SIERRA CLUB

January 12, 2026

Secretary Gregory Patterson
Department of Natural Resources and Environmental Control
Coastal Zone Act Program
100 W. Water St., Suite 7B
Dover, DE 19904

Via electronic mail to: CZA_Program@delaware.gov

Re: Project Washington Data Center Status Decision (Project CZA-448SD)

Dear Secretary Patterson,

Thank you for the opportunity for the Sierra Club Delaware Chapter to comment on the status decision for Project CZA-448SD, otherwise known as Project Washington. Project Washington is incompatible with the Coastal Zone, has the potential to cause significant environmental harm, and therefore should not be permitted; it should instead be classified as a Heavy Industrial Use under the Delaware Coastal Zone Act (CZA). DNREC is obligated to fulfill the requirements of the CZA and deny the Project Washington application.

The Coastal Zone Act

In June 1971, the State of Delaware, motivated by concerns over the industrialization of its coast, made a crucial decision to prioritize coastal resource preservation over unrestricted industrial growth by enacting the CZA. As per the CZA, "the coastal areas of Delaware are the most critical areas for the future of the State in terms of the quality of life in the State." 7 Del. C. 1953, § 7001. As such,

> It is, therefore, the declared public policy of the State to control the location, extent and type of industrial development in Delaware's coastal areas. In so doing, the State can better protect the natural environment of its bay and coastal areas and safeguard their use primarily for recreation and tourism.

Id. Accordingly, the CZA "prohibit[s] the construction of new heavy industry in [Delaware's] coastal areas beyond the heavy industry use sites defined in this chapter" because "[t]he expansion of heavy industry beyond those sites is determined to be incompatible with the protection of that natural environment in those areas." *Id.*

The CZA prohibits "heavy industry uses of any kind" that were not already in operation as of June 28, 1971. *Id.* at § 7003(a). "Heavy industry use" is defined expansively: a use "characteristically involving more than 20 acres," and employing "some but not necessarily all" but "not limited to" pieces of equipment such as "smokestacks, tanks" and other elements with "the potential to pollute *when equipment malfunctions or human error occurs*," even if those elements could "conceivably [be] operable without polluting the environment." *Id.* at § 7002(d). The exclusive exception to this prohibition is the "conversion permit" process, whereby an applicant may request to convert an existing heavy industry use for an alternative or additional heavy industry use at that site. *Id.* at § 7014.

Project Washington

The proposed Project Washington consists of the installation of over five hundred small power plants served by over five hundred tanks of diesel fuel, to provide "backup" power to a hyperscale data center. *See* Application at 7 ("Phase 1 and backed up by approximately 252, 3 MW generators and six, 1.5MW house generators. . . . with another five data centers expected to be constructed in Phase 2 including 252, 3 MW generators and six, 1.5MW house generators."); *id.* at 13 (detailing the "516 Double-walled 5,020-gallon diesel fuel belly tanks" supporting the generators). In total, this would involve 1.5 gigawatts of generating capacity, and 2.6 *million* gallons of onsite diesel storage. According to Project Washington's application, the 1.5 gigawatts of generators would emit over 600 tons per year of nitrogen oxides (NOx) and over 400 tons per year of carbon monoxide (CO) with just 500 hours' worth of operation. Application at 12.

This Project Washington data center, a vast new hyperscale campus with massive energy demand, hundreds of industrial generators, diesel fuel tanks, substations, and switchyards, is the exact type of heavy industrial complex that the CZA was enacted to prevent in the Coastal Zone. Project Washington will occupy 579 acres and be one of the largest industrial developments in the Delaware coastal corridor. Notably, Project Washington has not sought a conversion permit under the CZA.

Comments

Project Washington Is A Prohibited Heavy Industry Use

Among the non-exclusive list of characteristics of heavy industrial uses defined in the CZA is use in excess of 20 acres with industrial characteristics such as tanks "with the potential to pollute." 7 Del. C. 1953, § 7002(d). Project Washington includes these very elements.

First, the Project Washington application makes clear that site development will exceed 20 acres. *See* Application at 6 ("the proposed development includes five substations (four substations at 6.9 acres each and one substation at 9.3 acres), one switch station (15.2 acres), equipment yards, parking lots, driveways, and stormwater management areas.")

