OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20460

October 26, 2025

Kyle Moring
[redacted]

Re: Freedom of Information Act Request –2026-EPA-00386
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 October 23, 2025 in which you are seeking:

" All EPA records from June 25, 2025 to present concerning EPA complaints FY25-333810-3712-CV and FY25-336835-3714-CV about Walmart Supercenter #131, including complaint intake, referrals (e.g., to DSHS/TCEQ), internal and external communications (including with Angela Hays, Gerardo Acosta, Christina Gonzalez, Justin Mullenix, Sandesh Thapa, and Stan Lancaster), inspection/photographic files, determinations, and any enforcement or closing documentation.

(Date Range for Record Search: From 06/25/2025 To 10/16/2025)."

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(l)(1) (2019). 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(l)(2)(i)-(iv). Fee waiver requests must address each of the factors. *See* 40 C.F.R. § 2.107(l)(5).

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(l)(2)(iii).

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(l)(2)(iii). Your fee waiver justification stated:

> I request a full waiver of all search, review, and duplication fees. The records concern EPA Region 6's handling of two citizen complaints at Walmart Supercenter #131 (Mount Pleasant, TX): FY25-333810-3712-CV (roof/asbestos) and FY25-336835-3714-CV (refrigeration/disposal).
>
> Factor 1 — Subject. The records directly reflect identifiable government operations: EPA intake, triage, referral/coordination, and inspection/enforcement decision-making.
>
> Factor 2 — Informative value. Substantive details of Region 6's evaluation and referrals are not publicly available. Disclosure will illuminate criteria applied (e.g., NESHAP/§608), communications with Texas agencies, and outcomes—materially adding to what is currently known.
>
> Factor 3 — Public contribution. [redacted] I will synthesize and disseminate non-confidential findings to workers, local officials, and the community at no cost.

Factor 4 — Significance. Release will significantly enhance public understanding beyond routine confirmations by showing how Region 6 actually handled these complaints and what actions followed.

Factor 5 — Commercial interest. I have no commercial interest; the request is for oversight, public health, and safety.

Factor 6 — Primary interest. Any private interest is negligible; the predominant interest is public accountability and informed community risk communication.

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), EPA will not charge a requester fees if EPA accumulates less than $310 of total chargeable FOIA fees. If processing will exceed $310, 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(l). 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, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001**;** email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

Sincerely,

SIMON HALPERN

Digitally signed by SIMON HALPERN
Date: 2025.10.26 21:54:31 +01'00'

Simon Halpern
Government Information Specialist
National FOIA Office