pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
JAMES HARRIS,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-3756**
	:	**(Consolidated Appeal of OOR Dkts. AP**
PENNSYLVANIA DEPARTMENT OF	:	**2026-3756, 2026-3757, 2026-3758, 2026-**
ENVIRONMENTAL PROTECTION,	:	**3759, 2026-3760, 2026-3761, 2026-3762,**
Respondent	:	**2026-3763, 2026-3764, 2026-3783, and**
	:	**2026-3793**

FACTUAL BACKGROUND

On July 31 and August 1 and 3, 2026, James Harris ("Requester") filed eleven requests ("Requests") with the Pennsylvania Department of Environmental Protection ("Department") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking records related to the Homer City Development or Homer City Generation Site ("Homer City").

On September 8 and 9, 2026, after invoking thirty-day extensions to respond, *see* 65 P.S. § 67.902(b), the Department denied each of the Requests as disruptive. 65 P.S. § 67.506(a)(1).

Also on September 8 and 9, 2026, the Requester filed eleven appeals with the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure.[1] The OOR

[1] Because the appeals involve the same parties and issues, and have similar timelines, the OOR consolidated the appeals into the instant docket. *See* 65 P.S. § 1102(b)(3) (stating that "the appeals officer shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute").

invited both parties to supplement the record and directed the Department to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On October 8, 2026, the Department submitted a position statement and sworn affidavits of Chelsea Dickert, Agency Open Records Officer ("Dickert Affidavit"); Allyson McCollum, Executive Assistant to the Deputy Secretary for Field Operations ("McCollum Affidavit"); Amy Berrios, Executive Assistant to the Deputy Secretary for Active and Abandoned Mine Operations ("Berrios Affidavit"); Staci Gustafson, Assistant Regional Director for the Northwest Regional Office ("Gustafson Attestation");[2] Keith Mensch, Deputy Director for the Bureau of Air Quality ("Mensch Affidavit"); Charles Zadakis, for the Bureau of Air Quality, Division of Source Testing and Monitoring ("Zadakis Affidavit"); Sean Wenrich, P.E., Environmental Program Manager, Bureau of Air Quality, Division of Permits ("Wenrich Affidavit"); Cory Seese, Cambria District Mining Office ("Seese Affidavit"); Troy Williams, District Mining Manager, California District Mining Office ("Williams Affidavit"); Shelby E. Reisinger, Environmental Program Management, Bureau of Waterways Engineering and Wetlands, Division of Wetlands, Encroachments and Training ("Reisinger Affidavit"); and Elizabeth Lowe, Administrative Officer, Bureau of Waterways Engineering and Wetlands ("Lowe Affidavit").

Also on October 8, 2026, the Requester submitted two position statements, claiming, among other things, that the Department is hiding responsive records and that the instant Requests target "newly unmasked" record categories that have not been adjudicated.

[2] The Gustafson Attestation is not sworn, but it is made under the penalty of unsworn falsification to authorities, 18 Pa.C.S. § 4904. Under the RTKL, an affidavit or statement made under penalty of perjury may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010).

LEGAL ANALYSIS

The Department argues that the Requests are duplicative of previous requests and are unduly burdensome. Section 506(a) of the RTKL states that agencies "may deny a requester access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the agency." 65 P.S. § 67.506(a)(1). "Under this section ... an agency must demonstrate that (1) 'the requester has made repeated requests for th[e] same record[(s)]' and (2) 'the repeated requests have placed an unreasonable burden on the agency.'" *Office of the Governor v. Bari*, 20 A.3d 634, 645 (Pa. Commw. Ct. 2011). Repeated requests for the same records, although phrased differently, may be denied as disruptive. *Cohen v. Pa. Dep't of Labor and Indus.*, OOR Dkt. AP 2009-0296, 2009 PA O.O.R.D. LEXIS 159; *Dougher v. Scranton Sch. Dist.*, OOR Dkt. AP 2009-0798, 2009 PA O.O.R.D. LEXIS 318 "Slight differences in phraseology do not preclude application of [Section 506(a)]").

In *Bari,* the Office of the Governor argued that repeated requests created an unreasonable burden because "the [office] had to '1) expend duplicative staff and attorney time for responding at length to a request that ... was duplicative; 2) in a time of significant budgetary and staffing constraints; and 3) having to devote attorney and staff time to ... a request that has been asked and answered.'" 20 A.3d at 645. The Commonwealth Court held that this demonstrated only that the request was repeated and did not establish an unreasonable burden. *Id*.; *see also Dalton v. PIAA*, OOR Dkt. AP 2024-2272, 2024 PA O.O.R.D. LEXIS (holding that since the prior two requests were denied on the same grounds, there was no additional search or investigative burden on the agency); *Pedro v. City of Phila. Dep't. of Behavioral Health and Intellectual Disability Svcs*., OOR Dkt. AP 2023-0810, 2023 PA O.O.R.D. LEXIS 941 (finding the submission of 22 requests in a

single month copying over 150 individuals was disruptive because the requests were repeated and placed an unreasonable burden on the agency).

