

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-123**

November 17, 2022

VIA ELECTRONIC MAIL ONLY

Ms. Rosie Stone

RE: FOIA Appeal 2022-123

Dear Ms. Stone:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq.* In your April 5, 2022 appeal, you have challenged the lack of response of the Department of Energy and Environment ("DOEE") to your January 27, 2022 FOIA request, identified as 2022- FOIA-02973, which sought the following:

[R]ecords related to Fort Myer Construction Corporation Plant #2 located at 1155 W St NE, DC.

Specifically, we are requesting air permitting records related to this Plant's Title V permit, including 1) the facility's current Title V final permit and any supplemental materials including the dust control plan and all other facility-specific requirements or documents; 2) the most recent annual certification report 3) semi-annual reports (March 1st & Sept. 1st) from the past 5 years; 4) all notices of violation; 5) all DOEE inspection and enforcement action reports and findings; 6) any reports of emissions exceedances by the facility; 7) the Title V application for permit renewal (the application should have been submitted to DOEE for review in 2020 but there has not been any public notice regarding the draft permit on DOEE's website to date); 8) any correspondence between DOEE and Plant #2 related to enforcement actions, public complaints, permit status, permit renewal, or permitting requirements; and 9) copies of all public complaints submitted to or shared with DOEE related to air quality concerns at Plant #2, including but not limited to odors, industrial trucks, emissions, or other concerns. (Date Range for Record Search: From 01/01/2015 To 01/01/2022)

A review of the District's FOIA-tracking data indicates DOEE granted your request in part and denied it in part on June 8, 2022.

Because you have only challenged DOEE's failure to respond, and it appears DOEE has responded, we dismiss this appeal as moot. However, you are free to challenge any

substantive response received from DOEE by separate appeal to this Office

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court.

Respectfully,

Mayor's Office of Legal Counsel

cc: Hannah Brubach, DOEE FOIA Officer (via email only)