status*. Therefore, your fee waiver request is denied.

Please note that in accordance with 40 C.F.R. 2.107(g)(1) (2023), EPA will not charge a requester fees if EPA accumulates less than $320 of total chargeable FOIA fees. If processing will exceed $320, the agency will contact you to provide a fee estimate. If you have any questions, please contact the EPA FOIA program identified in your Acknowledgment Letter.

You may appeal this determination in writing within 90 calendar days from the date of this letter by one of the following methods:

1. Visit EPA's FOIA submission website (https://foiapublicaccessportal.epa.gov/), sign into your account by clicking *Sign-In*, and select *Submit Appeal*;
2. U.S. Mail sent to the following address: National FOIA Office, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW (2310A), Washington, DC 20460; or
3. Overnight delivery service to National FOIA Office, U.S. Environmental Protection Agency, 1200 Pennsylvania NW, Room 7309C, Washington, DC 20460.

The Agency will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received on the next business day. The appeal should include the FOIA tracking number listed above. For quickest possible handling by mail or overnight delivery, the appeal letter, and its envelope, should be marked "Freedom of Information Act Appeal."

Your fee waiver request is denied because you did not address with enough detail the factor described above, under EPA's FOIA Regulations, located at 40 C.F.R. § 2.107(n) (2023). Because your fee waiver request did not provide enough detail on the one identified factor, the National FOIA Office did not make a determination on the sufficiency of your request with respect to the other factors. Should you choose to appeal this determination, please be sure to provide information to address all six factors required by EPA's FOIA Regulations in your appeal. For more information about the FOIA fee waiver factors, please visit our website at: https://www.epa.gov/foia/requesting-foia-fee-waivers.

Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001**;** email, ogis@nara.gov; or telephone, (202) 741-5770 or (877) 684-6448.

Sincerely,

Simon Halpern

Digitally signed by Simon Halpern
Date: 2026.08.20 19:01:25 +02'00'

Simon Halpern
Government Information Specialist
National FOIA Office