

# **Exhibit D**

**From:** [Thomas Cmar](mailto:Thomas.Cmar)  
**To:** ["scozzafava.michaele@epa.gov"](mailto:scozzafava.michaele@epa.gov); ["walker.denise@epa.gov"](mailto:walker.denise@epa.gov)  
**Subject:** FOIA Request No. EPA-HQ-2017-005671  
**Date:** Monday, April 17, 2017 4:59:09 PM

---

Dear Mr. Scozzafava and Ms. Walker,

I am writing on behalf of Earthjustice, Waterkeeper Alliance, Inc., Environmental Integrity Project, Sierra Club, and Clean Water Action in response to an undated letter that I received from Robert Wood concerning FOIA Request No. EPA-HQ-2017-005671. This request sought all EPA records created, stored, or received since November 8, 2016 concerning the Effluent Limitation Guidelines and Standards for the Steam Electric Power Generating Point Source category rule ("Steam Electric ELGs"). The request further identified six specific categories of records concerning the Steam Electric ELGs rule that are included within the request.

In the letter that I received in response to this request, Mr. Wood states that "[y]our request does not reasonably describe the records you are seeking in a way that will permit EPA employees to identify and locate them." We do not agree that this is the case. At a minimum, EPA should be able to search without any difficulty for the six categories of records specified in the FOIA request. But there is also no reason why EPA should not be able to conduct a comprehensive, electronic search of its records for any responsive records concerning the Steam Electric ELGs rule during the relatively limited timeframe at issue (i.e., since November 8, 2016), whether or not they are included in the six categories of records specified in the FOIA request.

Mr. Wood's letter further states that "[t]he processing clock is stopped for your FOIA request until we receive your clarification or modification." We do not believe that EPA has the authority under FOIA to grant itself an indefinite delay in responding to our FOIA request, nor does the letter attempt to cite to any such authority. Rather, we believe our request is more than clear and must be responded to within the twenty business day time period provided by statute. Here, our FOIA request was submitted on April 3, 2017. Absent a lawful or consented-to extension, EPA's response is due on May 1, 2017. If we do not receive a lawful response from EPA to our FOIA request on or before May 1, 2017, we reserve the right to seek legal remedies to compel a lawful response. Please feel free to contact me if you have any questions or would like to discuss this by phone. I look forward to your response on or before May 1. Thank you for your prompt attention to this FOIA request.

Sincerely,  
Thom Cmar

---

Thomas Cmar  
Coal Program Attorney  
Earthjustice  
1101 Lake Street, Suite 405B  
Oak Park, IL 60301  
(708) 613-5061 (direct)  
(312) 257-9338 (cell)

The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

\*please consider the environment before printing