Second, Project Washington relies on storage tanks for diesel fuel for "backup" generators. [1]These 516 5,020-gallon diesel fuel "belly tanks" are functionally still the same as any storage tank found on a tank farm delineated in section 4.9 of the CZA regulations. The application specifies that each tank is "12-feet wide, 39.5 feet long, 2 feet high," (Application at 13), meaning each tank will require 474 square feet. Application at 13. With 516 tanks, this will require 244,584 sq ft, which, at 43,560 sq ft/acre, is 5.6 acres. This does not include any space between the tanks, and the applicant did not state whether the tanks would be centralized or distributed across the project's footprint. Accordingly, the tank farm will be significantly larger than the 5 acres permitted by the CZA regulations; nor do CZA Regulations require any tank farm to be contiguous for the prohibitions to apply.[2] Given the size of the tank farm required for fuel storage on the site within the Coastal Zone alone, the project is prohibited.

Moreover, even if Project Washington were to switch to a pipeline for their diesel, or convert to natural gas-fired generators, instead of a tank farm, they would still trigger a CZA permit. *See* 7-100-101 Del. Code Regs. § 5.1.3 (listing "[t]ank farms of *less than* five acres" as "not to constitute initiation, expansion or extension of heavy industry or manufacturing uses") (emphasis added). Project Washington is nearly 29 times the size of a prohibited industrial site, and the number of tanks makes it a prohibited use both as heavy industry and as a tank farm. Moreover, power generation is a prohibited use–unless it is solar energy–due to the characteristics of all thermal power generation technology. *See* 7-100-101 Del. Code Regs. § 5.1.6.

Third, as the CZA makes clear, it is not just any specific list of industrial equipment that triggers the prohibition–a critical inquiry is the potential to cause pollution. Accordingly, even if the Project Washington generators and diesel tanks were to lack "scrubbing towers," or "distillation columns," the environmental impact is still the same regardless. The generators will still cause thermal pollution, noise, air pollution, water quality impacts, and have the "potential to pollute." As such, whether it is 1.5 gigawatts of power generated by a natural gas or coal plant, or 1.5 gigawatts of power generated by 516 individual diesel generators, the CZA prohibits large-scale thermal power generation due to the profound environmental impacts it can have on

[1] Notably, neither the Project Washington application nor this process would limit the operation of the generators to strictly back-up conditions or place any sort of cap on their overall operations or emissions.

[2] There is no location in the Delaware Code or DNREC Regulations that define tank farms as contiguous (Title 7 Admin Code 1351 and 1352, and Title 7 Del Code Ch 74 and 74A).

this sensitive ecosystem. The Project Washington application also fails to address in any way the environmental justice impacts on citizens who live and work near this massive proposed use.

Project Washington Has the "Potential to Pollute"

The definition of prohibited heavy industry in the CZA also includes an industry, like Project Washington, that has the "potential to pollute" when equipment malfunctions or human error occurs. 7 Del. C. 1953, § 7002(d). Project Washington will create air pollution in the Coastal Zone. As per the application, the project will have 516 emergency generators, each with a 5,020-gallon diesel fuel tank. The Project Washington application provides air emissions data assuming just 20 hours per year of operations of the diesel generators for annual emissions and 20 hours per day for daily emissions, but fails to provide a cumulative analysis for simultaneous startup of the many generator units, nor does it include a regional air impacts assessment. Per industry standards, each generator must be run for 20-30 minutes per month for testing and maintenance, with most industry publications stating that 30 minutes with 30% load is the recommended as monthly test for backup generators.[3] It should be noted that, according to public health data, the census tracts around the facility observe adult asthma rates higher than average, ranging from the 60th to 83rd percentile. Having this many generators run, even just for maintenance and testing, will create ground level air pollution could have a significant impact on local air quality and asthma responses in nearby residential communities. It will also likely have a direct effect on the local ecology from both the noise and air quality implications.

Indeed, the Project Washington application indicates that, in just 500 hours of operation of the generators onsite, the facility would emit 616 tons of NOx pollution per year. Application at 12. NOx is the precursor pollutant to ground-level ozone, or smog, and is accordingly extremely harmful, especially to persons afflicted with respiratory ailments like asthma. Moreover, these 616 tons of NOx per year are comparable to and generally much greater than annual NOx emissions from large Mid-Atlantic power plants:

Table 1: Selected Mid-Atlantic Power Plant NOx Emissions Compared to Project Washington[4]

Plant Name	**State**	**2024 NOx Emissions (tons)**	**Generation Capacity (MW)**
Edge Moor	Delaware	120.235	710
Hay Road	Delaware	388.073	1,193

[3] *See, e.g.*, NFPA 110 Requirements for Emergency Power Systems https://www.nfpa.org/codes-and-standards/nfpa-110-standard-development/110.
[4] Data taken from U.S. EPA, Clean Air Markets Program Data, Custom Data Download, *available at* https://campd.epa.gov/data/custom-data-download.

