pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
JAMES HARRIS,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-4139**
	:	**(Consolidated Appeal of OOR Dkts. AP**
PENNSYLVANIA DEPARTMENT OF	:	**2026-4139 and 2026-4140)**
ENVIRONMENTAL PROTECTION,	:	
Respondent	:	

FACTUAL BACKGROUND

On August 17, 2026,[1] James Harris ("Requester") filed two 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 23, 2026, after invoking thirty-day extensions to respond, 65 P.S. § 67.902(b), the Department denied each of the Requests as disruptive. 65 P.S. § 67.506(a)(1).

On September 25, 2026, the Requester filed two separate appeals with the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure.[2] The OOR invited

[1] While it is unclear as to the date of the actual Requests based on the documents submitted with the appeal, the Department indicates the Requests were received by the Department on August 17, 2026. *See* Department position statement pp. 45-47. The Department internally numbered OOR Dkt. AP 2026-4139 as "RTK 2026-1353" and OOR Dkt. AP 2026-4140 as "RTK 2026-1354." *Id*.

[2] Because the appeals involve the same parties, same issues, and have similar timelines, the OOR consolidated the appeals into the instant docket on November 17, 2026. *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").

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 23, 2026, the Department submitted a position statement, reiterating the Department's basis for denying the Requests. In support of the Department's position, the Department submitted attestations authored by: Chelsea Dickert, Esq. ("Dickert Attestation"), the Department's Agency Open Records Officer ("AORO"); Staci Gustafson ("Gustafson Attestation" and "Gustafson Second Attestation"), Assistant Regional Director for the Northwest Regional Office; Keith Mensch ("Mensch Attestation"), Deputy Director for the Bureau of Air Quality; Cory Seese ("Seese Attestation"), Cambria District Mining Office Manager; Adam Snyder ("Snyder Attestation"), Blasting Explosive Inspector, New Stanton District Mining Office; and Lori McNabb ("McNabb Attestation" and "McNabb Second Attestation"), Program Manager of the Air Quality Program in the Northwest Regional Office.[3]

On October 24, 2026, the Requester submitted a position statement, claiming, among other things, that the Department is hiding responsive records and seeking an "explicit finding of administrative bad faith."[4]

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

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[3] The Department's attestations are all 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).

[4] The evidentiary record in each appeal originally closed on October 7, 2026. On October 8, 2026, the OOR granted the Department's request for an evidentiary submission extension through October 23, 2026. On October 9, 2026, the Requester objected to the extension, claiming said extension was granted without soliciting the Requester's position; however, the OOR need not obtain a Requester's permission to extend an evidentiary submission deadline. *See* 65 P.S. § 67.1102(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").

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 43 RTKL requests filed by the Requester between March 31, 2025, through and including August 17, 2026, seeking records concerning

Homer City.[5] Specifically, the Department provides detailed information regarding each prior request to which the Department has previously provided records. In support, the Department has submitted eight attestations describing in detail the overlapping and burdensome nature of the requests filed by the Requester. The Department's position statement, the lengthy supporting attestations and comprehensive exhibits estimate the hundreds of hours of employees' time that have been spent responding to the Requester's requests and appeals. Additionally, in numerous locations within the attestations, the Department correlates each individual Request with 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 McNabb Attestation and McNabb Second Attestation contain charts correlating the Requests, identified by Department tracking numbers, and OOR appeal docket numbers with the requests in response to which the Department previously provided all responsive records. McNabb Attestation ¶¶ 12-14; McNabb Second Attestation ¶¶ 12-14. The attestations 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* Attestations. The Department has appended to its appeal submission five packets of exhibits containing each RTKL request, Department final response, and any OOR final determinations related to each of these requests. *See* Exhibits A-HHHHH; Dickert Attestation ¶¶ 9a)-aa).

Unlike the agency in *Bari*, the Department also sets forth in detail how the repeated requests are burdensome. Examples are numerous; many of the attestations explain how the repeated requests have negatively impacted staff morale. *See*, *e.g.*, Seese Attestation ¶¶ 30, 31; McNabb Attestation ¶¶ 16, 17; Gustafson Attestation ¶ 23 (explaining that the Requester's requests are taking much needed time from Air Quality program responsibilities and have negatively impacted

[5] *See* Department position statement, Exhibit A. The Department provides specific details for 27 of these requests. *See generally* Dickert Attestation.

the overall morale and welfare of the program). Specifically, the Gustafson Attestation provides that Records Center staff have reported an increase in internal communications expressing "confusion over why the same records are repeatedly requested in [the Requester's] RTKL requests," as well as frustration and "delays in scheduling Informal File Reviews for the public and addressing other RTKL requests." Gustafson Attestation ¶ 23.

Additionally, Program Manager McNabb describes how the burden to Air Quality staff is impacting the ability to perform statutory duties and responsibilities. McNabb Attestation ¶¶ 16-17. For example, the Seese Attestation presents one particularly specific example, explaining how a Department employee resigned, stating in his exit interview that the main reason for the resignation was the Requester's repeated requests, which overwhelmed the former employee in conjunction with blasting and explosive inspector duties. Seese Attestation ¶¶ 30-31. These are a few of the many examples presented by the Department regarding 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.[6] 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 attestations, the OOR concludes that the instant Requests were permissibly denied by the Department pursuant to 65 P.S § 67.506(a)(1).[7]

[6] The OOR cautions the Requester that a reviewing court may sanction the continued submission of overlapping and burdensome appeals.

[7] The OOR further declines to make a finding of bad faith, as the Department timely responded to the Request and participated fully on appeal.

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.[8] All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the website at: http://openrecords.pa.gov.

FINAL DETERMINATION ISSUED AND MAILED: November 23, 2026

/s/ Bandy L. Jarosz

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BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent via portal only to: James Harris; Chelsea Dickert; John Cantwell, Esq.

[8] *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).