



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

August 18, 2020

Maya van Rossum
Delaware Riverkeeper Network
925 Canal Street, Suite 3701
Bristol, Pennsylvania 19007

Re: Freedom of Information Act Appeal No. EPA-2020-006041 (Request No. EPA-R3-2019-008589)

Dear Ms. van Rossum:

I am responding to your July 28, 2020, Freedom of Information Act (“FOIA”) appeal. Your September 3, 2019 request sought documents pertaining to Bishop Tube Site located at 1 Malin Road, Malvern, PA from January 1, 2005 to September 3, 2019. You received an interim response on June 22, 2020, from Michael D’Andrea, Chief, FOIA Branch, Region 3 of the U.S. Environmental Protection Agency (“EPA” or “Agency”). The response provided you with 29 documents and stated that your request remained open for further processing. Your appeal alleges that EPA has not fully responded to your request within the statutory time limits. Appeal at 1. On August 5, 2020, Region 3 emailed you to clarify if you agreed to exclude emails from your request per a previous phone conversation. Your firm’s August 6, 2020, reply stated that you did not agree to exclude emails. Region 3’s August 6, 2020 reply noted they would then proceed to process your request accordingly. On August 12, 2020, Region 3 released 53 additional documents to you.

I have carefully considered your request, EPA’s decision, and your appeal. Because an additional search for emails responsive to your request is necessary to complete the Agency’s response to your FOIA request, I have determined that your appeal should be, and is, granted. Accordingly, pursuant to 40 C.F.R. § 2.104(k), I am remanding your request to Region 3 to conduct an additional search and release the reasonably segregable, non-exempt portions of any additional responsive documents to you. Region 3 is instructed to contact you within ten business days to establish a timeline for completion.

This letter constitutes EPA's final determination on this matter. Pursuant to 5 U.S.C. § 552(a)(4)(B), you may obtain judicial review of this determination by filing a complaint in the United States District Court for the district in which you reside or have your principal place of business, or the district in which the records are situated, or in the District of Columbia. Additionally, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) within the National Archives and Records Administration was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. 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; e-mail, ogis@nara.gov; telephone, 202-741-5770 or 1-877-684-6448; and fax, 202-741-5769.

Should you have any questions concerning this matter, please contact Bianca Ponce de Leon, at 202-564-0501 or poncedeleon.bianca@epa.gov.

Sincerely,

Kevin M. Miller
Assistant General Counsel
General Law Office

cc: Michael D'Andrea, Chief, FOIA Branch, Region 3