Garrison Energy Center	Delaware	34.915	361
Chalk Point	Maryland	649.698	1,212
Keystone	Pennsylvania	1,113.264	1,700
Project Washington (diesel)	**Delaware**	**616**	**1,530**

Project Washington accordingly has demonstrated the "potential to pollute" at least equal to many large power plants in the region, and indeed to emit more NOx than Delaware's three other biggest power plants *combined*.

Moreover, according to information from Project Washington's application, Project Washington would annually emit amounts of NOx and CO–616 and 419 tons, respectively–well over the federal Clean Air Act Major Source threshold; especially in New Castle County, where the NOx threshold is just *25 tons per year*. Application at 12.

Table 2: Major Source Thresholds for Delaware Counties[5]

	Volatile Organic Compounds	Nitrogen Oxide	Carbon Monoxide	Sulfur	Particulates	Hazardous Air Pollutants	Other
New Castle	25	25	100	100	100	10	100
Kent	25	25	100	100	100	10	100
Sussex	50	100	100	100	100	10	100

Measured in tons per year. The threshold of 10 tons/year for HAPs is for a single HAP. The annual total threshold for all HAPs in 25 tons/year.

Notably, even Project Washington's 20-hours-per-year operating scenario would result in emissions of 25 tons of NOx per year. Application at 11. Accordingly, Project Washington very likely would qualify as a Major Source requiring at Title V permit, which strongly demonstrates a "potential to pollute" for CZA purposes.

The application also does not explore the possibility of a leak or spill of the 2.6 million gallons of diesel fuel in the Coastal Zone due to equipment malfunction or human error, as required by the CZA. Indeed, the application barely discusses any efforts to "minimize" potential releases, let alone prevent them, tacitly admitting the "potential to pollute" in the form of

[5] Taken from DNREC, Title V: Major Air Sources, *at* https://dnrec.delaware.gov/air/permitting/major-air-sources/.

leakages, spills, and other discharges of fuel attendant to filling the over five hundred tanks and piping the fuel into the over five hundred generators. Application at 25.

It is clear that this project has the "potential to pollute" by any definition, as, in the best-case scenario, maintenance and operations will greatly contribute to air pollution in the immediate area, with a likely impact on regional air quality in the event of a grid failure. In the case of a malfunction on site as it relates to the potential failure of one or more of the diesel fuel tanks, there is certainly the "potential to pollute." While the applicant states that the exact type of cooling system still has not been decided upon at the time of application, depending on the type of cooling system, the "potential to pollute" also exists as it relates to the potential for failure regarding the final means of storage of any fluids used in the cooling process. A failure on this portion of the project could result in contamination of nearby waterways with chemicals, including heavy metals, PFAS, and other toxic substances that are often found in "blowdown" or non-water coolants. Again, it is clear that the project meets the CZA definition of heavy industry with respect to the common "potential to pollute" characteristic.

To evade CZA permitting requirements, the applicant attempts to characterize Project Washington as a "facility used in transmitting, distributing, transforming, switching, and otherwise transporting and converting electrical energy," in an argument for being excluded from regulation under the Act. However, this description fails to capture the actual operations at Project Washington, and the purpose of the CZA. When the CZA discusses "transmitting," "distributing," "transforming," "switching," "transporting," and "converting," it is describing pass-through interactions in which energy is neither consumed nor–critically–generated. But Project Washington is *not* a simple electric transmission project, as it will be generating power with its diesel generators and will be consuming that energy and energy from the grid; it is essentially a massive 1.5 gigawatt-scale power plant with a server farm onsite. Indeed, Project Washington would be, by a good measure, *the largest power plant in Delaware*. The CZA would not permit a colossal new power plant, and DNREC cannot approve such a power plant simply because its generation would be consumed locally.[6]

Similarly, Project Washington attempts to characterize its proposed 1.5 gigawatt generation complex as mere "backup generation" not subject to CZA requirements. However, as described above, Project Washington's proposed generation capacity is far larger than that of any other power plant in Delaware, and its likely emissions, according to its own application, far outstrip actually air pollutant emissions from large and midsized power plants throughout the region. Typical "backup" generation installations contemplated by DNREC are many hundreds of times smaller than Project Washington. For example, Christiana Care Health Services once

