



West Virginia Surface Owners' Rights Organization
1500 Dixie Street, Charleston, WV 25311
(304) 346-5891 - www.wvsoro.org

July 17, 2025

Jerry Williams
West Virginia Department of Environmental Protection
Charleston, West Virginia
(By E-mail)

Re: Fundamental Data Comments

Dear Sir/DEP,

The West Virginia Surface Owner's Rights Organization (WVSORO) educates and advocates for surface owners when approached for or affected by oil and gas drilling exploration and production. WVSORO has more than 800 members who have paid dues, but believe we speak for the more than one million citizens of West Virginia who do not live within municipalities. We have never been totally opposed to oil and gas drilling; we just think that if it is done, it should be done right and respect the rights of surface owners to the use and enjoyment of their land they choose; and if they choose to allow surface use of their land for this purpose, we think they should be compensated not for what the land was worth to them before the driller/pipeline shows up, but what the use of their land is worth the driller/pipeline owner. To learn more about who we are and our education and our advocacy, simply Google "West Virginia Surface Owners" and that should lead right to it.

I personally am a co-founder of WVSORO and as a lawyer often, in addition to lobbying the Legislature and advocating at DEP, represent WVSORO as a lawyer in court and administrative proceedings. In addition to that, since 2018 I have had a part-time private practice as a lawyer representing surface owners and small mineral owners in surface use agreements and in negotiating leases that include surface use provisions. I also have at times represented surface owners in trespass/unreasonable surface use law suits and negotiations. Finally, I am very familiar with the area for which this facility is being planned having hiked, backpacked, cross-country skied, and mountain biked all over the area since at least 1975.

I suppose my personal use could be argued to argue I have prejudice. But it also gives me personal observations of the area so that I know from personal experience that this area is some of the most desired recreational land in a State that wants to promote tourism. It is not however, for the most part, appealing to that set of users that likes fancy lodging, high end amenities and golf courses. I can only imagine that this area was selected among other possibilities by persons who may not appreciate the appeal of this area (and so did not anticipate

the volume and quality of push back). It is developing on its own economically as a result of its features as an area for visitors without much if any subsidy or tax incentives or lobbyists. It should be left alone to continue to do so, and the goose laying the egg should be left alone. I understand these are not factors that are in your wheelhouse in this matter. But they should be pointed out to anyone higher in government who can influence decisions on these matters and who have misjudged the wisdom of attempting a data center etc. in this area.

WVSORO would also like to point out two factors that, through its experience with surface owners and oil and gas exploration and production, affect surface use and enjoyment more than most unaffected people might expect. One I understand has been noted in the permit application. Not sure about the second. Both, after investigation by experts, are likely to be grounds for a nuisance law suit against these facilities.

The first is noise. I understand that the developers have stated that the noise level will not exceed that set out by Occupational Safety and Health Administration. I would suggest that when people get ready for a night's sleep and slip under the covers they do not do so at their work site at their place of employment. This is an astoundingly irrelevant standard to be used. Similarly, even other noise levels that are often characterized as the level of normal speech, if they are unrelentingly constant, are noise levels that will interfere with having dinner on a deck or otherwise enjoying citizen's property outside the walls of their residence.

The second is called "skyglow". Many times people have told me that the biggest annoyance and inconvenient from a well pad, some times even more than noise, is the lack of darkness at night. Even when the agreement calls for lights to be on the outside of the pad pointing in and down (particularly during construction), enough light reflects from what is in the atmosphere to cause skyglow that spills light onto their land. Window shades are not enough to get back to the natural atmosphere that they wanted when they bought their homes, and the lack of a true night sky is considerable loss of enjoyment for a home or even a business.

And there is a third. Even just the construction phase will bring in population and business entities that are not complementary to what is going on in this area. Even many of those in Mason County who were at first happy to have the new Nucor steel mill have regretted what it has done to their communities and their ability to purchase homes etc. in their area.

WVSORO has seen some of the comments submitted by others, many on more technical aspects, and supports them also, but for brevity will not reiterate them here.

Sincerely,

David B. McMahon [intended as signature]

David B. McMahon, J.D.