In the instant matter, the Department describes 35 RTKL requests filed by the Requester between March 31, 2025, through and including August 3, 2026, seeking records concerning Homer City. The Department specifies in response to which request the Department had previously provided records. In support, the Department has submitted no fewer than eleven sworn Affidavits describing in detail the overlapping and burdensome nature of the requests filed by the Requester. The Department's position statement and the lengthy supporting Affidavits and comprehensive exhibits estimate the hundreds of hours of employees' time that has been spent responding to the Requester's requests and appeals. Additionally, in numerous places in the affidavits, the Department correlates each individual Request with the two or more previous requests in response to which the Department had provided the same records, or a subset thereof. By way of example, the Low Affidavit contains a chart correlating the Requests identified by Department tracking numbers 2026-1213; 2026-1214; 2026-1216; 2026-1217; 2026-1218; and 2026-1227[3] with the requests in response to which the Department previously provided all responsive records. Low Affidavit, ¶ 8. The Affidavits repeatedly reference the fact that the Requests contain the same scope and seek the same records that have been previously provided on at least two occasions. *See generally* Affidavits. The Department has appended to its submission four packets of exhibits containing each RTKL request, Department final response, and any OOR final determinations related to each of these requests. *See* Exhibits A-TTTT; Dickert Affidavit, ¶¶ 9.a)-x).

[3] These correlate to the appeals docketed at OOR Dkt. Nos. 2026-3763, 2026-3762, 2026-3760, 2026-3759, 2026-3757, and 2026-3764.

Unlike the agency in *Bari*, the Department also sets forth in detail how the repeated requests are burdensome. Examples are numerous; many of the Affidavits explain how the repeated requests have negatively impacted staff morale. *See*, *e.g.*, Mensch Affidavit, ¶ 111; Lowe Affidavit, ¶ 24; Zadakis Affidavit, ¶ 66 (explaining that the Requester's requests have had "chilling effect on staff morale and interfere with the employees' ability to administer their daily oversight duties."). Specifically, the Lowe Affidavit provides that reading, understanding and summarizing the repeated requests has been "extremely challenging" and the process has been "overwhelming" and has had an "exhausting" and "stressful impact," concluding that "these burdensome requests ha[ve had] a negative impact on [the] administrative staff [of the Bureau of Waterways Engineering and Wetlands]." Lowe Affidavit, ¶ 26.

Assistant Director Mensch describes how the excessive time spent on these repetitive requests has negatively impacted the operations and capacity of the Bureau of Air Quality, interrupted meetings with stakeholders, delayed responses to other RTKL requests as well as other routine work, and delayed other projects and new program design. Mensch Affidavit, ¶¶ 110-114; *see also* Dickert Affidavit, ¶ 9.x)vi (describing how the volume of the requests has negatively impacted operations); Weinrich Affidavit, ¶¶ 88-90 (describing how the requests have impaired the ability of the Bureau of Air Quality, Permits Division to perform the modeling necessary for compliance with mandatory federal Clean Air Act requirements and to ensure public safety and mitigate future risks to public health by providing statewide Air Quality Index values to alert the public of high-risk pollution days).

The Barrios Affidavit presents one particularly specific example, explaining how a "highly regarded" and "integral" senior employee resigned, stating in his exit interview that the main reason he was resigning was the Requester's repeated requests. Barrios Affidavit, ¶¶ 21-22. The

Affidavit explains how this resignation has had a "substantial effect" on morale, concluding that the Requester's requests have placed "undue and unnecessary stress, strain, and mental burden" upon staff and have negatively impacted operations. *Id.,* ¶ 23; *see also* Seese Affidavit, ¶¶ 29-31 (explaining how "this departure has caused a significant logistical burden"). These are a few of the many examples presented by the Department of the burdensome impact of the Requests.

The OOR has reviewed the detailed evidence submitted by the Department which convincingly demonstrates that the Requester's Requests are sufficiently repetitive to meet the standard set forth in Section 506(a). Finally, the evidence presented clearly establishes the burdensome nature of the Requests on the Department.[4] Therefore, based upon the evidentiary record before the OOR, and the fact that the Requester has presented no competent evidence challenging the veracity of the Affidavits, the OOR concludes that the instant Requests were permissibly denied by the Department pursuant to 65 P.S § 67.506(a)(1).

CONCLUSION

For the foregoing reasons, the Requester's appeal is **denied**, and the Department is not required to take any further action. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL, 65 P.S. § 67.1303, but as the quasi-judicial tribunal that adjudicated this matter, the OOR is not a proper party to any appeal and should not be named as a party.[5] All documents or communications following the issuance of this Final Determination shall be sent to oor-

[4] The OOR cautions the Requester that a reviewing court may sanction the continued submission of overlapping and burdensome appeals.
[5] *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

postfd@pa.gov. This Final Determination shall be placed on the website at: http://openrecords.pa.gov.

FINAL DETERMINATION ISSUED AND MAILED: November 10, 2026

/s/ Blake Eilers
Blake Eilers, Esq.
Senior Appeals Officer

Delivered via OOR E-file Appeal Portal to: James Harris; Chelsea Dickert; John Cantwell, Esq.