

## 4. Public Notice

# AIR QUALITY PERMIT NOTICE

## Notice of Open Comment Period

On March 18, 2025, Fundamental Data LLC applied to the WV Department of Environmental Protection (WVDEP), Division of Air Quality (DAQ) for a permit to construct a turbine power facility (Ridgeline Facility) located off of US-48, near Thomas, Tucker County WV at latitude 39.15364 and longitude - 79.46641. A preliminary evaluation has determined that all State and Federal air quality requirements will be met by the proposed facility. The DAQ is providing notice to the public of an open comment period for permit application R13-3713.

The following potential emissions will be authorized by this permit action: Volatile Organic Compounds, 44.21 tons per year (TPY); Nitrogen Oxides, 99.35 TPY; Carbon Monoxide, 56.36 TPY; Sulfur Dioxide, 58.89 TPY; Total Particulate Matter, 97.46 TPY; Particulate Matter less than 10 microns in diameter, 71.86 TPY; Particulate Matter less than 2.5 microns in diameter, 71.54 TPY; Total Hazardous Air Pollutants, 9.70 TPY.

The WVDEP DAQ will hold an in person public meeting to provide information and answer questions on air quality issues relevant to this permit application. The meeting will be held at the Maple/Balsam/Spruce Rooms at Canaan Valley Resort State Park, 230 Main Lodge Road, Davis, WV 26260 on Monday, June 30, 2025 from 6:00 p.m. until 9:00 p.m. Doors will open at 5:00 p.m. to register attendees. If you plan to attend the in-person public meeting, to save time and ensure all participants in attendance are registered, please fill out the pre-registration form at <<https://forms.gle/jEQTGGPUP73xBmRJ7>> by 8:00 a.m. on Monday, June 30, 2025. Upon arrival, we request that you sign your name on the pre-registration list. While pre-registration is not required, it is encouraged to save time and ensure all participants in attendance are registered. If you do not have internet access and want to pre-register, please contact Nicole Ernest at 304-926-0475.

The WVDEP DAQ will also hold a virtual public meeting to accept oral comments that are relevant to this permit application on Thursday, July 17, 2025 from 6:00 p.m. until 8:00 p.m. The purpose of this virtual public meeting is ONLY to accept oral comments, the DAQ will not be responding to questions during this virtual public meeting. Registration is required by 4:00 p.m. on Thursday, July 17, 2025 to participate in the virtual public meeting. To register, please complete the participant registration form at <<https://forms.gle/dYSUgFZigRGe8WQp9>>. To register to provide an oral comment, please indicate “yes” you want to provide oral comments for the record when you register with the previously provided link. A confirmation e-mail will be sent with your responses when you register. A separate email with information on how to join the public meeting will be sent shortly after registration closes at 4:00 p.m. on Thursday, July 17, 2025. If you do not have internet access and want to register, please contact Nicole Ernest at 304-926-0475. If you have previously provided written comments, you do not need to read your written comment during the virtual public meeting to accept oral comments.

Written comments must be received by the DAQ by 5:00 pm on Friday, July 18, 2025. Written comments may be submitted by:

- Email: Jerry Williams at [Jerry.Williams@WV.gov](mailto:Jerry.Williams@WV.gov) with "Fundamental Data Comments" as the subject line, or
- Mail: WVDEP - Air Quality, Attention: Jerry Williams, 601 57th Street SE, Charleston, WV 25304.

According to information provided by the applicant, the proposed facility could begin operation in 2027. The purpose of the DAQ's permitting process is to make a preliminary determination if the proposed construction will meet all state and federal air quality requirements. The purpose of the public review process is to accept public comments on air quality issues relevant to this determination. Only written comments received at the address noted above within the specified time frame, or comments presented orally at the scheduled public meeting, will be considered prior to final action on the permit. All such comments will become part of the public record.

Additional information, including copies of the draft permit, application and all other supporting materials relevant to the permit decision may be obtained by contacting the engineer listed above. The draft permit and engineering evaluation can be downloaded at:

<https://dep.wv.gov/daq/permitting/Pages/NSR-Permit-Applications.aspx>

## 5. Affidavit of Publication



# The Parsons Advocate

Mountain Media, LLC  
P.O. Box 429  
Lewisburg, WV 24901

## Invoice

DATE	INVOICE #
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6/18/2025	25-436309
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BILL TO

WV DEP - Division of Air Quality  
Stephanie Mink  
601 57th Street  
Charleston, WV 25304



P.O. NO.	TERMS	PROJECT
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QUANTITY	DESCRIPTION	RATE	AMOUNT
	Legal Advertising in The Parsons Advocate.	82.97	82.97

FEIN 26-0028834  
Air Quality Permit Notice  
721.4 words set solid @ .115 per word  
6/18

<b>Total</b>	<b>\$82.97</b>
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Mountain Media, LLC publishes the Clay County Free Press, the Mountain Messenger, Properties and Lifestyles, [mountainmessenger.com](http://mountainmessenger.com) and numerous Specialty Publications

ONLINE AT WWW.PARSONSADVOCATE.COM

THANK YOU FOR READING THE  
PARSONS ADVOCATE  
Serving the people of Tucker  
County since 1896

## LEGAL

I have before me the accounts of the Executor or Administrator of the estates of the following deceased persons:

Deceased:	Personal Representative(s):
Patricia Ann Roy	Debra L. Davis
1st publication 6/11/25	PO Box 274
2nd publication 6/18/25	Thomas, WV 26292
Kenneth L. Moody	Shirley Moody
1st publication 6/11/25	268 Fork Mountain Rd
2nd publication 6/18/25	Parsons, WV 26287
Betty Louise Nestor	Janet E. Sanabury
1st publication 6/11/25	PO Box 33
2nd publication 6/18/25	Hendricks, WV 26271

Claims against any estate must be filed within sixty days of the date of first publication. Any person seeking to impeach or establish a will must make a complaint to the Tucker County Commission, Tucker County Clerk, 211 First St., Suite 205, Parsons, WV. Any person objecting to the qualifications of the personal representative, or the venue or jurisdiction of the court must file a statement with the County Commission within sixty days after the date of first publication or thirty days of service of the notice, whichever is later.

