SOUTHERN ENVIRONMENTAL LAW CENTER

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CHAPEL HILL, NC 27516-2356

October 19, 2017

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2822T)
Washington, D.C. 20460
(202) 566-1667

RE: FOIA Request: Amanda Gunasekara Communications with The Heartland Institute

Dear National FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, the Southern Environmental Law Center ("SELC") respectfully requests all records in the possession of the U.S. Environmental Protection Agency ("EPA") that were sent or received by Amanda Gunasekara and any of the following individuals at The Heartland Institute:

- Joseph Bast;
- Jim Lakely;
- Edward Hudgins;
- Keely Drukala;
- Tim Huelskamp;
- Jay Lehr; or
- John Nothdurft.

For the purposes of this request, the term "records" includes all written, printed, recorded, or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, books, papers, maps, photographs, data, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages, and mail in the possession, custody, or control of EPA. Please provide any electronic records in native file format. Please also include all responsive records generated up to the date this request is filled.

The disclosure of the requested materials would be in the public interest because (1) it is likely to contribute significantly to public understanding of EPA officials' – and, thus, EPA's – activities and intentions regarding policies related to climate change, which could have profound impacts on the work of EPA and its mission to protect human health and the environment, and (2) is not in the commercial interest of SELC. SELC is a 501(c)(3) non-profit organization working to protect the natural resources of the Southeast and, in particular, to gather, analyze, and disseminate public information about activities affecting human health and the environment in the Southeast, including the important issue of climate change. As part of its work, SELC has been actively engaged in protecting the environment of the Southeast for three decades. Specifically, SELC intends to disseminate the information gathered through this request to the

general public through its website, *southemenvironment.org*, which is updated regularly, press releases, social media, and public comment letters.

We request that you waive any search and duplication fees and provide the requested records without charge, or at a reduced charge, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). A fee waiver is appropriate because SELC does not have a commercial interest that would be furthered by the requested disclosure. SELC is a 501(c)(3) non-profit organization which provides legal representation to other 501(c)(3) non-profits and public advocacy free of charge. Our intended use of the requested materials is to glean a greater understanding of EPA's current and potential future activities related to climate change policy and to continue to disseminate information about federal environmental policy to the public through the many channels described above. All of the activities described above have been, and will continue to be, provided to the public by SELC and our clients for no payment. Courts have recognized that Congress intended FOIA's fee waiver to be 'liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987).

Should our request for reduced or waived fees be denied, we are prepared to bear the reasonable costs necessary to fulfill this request, although we request that you contact us before processing this request to discuss fees. We reserve our right to appeal a denial of our request for a fee waiver or reduction.

FOIA directs a responding agency to make a "determination" on any request within twenty working days of receipt. 5 U.S.C. § 552(a)(6)(A). Should our request be denied, we ask that you inform us of the grounds for denial and the specific administrative appeal rights that are available. Please contact me at (919) 967-1450 or *khunter@selcnc.org* to arrange for inspection, copying, and/or electronic transmission of the requested documents.

Sincerely,

Kym Hunter
Staff Attorney