[6] Nor, as noted above, does Project Washington's application in any place restrict operations of the onsite generation capacity, so DNREC has no assurance at all that this 1.5 gigawatts of generation wouldn't be utilized significant amounts of the time.

requested DNREC consideration for four 450 kilowatt emergency generators.[7] Four 450 kilowatt generators are, altogether, smaller than just *one* of Project Washington's proposed 500+ 3 megawatt diesel generators. According to that application, each generator had a potential to emit 0.02 tons of NOx per year, meaning that, collectively, these backup generators had the potential to emit less than 0.013% of the NOx that Project Washington would emit with just 500 hours of operation.[8] Similarly, Incyte Corporation requested of DNREC a permit for four 500-kilowatt backup diesel generators; collectively, these generators–again be smaller than than just *one* of Project Washington's proposed 500+ 3 megawatt diesel generators–would have emitted 6.45 tons of NOx per year, or roughly one-tenth the emissions of Project Washington in 500 hours of operation.[9] Project Washington is accordingly orders of magnitude larger in scope and pollution impact than what even relatively large "backup" generator projects entail.

Project Washington will impact water availability and wastewater treatment in the area. According to the application, Project Washington will discharge 2,737,500 gallons per year to a permitted wastewater treatment facility. Application at 13. Despite cooling systems being vital to the operation of a data center, the Project Washington application does not identify any actual systems and instead punts by averring that advanced cooling options for the Center are still being explored. Application at 14. Given the enormous size of Project Washington, the proposed water usage appears low and likely underestimates cooling needs at full build-out. The application also fails to include impacts on the water supply during drought conditions or times of competing regional demands.

As is typical in Delaware's Coastal Zone, the Project Washington site contains wetlands, and sensitive species such as monarch butterflies, the tri-colored bat, and the northern long-eared bat that may occur on or adjacent to the property. The size and nature of Project Washington will detrimentally impact nearby wetlands and sensitive species through noise pollution, altered hydrology, increased stormwater runoff, and sedimentation during construction. The prohibitions in the CZA were meant to protect the fragile ecosystems within Delaware's coastal corridor; therefore, DNREC should prohibit this use in the Coastal Zone.

It should also be noted that if a use is permitted, considerations around environmental impact must be considered by the Secretary. According to statute, these environmental impacts include but are not limited to, probable air and water pollution likely to be generated by the proposed use under normal operating conditions as well as during mechanical malfunction and human error; likely destruction of wetlands and flora and fauna; impact of site preparation on

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[7] *See* https://docs.dnrec.delaware.gov/render/1097392/3a1aaaaf7c9e25f51eb3848521990f663b6f84afd8046af04aabcf9506b318311708d70692144de5c4a9a3ee993f2374.

[8] *Id.* at Form AQM-5, page 6 of 8.

[9] *See* https://dnrec.delaware.gov/2020/04/19/7-de-admin-code-1102-natural-minor-permit-applications-incyte-corporation/.

drainage of the area in question, especially as it relates to flood control; impact of site preparation and facility operations on land erosion; effect of site preparation and facility operations on the quality and quantity of surface, ground and subsurface water resources, such as the use of water for processing, cooling, effluent removal, and other purposes; in addition, but not limited to, likelihood of generation of glare, heat, noise, vibration, radiation, electromagnetic interference and obnoxious odors. *See* 7 Del. C. 1953, § 7004(b)(1).

Under each of these considerations around environmental impacts–the avoidance of which is the sole purpose of the CZA–Project Washington will have a profound impact. As discussed above, Project Washington would cause air and water pollution, impacts on water supplies, and the destruction of wetlands and flora and fauna, but the impacts spread beyond these areas. Due to the amount of impervious surface being added to the area, there will additionally be an impact on local flood control, and unless the applicant uses an evaporative cooling or immersion cooling system, noise will be a prominent issue for both the local ecosystem and nearby residents. A project of this size that is air-cooled, which is the latest cooling type announced by the Applicant in the media and during town halls and public hearings, would mean an excess of 1,000 fans running 24 hours a day, 7 days a week. The noise from an operation of this scale, including low-frequency noise, could have profound implications on local ecology and residents up to 3 miles from the site, according to industry publications.

For all of the reasons outlined in this comment, the Sierra Club urges DNREC to protect Delaware's Coastal Zone from this proposed use, and prohibit Project Washington in its current form.

Sincerely,

Dustyn T[redacted]