ATTEST: SHERRY SIMMONS, TUCKER COUNTY CLERK

## LEGAL

### ADVERTISEMENT FOR BID

Town of Davis - Demolition & Asbestos Removal Project  
Tucker County, West Virginia

Sealed bids for the Demolition and Asbestos Removal Project in the Town of Davis will be received by the Town until 3:00 PM on Friday, July 11, 2025, at the Davis Town Hall, 505 William Avenue, Davis, WV 26260, at which time they will be publicly opened and read aloud.

#### Project Overview:

This project involves the demolition of identified dilapidated structures and the certified removal and disposal of asbestos-containing materials (ACMs) from various properties within the Town of Davis, in full compliance with all applicable local, state, and federal environmental and safety regulations.

#### Mandatory Site Visit:

A mandatory site visit to the subject properties is required in order to receive a bid package. The site visit will take place on:

Date: Friday, June 27, 2025

Time: 10:00 AM

Meeting Location: Davis Town Hall, 505 William Avenue, Davis, WV 26260

Only contractors who attend the full site visit will be eligible to receive the bid documents and submit a proposal.

#### Bid Submission Requirements:

- All bids must be submitted in a sealed envelope clearly marked: "Demolition and Asbestos Removal Bid - Town of Davis"
- Envelope must include the contractor's name, address, and contact information.
- Bidders must be licensed and registered to perform work in the State of West Virginia.

Bidders must provide a vehicle between project locations, access to digital camera / cell phone for onsite photographic documentation and personal cell phone for onsite communication.

Qualified individuals interested in this position should submit resumes via email to Mr. Jonathan Hicks at jhicks@k12.wv.us no later than 2:00 p.m. local prevailing time on June 27, 2025, at the Administrative Office of Tucker County Schools, 100 Education Lane, Parsons, West Virginia 26287. Interviews will occur during the week of June 27-2025.

The minimum salary will be negotiated with Tucker County Schools in accordance with SBA guidelines. The Tucker Board of Education reserves the right to reject any or all proposals and to waive any informalities. Tucker County Board of Education  
Alicia Lambert, Superintendent

## LEGAL

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## STOCK RIVERS

Cont. From Front Page 1



Photos courtesy Fred Davis.

**DEADLINE  
3PM  
FRIDAY**

## CLASSIFIEDS FOR AS LITTLE AS

2nd publication 6/25/25 Parsons, WV 26287  
Claims against any estate must be filed within sixty days of the date of first publication. Any person seeking to impeach or establish a will must make a complaint to the Tucker County Commission, Tucker County Clerk, 211 First St., Suite 205, Parsons, WV. Any person objecting to the qualifications of the personal representative, or the venue or jurisdiction of the court must file a statement with the County Commission within sixty days after the date of first publication or thirty days of service of the notice, whichever is later.

ATTEST: SHERRY SIMMONS, TUCKER COUNTY CLERK

## LEGAL

### NOTICE OF SUBSTITUTE TRUSTEE'S SALE

NOTICE is hereby given that, by virtue of the authority vested in the undersigned Substitute Trustee under that certain Deed of Trust dated the 29th day of July, 2021 executed by ZACKERY PUTLOVIS, to Pamela Moore, trustee, and The Huntington National Bank, Beneficiary, said Deed of Trust recorded in the office of the Clerk of the County of Tucker County, West Virginia, in Trust Deed Book 307, at Page 555, under which authority PAUL E. BISER, who was substituted as Trustee under the Deed of Trust by a Notice of Substitution of Trustee dated the 28th day of February, 2025 and recorded in the aforesaid Clerk's office in Substitute Trustee Book 326, at Page 418, now acts, by which was conveyed to the said Substitute Trustee the said hereinafter described real estate, to secure the payment of a certain note set out and described therein, said default having been made under the terms and conditions of said Deed of Trust, and the provisions of said Deed of Trust concerning acceleration, having been complied with by the Lender and present holder of the note, and Paul E. Biser having been requested to do by the owner and holder of said note, shall sell to the highest bidder, on JULY 11, 2025 at 11 o'clock a.m., at the front door of the Court House of Tucker County, West Virginia, the following described real estate:

Situate in the Cuppitt Addition to the City of Thomas, Tucker County, West Virginia, described as follows, to wit:

All of Lots I and J in the Cuppitt Division of said City of Thomas, beginning at stake, corner of Lots I and Land situate on the West Side of Spruce Street and extended and running thence with the Western Boundary of said Spruce Street; 100 feet to a stake, corner of Lots J and K of said addition and corner in line of [d] Brecklove and thence with his (Brecklove's) line, and Lot K 118.75 feet to a stake in the Eastern Side of Brown Street of said City and a corner of Lots K and J; thence with the Eastern side of Brown Street 100 feet to a stake, corner of Lots I and H of said addition; and thence with the dividing line of said Lots I and H, 138.75 feet to the point of beginning.

