UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 30 2019

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

OFFICE OF
RESOURCE CONSERVATION
AND RECOVERY

Mr. James N. Saul
Earthrise Law Center at Lewis & Clark Law School
10015 SW Terwilliger Blvd.
Portland, OR 97219

Re: Freedom of Information Act Request EPA-HQ-2019-001821, Interim Release

Dear Mr. Saul:

This is in response to your Freedom of Information Act request of December 3, 2018, regarding records that pertain to EPA's interpretation and application of 40 CFR 261.6(a)(3)(iv)(C) as applied to thermal treatment devices, or thermal desorption units (TDUs), for processing hazardous waste.

I am enclosing copies of records which are responsive to your request. As explained below, I am providing you the results of a portion of the requested records search where we have completed our review and assessment, which includes review of over 2,600 records that could be potentially responsive to your request. Enclosures include documents released in full, released with redactions, and an index of those records that we must withhold in entirety. Some, or parts of, the records you requested are being withheld pursuant to 5 U.S.C. section 552(b)(5), including the Deliberative Process Privilege, the Attorney Client Privilege, and the Attorney Work Product Privilege, as well as 552(b)(6) Personal Privacy exemption. Examples of communications meeting this criteria include those that are: (1) pre-decisional and deliberative and would harm agency decision-making if released; (2) confidential communications between an agency attorney and client concerning legal advice; (3) documents prepared by, or at the direction of, an attorney and client in contemplation of litigation; or (4) contain personal information which would be an unwarranted invasion of personal privacy if released.

In addition to the records released today, we also note that records released under a recent FOIA are also responsive to your request. Please see these records on FOIAonline (foiaonline.gov) under EPA-HQ-2018-009809.

This is the first response to your request. We have identified at least 2,000 additional records that may be responsive, but which will take further time for the Agency to review and release as appropriate. We anticipate completing this response by July 31, 2019. Because the time limit is more than ten additional days, you have the right to seek dispute resolution services from the Office of Government Information Services.

There are no costs associated with this FOIA because you have requested and been granted a fee waiver.

Sincerely,

Mimi Guernica, Associate Director
Program Implementation and Information Division

Enclosures