**TERMS OF THE SALE:** 1) The property will be conveyed in an AS IS physical condition by Deed containing no warranty, express or implied, subject to the all property taxes, prior deeds, liens, reservations, encumbrances, restrictions, rights of ways, easements, covenants, conveyances and conditions of record in the Clerk's office or affecting the subject property. 2) The Purchaser shall be responsible for the payment of the transfer taxes imposed by the West Virginia Code 11-22-1. 3) The Beneficiary and/or the Servicer of the Deed of Trust and Deed reserve the right to submit a bid for the property at sale. 4) The Trustee reserves the right to continue sale of the subject property from time to time by written or oral proclamation, which continuance shall be in the sole discretion of the Trustee. 5) The Trustee shall be under no duty to cause any existing tenant or person occupying the property to vacate said property, and any personal property and/or belongings remaining at the property after the foreclosure sale will be deemed to constitute **ABANDONED PROPERTY AND WILL BE DISPOSED OF ACCORDINGLY.** 6) **FEDERAL TAX LIEN.** In the event that there are Federal Tax Liens against the property, the United States would have the right to redeem the property within a period of 120 days from the date of such sale or the period allowable for redemption under local laws, whichever is longer. 6) Pursuant to the Deed of Trust, the Trustee may postpone the sale by public announcement at the time and place designated or by posting a notice of the sale. 7) The total purchase price is payable to the Trustee by certified or cashier's check within thirty (30) days of the date of sale, with ten (10%) of the total purchase price payable to the Trustee at sale by certified or cashier's check.

GIVEN under my hand this 9th day of June, 2025

at Paul E. Biser

Paul E. Biser - Trustee - W Va. Bar #7319  
BRODERICK & BISER LAW OFFICES

511 Eighth Street

Huntington, West Virginia 25701

(304) 525-7701

# The Parsons Advocate

MOUNTAIN MEDIA LLC  
PO Box 429 Lewisburg, WV 24901  
304-647-5724

## CERTIFICATE OF PUBLICATION

State of West Virginia  
County of Tucker, SS:

I, **Kathleen Stickley**, one of the Editors or Agents of **The Parsons Advocate**, a weekly newspaper of general circulation published at Parsons, WV in the County of Tucker, State of West Virginia, do certify that publication of the advertisement or advertisements **Air Quality Permit Notice**, attached here to was made in **1 issue(s)** of the newspaper, dated **June 18<sup>th</sup>, 2025**.

Given under my hand this **19<sup>th</sup> Day of June 2025**.

*K. Stickley*

Editor or Publisher

**\$82.97**

**Publication fee**

Subscribed and Sworn to before me

This 19 day of June, 2025

My commission expires: August 20, 2028

Signature *Kathy L S Hunter*  
Notary Public



## 6. Public Meeting Presentation

**Public Meeting**  
*concerning*  
**Fundamental Data LLC**  
**Ridgeline Facility**

**June 30, 2025**  
**WVDEP - Division of Air Quality**  
**Public Meeting**

- **Introduction**
- **Permitting Process**
- **Project Overview**
- **DAQ Documents**
- **What Happens Next?**
- **Summary and Contact Information**

Clean Air Act: EPA Mandate to  
Protect Public Health and Welfare

*Science*

National Ambient Air Quality  
Standards (NAAQS)

*State & Federal  
Rulemaking*

State (SIP) and Federal Air Quality  
Rules

*New Source  
Permitting Process*

**Specific Facility Requirements  
(NSR Air Permit)**

*Insp*

Compliance with Permit and Air  
Quality Rules



# NAAQS

## NAAQS: National Ambient Air Quality Standards

- *Primary Standards*
  - Protect Public Health
- *Secondary Standards*
  - Protect Public Welfare
- **Criteria Pollutants:** Carbon Monoxide (CO), Lead, Nitrogen Oxides (NO<sub>x</sub>), Ozone (O<sub>3</sub>), Particulate Matter (PM<sub>10</sub> and PM<sub>2.5</sub>) and Sulfur Dioxide (SO<sub>2</sub>)
- **Hazardous Air Pollutants (HAPs)** do not have any national standards
  - Regulated under 45 CFR 61 and 63 (NESHAP and MACT programs)
- Counties designated as meeting (attainment) or not meeting (non-attainment) these standards
- Tucker County classified as in attainment with each of the above pollutants



- **New Source Review Permits**
  - **Minor Source Program (45CSR13)**
  - **Major Source in Attainment Areas (45CSR13)**
    - **“Prevention of Significant Deterioration” (PSD)**
  - **Major Source in Non-Attainment Areas (45CSR13)**
- **Post-Construction Operating Permit Process**
  - **Title V Process**
    - **Major Source (Permit) vs. Minor Source (Notification)**
    - **45CSR30**

- **Applicable to new “minor sources” of air pollution**
  - **Definition of major/minor is dependent on source type and location**
  - **“Fossil Fuel-fired Steam Electric Plants of More than 250 Million Btu Input”: 100 tons/year threshold (per pollutant – not GHGs)**
  - **Administered under West Virginia Legislative Rule 45CSR13**
  
- **45CSR13 Permitting Process: What it does do:**
  - **Determine/enforce compliance with state/federal air quality rules**
  - **Determine/enforce compliance with facility’s air emissions**
  - **Provide framework of public notification/participation**
  
- **45CSR13 Permitting Process: What it does not do:**
  - **Require a full Environmental Impact Statement (EIS)**
  - **Address Greenhouse Gases (GHGs)**
  - **Require a cumulative impact analysis that includes nearby sources**
  - **Take into consideration any other important but non-air quality issues such as jobs, property values, traffic, zoning, national energy issues of project, infrastructure, archaeology, etc.**

# Summary of DAQ Review

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- Fundamental Data LLC (FD) Application (R13-3713) Submitted: March 18, 2025
- Application submitted as a minor source (45CSR13)
- FD Legal Advertisement: March 26, 2025
  - Comments/Public Meeting Requests Received
- DAQ Public Advertisement: June 18, 2025
  - Preliminary Review Complete: Draft Permit/Fact Sheet Available
  - Preliminary Determination
  - 30-Day Comment Period

# Non-AQ Issues

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- **DAQ does not have control over**
  - **Zoning Issues**
  - **Job Creation**
  - **Economic viability of project**
  - **Strategic energy issues**
  - **Non-AQ environmental impacts**
  - **Noise pollution**
  - **Light pollution**
  - **Tourism**
  - **Road Traffic**
  - **Nuisance Issues**
  - **Water Issues**
- **Contact local officials**

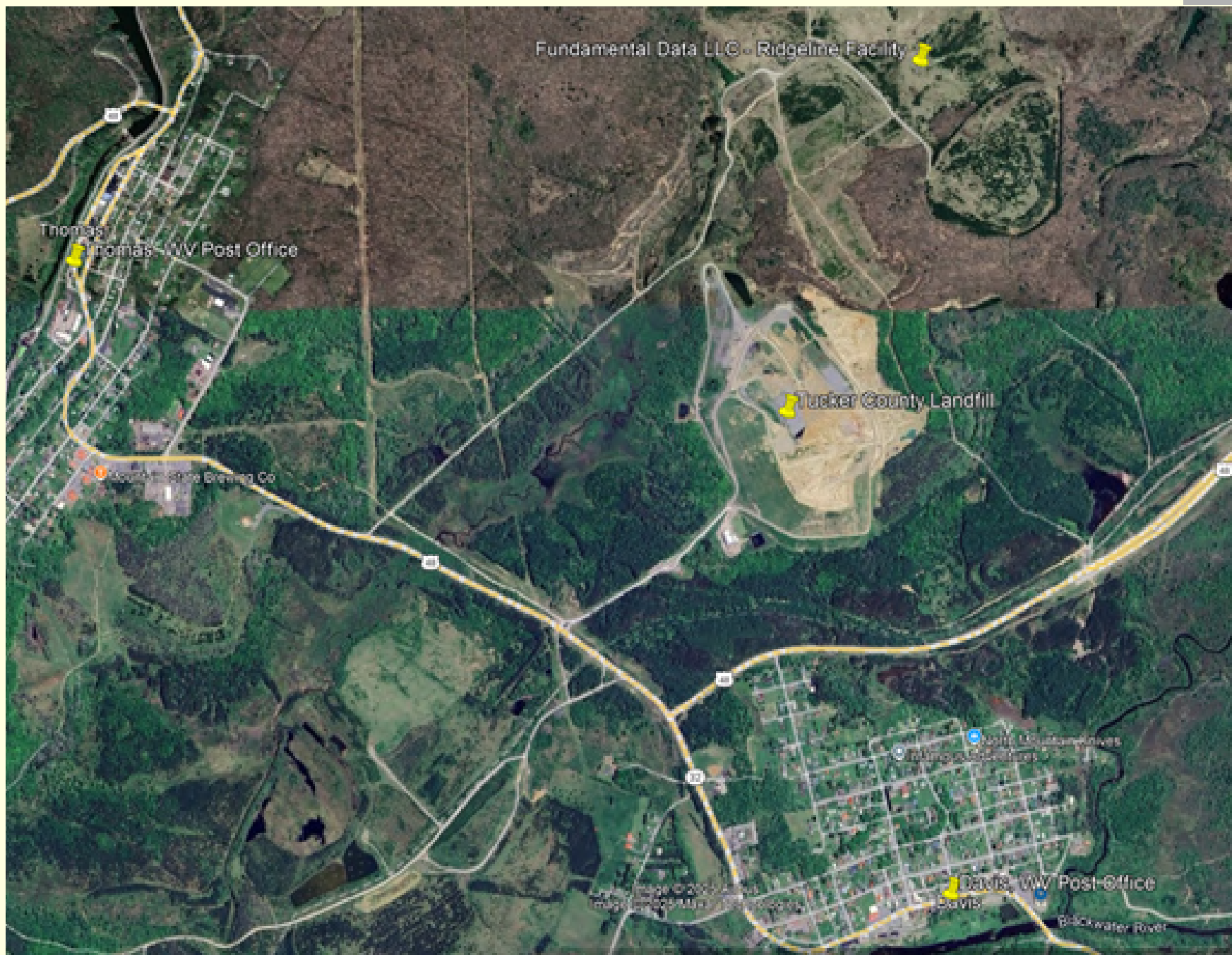
# FD Project Overview

- Thomas, Tucker County: Combustion Turbine (CT) Power Facility
- CT Power Facility
  - CTs use natural gas as primary fuel source with diesel as backup
  - Permit application *does not* include a data center
  - Permit application *is not* definitive on ultimate end power user
  - Aggregate MDHI of CTs – 5,650 MMBtu/hr (NG), 4,503 MMBtu/hr (diesel)
  - CTs utilize selective catalytic reduction (SCR) and oxidation catalyst for NOx and CO emissions reduction
  - 3 Diesel Storage Tanks (10 MM gallons each)
  - Diesel Truck Unloading (15 MM gallons annually)
- All individual pollutant emissions (excluding GHGs) below 100 tons/year
- Detailed information in the permit application and Engineering Evaluation/Fact Sheet

# FD Project Overview *(cont.)*

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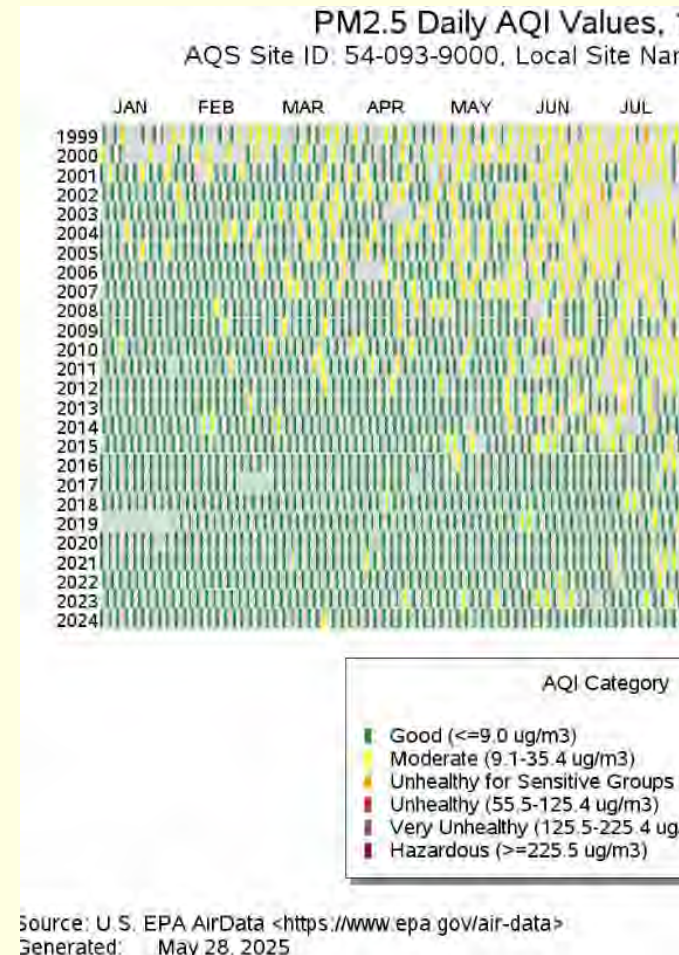
- Non-disclosure of the end power user is not cause for denial of the permit
- How the end power is used will affect the Acid Rain Permit or Title V Permit status
  - These permitting processes are independent of the 45 CSR 13 permit process
  - Potential requirements outlined in draft permit condition 4.1.19
- House Bill 2014
  - Known as the “Power Generation and Consumption Act of 2025” established the Certified Microgrid Program
  - This bill has no effect on the 45 CSR 13 permitting process



- **Clean Air Act (CAA) requires EPA to establish National Ambient Standards (NAAQS) for pollutants**
  - **NAAQS for NO<sub>x</sub>, CO, O<sub>3</sub>, PM<sub>10</sub>, PM<sub>2.5</sub>, SO<sub>2</sub>, Pb**
  - **Primary Standards to protect public health, including sensitive populations**
  - **Secondary Standards to protect public welfare including animals, crops, vegetation, buildings**
- **Tucker County is classified as “attainment”**
- **Two air monitoring sites located in Tucker County**
  - **Dolly Sods Wilderness Area – PM<sub>2.5</sub>**
  - **Parsons – O<sub>3</sub>**

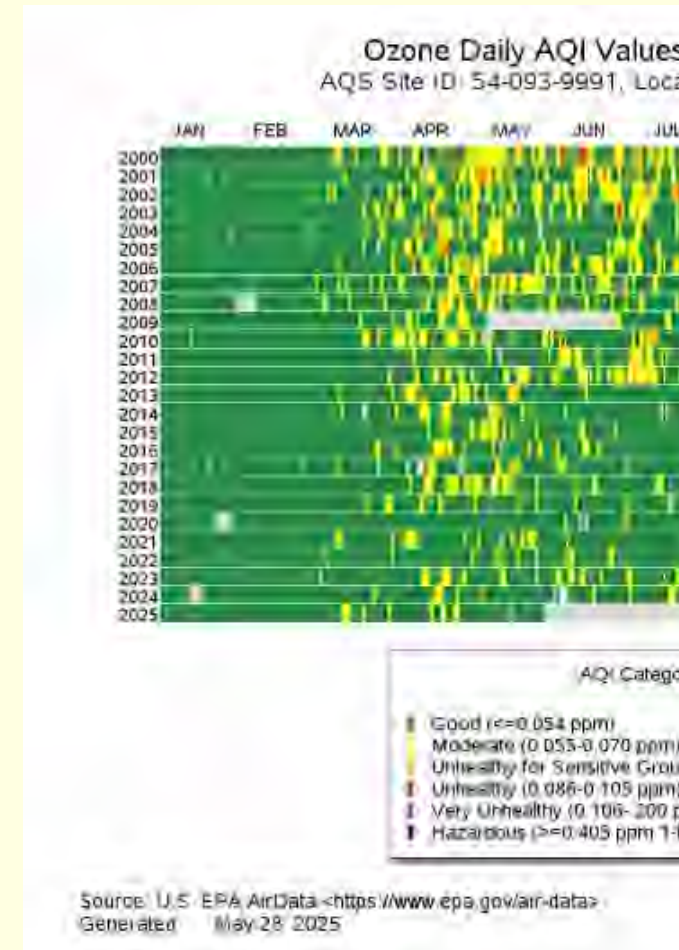


- **Dolly Sods Wilderness Area**
  - **Site is part of the Interagency Monitoring of Protective Visual Environments (IMPROVE) network**
  - **Located approximately 5 miles from Thomas**
  - **PM<sub>2.5</sub> data available dating back to 1999**
  - **PM<sub>2.5</sub> values well within the NAAQS limits**



## ■ Parsons

- Site is part of the Clean Air Status and Trends Network (CASTNET) national monitoring network
- CASTNET site includes dashboard for ozone, nitrogen deposition, and sulfur deposition
- Located approximately 10 miles from Thomas
- Monitored for ozone since 1990
- O<sub>3</sub> values well within the NAAQS limits



# Confidential Business Information (CBI)

- FD's permit application included information that was claimed to be CBI submitted under 45 CSR 31
- Application submittal included a CBI and redacted version
- CBI contained information on facility configuration and technical information on the combustion turbines and associated control devices
- WDEP review by Office of General Counsel
- Letter to FD requesting more information on CBI
- Review of FD response determined there were non-confidential alternatives available pursuant to §45-31B-4.1
- Non-confidential alternatives include
  - Aggregate hours of operation tracking
  - Aggregate heat input limitations
  - Aggregate emission limits
  - Aggregate fuel throughputs
  - Fuel categorization
  - Emissions monitoring

# What is Being Proposed?

- Facility powered by CTs equipped with heat recovery steam generators (HRSG) which generate steam by using the heat present in the exhaust gas
- HRSGs designed to have no additional firing emissions
- No duct burners required as part of the HRSGs
- CTs equipped with control devices for NOx and CO
- Primary fuel source is natural gas with diesel being used as a backup fuel
- Diesel storage tanks
- Diesel Unloading

# What is Being Proposed? *(cont.)*

- **Synthetic Minor Facility**
- **May operate using any combination of natural gas and diesel such that the total hours of operation are restricted as needed to remain under the permitted minor source thresholds**
- **Continuously monitor and maintain records of the total hours of operation for each turbine, including the total amount of hours each turbine uses natural gas as a fuel and the total amount of hours each turbine uses diesel as a fuel**
- **Rolling 12-month monthly emission calculations to ensure their emissions remain below any major source thresholds**
- **Required fuel meters**
- **Required hour meters**
- **Monitor control device operations**
- **CT Testing (NO<sub>x</sub>, SO<sub>2</sub>, CO)**

# Estimate of Emissions

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- **CTs**
  - **Manufacturer Data (criteria pollutants)**
    - **AP-42 (HAPs)**
  - **Diesel Storage Tanks**
    - **EPA TANKS 5.1**
  - **Diesel Truck Unloading**
    - **AP-42**
  - **Paved Roadways**
    - **AP-42**
  - **Fugitive Emissions**
    - **EPA Protocol for Equipment Leak Emission Estimates**

# Estimate of Emissions *(cont.)*

- **CTs**
  - Ability to combust natural gas and diesel (backup fuel)
  - Hourly fuel consumption limits
  - Maximum Design Heat Input limits
  - Aggregate hourly and annual permitted emission limits
- **Diesel Storage Tanks**
  - DAQ also estimated emissions using data from Thomas and an additional ProMax analysis
- **Diesel Truck Unloading**
  - Based on loading type, vapor pressure, molecular weight, and temperature of liquids loaded
- **Plant Roadways**
  - Based on operating days and truck type
- **Fugitive Emissions**
  - Based on industry-wide estimated component counts

# Meteorological Conditions

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- FD did not use meteorological data from Elkins for their CTs as some commenters have stated. The correct location data for the site was utilized.



# Storage Tank Emissions

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- **EPA TANKS 5.1**
  - **Liquid Contents**
  - **Storage tank dimensions**
  - **Construction**
  - **Paint Condition**
  - **Meteorological Conditions**
- **Application utilized closest populated meteorological data (Elkins)**
  - **DAQ created customized weather data for Thomas and recalculated which resulted in lower emissions**
  - **DAQ also utilized an alternative simulation program (ProMax) which resulted in lower emissions than EPA TANKS 5.1**

# Diesel Unloading

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- Diesel fuel has been proposed to be used as a backup fuel
- There is a maximum hourly fuel throughput rate based on the short-term combustion
- There is also an annual throughput limitation to the storage tanks and diesel unloading based on 15 million gallons per year

# Facility PTE

Emission Source	Annual Emissions (tons/year)					
	NO <sub>x</sub>	CO	VOC	SO <sub>2</sub>	PM <sub>10</sub>	Total HAPs
Combustion Turbines	99.35	56.36	43.84	58.89	71.44	9.33
Diesel Storage Tanks	-	-	0.10	-	-	0.10
Diesel Truck Unloading	-	-	0.17	-	-	0.17
Plant Roads	-	-	-	-	0.42	-
Fugitive Leaks	-	-	0.10	-	-	0.10
<b>Facility PTE</b>	<b>99.35</b>	<b>56.36</b>	<b>44.21</b>	<b>58.89</b>	<b>71.86</b>	<b>9.70</b>

# Source Determination

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- **Synthetic Minor**
  - **Physical and operational limitations so that source is below PSD major thresholds**
- **Enhanced monitoring and recordkeeping**
- **FD may not relax the synthetic minor limits and become a major source without first retroactively obtaining a PSD permit for the facility (§45-14-19.7)**

# Greenhouse Gas (GHG) Emissions

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- No state or federal statutory basis or air quality standard to require minor stationary sources to quantify GHG emissions or implement a GHG control strategy
- SCOTUS rules that GHGs alone could not define a source as major
- Exception is a voluntary request to limit the emissions of GHGs to levels that would maintain the facility at minor source levels for GHGs under PSD if another pollutant had already triggered major source status

## ■ WV Legislative Rules

- 45CSR4: To Prevent and Control the Discharge of Air Pollutants Which Causes or Contributes to an Objectionable Odor or Odors
- 45CSR13: Minor Source Permitting Rule
- 45CSR16: Standards of Performance for New Stationary Sources (applicable Federal Air Quality Regulations)
- 45CSR17: To Prevent and Control Particulate Matter Air Pollution from Handling, Preparation, Storage and Other Sources of Fugitive Particulate Matter
- 45CSR22: Air Quality Management Fee Program (Minor Source)
- 45CSR40: Control of Ozone Season Nitrogen Oxide Emissions from Combustion Turbines

## ■ Federal Air Quality Regulations

- 40CFR60, Subpart KKKK: Combustion Turbines

- **WV Legislative Rules**

- **45CSR33: Acid Rain Provisions and Permits**
- **45CSR30: Operating Permits (Title V)**

- **Federal Air Quality Regulations**

- **40CFR60, Subpart TTTTa: Standards of Performance for Greenhouse Gas Emissions for Modified Coal-Fired Steam Electric Generating Units, Construction and Reconstruction Stationary Combustion Turbines, and Generating Units**
- **40CFR70: Title V Operating Permit Program**
- **40CFR72: Acid Rain Program**
- **40CFR97, Subpart DDDDD: Federal NOx Budget Trading Program**

# WVDAQ Documents

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- **Engineering Evaluation/Fact Sheet**
  - **Rationale document for Preliminary Determination**
- **Draft Permit**
  - **Includes operating restrictions, emission limitations and monitoring, recordkeeping and reporting requirements**
  - **Enforces the potential-to-emit (PTE) upon which we based our Preliminary Determination to approve**



- **Administrative information**
- **Discussion of Confidential Business Information**
- **Description of proposed facility/emission units**
- **Discussion of emission calculations**
- **Quantifies proposed emissions per pollutant**
- **Applicability and compliance with federal regulations and state air quality rules**
- **Monitoring, record keeping, reporting, and testing requirements**
- **DAQ statutory authority**

# Draft Permit

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- Facility-wide requirements
- Specific unit requirements
  - Limitations and standards
    - Maximum Design Heat Input Capacities
    - Operating Requirements
    - Fuel specifications
    - Control technology requirements
  - Monitoring requirements
  - Performance testing and compliance requirements
  - Recordkeeping requirements
  - Reporting requirements

# What Happens Next?

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- Virtual meeting on July 17, 2025, to accept additional oral comments **ONLY**
- Comment period scheduled to conclude on July 18, 2025, at 5:00 PM
- Prior to a final determination, the DAQ will evaluate and respond to timely comments that are relevant to air quality issues
- DAQ will make a Final Determination pursuant to the requirements §45-13-5.7
- Final Determination will be available in same locations as Engineering Evaluation/Fact Sheet and Draft Permit

# Summary

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- FD is proposing to build a CT facility in Tucker County
- DAQ has made a preliminary determination that the proposed construction is properly defined as a minor source and will meet all applicable state rules and federal air quality regulations
- Engineering Evaluation/Fact Sheet and Draft Permit have been available for review since publication of the legal advertisement (June 18, 2025)
- DAQ will continue to accept public comments until 5:00 PM on July 18, 2025
- DAQ will evaluate and respond to all timely public air quality-related comments
- DAQ will make a final determination on this permitting action and make this determination and any related documents available at that time

# Contact Information

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West Virginia Department of Environmental Protection  
Division of Air Quality  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

Attention: Jerry Williams  
[jerry.williams@wv.gov](mailto:jerry.williams@wv.gov)

**\*\* Fundamental Data Comments as subject line \*\***

<https://dep.wv.gov/daq/permitting/Pages/NSR-Permit-Applications.aspx>

## 7. IPR Documents



Williams, Jerry &lt;jerry.williams@wv.gov&gt;

## WV DAQ Permit Application Status for Fundamental Data LLC; Ridgeline Facility

1 message

**Mink, Stephanie R** <stephanie.r.mink@wv.gov> Wed, Mar 19, 2025 at 10:33 AM  
 To: Casey Chapman <cchapman@fundamentaldataldata.com>, Lewis Reynolds <lewis.reynolds@prismrenewables.com>, lblinn@cecinc.com  
 Cc: Joseph R Kessler <joseph.r.kessler@wv.gov>, Jerry Williams <jerry.williams@wv.gov>, Casey M Samples <casey.m.samples@wv.gov>, Gregory L Null <gregory.l.null@wv.gov>, Kathy M Sullivan <kathy.m.sullivan@wv.gov>, Barbara A Miles <barbara.a.miles@wv.gov>

### Application Status

**Fundamental Data LLC; Ridgeline Facility**

**Facility ID: 093-00034**

**Application No. R13-3713**

Mr. Chapman:

Your application for a Construction Permit for the Ridgeline facility was received by this division on March 18, 2025, and was assigned to Jerry Williams. The following items were not included in the initial application submittal:

**Copy of Class I legal advertisement affidavit.**

**Application fee of \$2,000.00.**

- Credit card payments may be made by contacting the Accounts Receivable section at 304-926-0499 x 41195. DEP accepts Visa and MasterCard only. Please have the Facility ID and Application Number available when calling.

*These items are necessary for the assigned permit writer to continue the 30-day completeness review*

Within 30 days, you should receive notification from Jerry Williams stating the status of the permit application and, if complete, given an estimated time frame for the agency's final action on the permit.

Any determination of completeness shall not relieve the permit applicant of the requirement to subsequently submit, in a timely manner, any additional or corrected information deemed necessary for a final permit decision.

Should you have any questions, please contact the assigned engineer, Jerry Williams, at 304-926-0499, extension 41214.

--

**Stephanie Mink**

Environmental Resources Associate

West Virginia Department of Environmental Protection

Division of Air Quality, Title V & NSR Permitting

601 57<sup>th</sup> Street SE

Charleston, WV 25304

Phone: 304-926-0499 x41281



# The Parsons Advocate

Mountain Media, LLC  
P.O. Box 429  
Lewisburg, WV 24901

## Invoice

DATE	INVOICE #
3/26/2025	25-429861

BILL TO

Civil & Environmental Consultants, Inc.  
Casey Spiker  
700 Cherrington Parkway  
Moon Township, PA 15108

**PAID**  
03/20/2025

P.O. NO.	TERMS	PROJECT
----------	-------	---------

QUANTITY	DESCRIPTION	RATE	AMOUNT
	Legal Advertising in The Parsons Advocate.	38.18	38.18

FEIN 26-0028834  
Air Quality Permit Notice  
332 words set solid @ .115 per word  
3/26

<b>Total</b>	<b>\$38.18</b>
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Mountain Media, LLC publishes the Clay County Free Press, the Mountain Messenger, Properties and Lifestyles, mountainmessenger.com and numerous Specialty Publications

## LEGAL

**AIR QUALITY PERMIT NOTICE**

**Notice of Application**  
Notice is given that FUNDAMENTAL DATA LLC has applied to the West Virginia Department of Environmental Protection, Division of Air Quality, for a Construction Permit for the RIDGELINE FACILITY to be located off of US-48, near the City of Thomas, in Tucker County, West Virginia. The latitude and longitude coordinates are 39.153639° -79.466406°.

NOx:	99.55	tpy
CO:	56.36	tpy
VOC:	43.93	tpy
SO <sub>2</sub> :	58.89	tpy
PM:	97.46	tpy
PM <sub>10</sub> :	71.36	tpy
PM <sub>2.5</sub> :	71.54	tpy
Lead:	0.08	tpy
Total HAPs:	9.42	tpy

Startup of operation is planned to begin in 2027 or 2028. Written comments will be received by the West Virginia Department of Environmental Protection, Division of Air Quality (DAQ), 601 57th Street, Suite 1200, Charleston, WV 25304, for at least 30 calendar days from the date of publication of this notice. Written comments will also be received via email at [DEPAirQualityPermitting@wv.gov](mailto:DEPAirQualityPermitting@wv.gov). Any questions regarding this permit application should be directed to the DAQ at (304) 262-0499, extension 4128, during normal business hours. Dated the 18th day of March, 2025.

By: **FUNDAMENTAL DATA LLC**  
Casey L. Chapman  
Responsible Official  
125 Hired Rd. Suite 1A  
Purcellville, VA 20132

## LEGAL

## FISCAL YEAR JULY 1, 2025 - JUNE 30, 2026

## STATE OF WEST VIRGINIA

## MUNICIPALITY OF PARSONS, WEST VIRGINIA

In accordance with Code § 11-8-14, as amended, the Council proceeded to make an estimate of the amounts necessary to be raised by levy of taxes for the current fiscal year, and does determine and estimate the several amounts to be as follows:

The amount due and the amount that will become due and collectible from every source during the fiscal year INCLUDING THE LEVY OF TAXES, is as follows:

REVENUE SOURCE

## REVENUE SOURCE

Unassigned Fund Balance	\$	100,000
Priority Taxes - Current Expense		163,514
Prior Year Taxes		600
Supplemental Taxes		5,000
Tax Loss Reservations		2,000
Tax Penalties, Interest & Publication Fees		2,350
Gas & Oil Severance Tax		5,000
Excise Tax on Utilities		50,000
Water & Liquor Tax		12,000
Animal Control Tax		500
Hotel Occupancy Tax		9,000
Fines, Fees & Court Costs		2,000
Parking Violations		10,000
Licenses		4,500
Building Permit Fees		1,000
Miscellaneous Permits		240
Franchise Fees		6,000
IRP Fees (Interstate Registration Plan)		14,000
Parks & Recreation		12,500
Rents, Royalties and Concessions		165,000
Charges for Services		38,500
Contributions from Other Entities		345,000
Earning Income		10,000
Interest Earned on Investments		50
Sale of Fixed Assets		1,000
Video Lottery (LVLT)		1,000
<b>TOTAL ESTIMATED REVENUE (GENERAL FUND)</b>	<b>\$</b>	<b>895,055</b>

## COAL SEVERANCE TAX FUND

REVENUE SOURCE	
Assigned Fund Balance (Coal Fund Only)	\$ 10
Coal Severance Tax	7,50
Interest Earned on Investment	1
Reimbursements	
Refunds	
<b>TOTAL ESTIMATED REVENUE</b>	<b>\$ 7,61</b>
<b>(COAL SEVERANCE FUND)</b>	

### ESTIMATED CURRENT EXPENDITURES

Mayor's Office	\$ 2,384	\$
City Council	7,751	
Recorder's Office	1,938	
City Manager's Office	18,800	
Treasurer's Office	13,500	
Police Judge's Office	4,300	
City Attorney	30,000	
Clerical	16,000	
Regional Development Authority	2,000	
City Hall	224,356	7,611
Public Grounds	7,000	
Contingencies	89,500	
Police Department	95,000	
Streets and Highways	225,000	
Street Lights	30,000	
Signs and Signals	10,000	
Snow Removal	21,000	
Street Construction	12,900	
Parks & Recreation	10,625	
Visitors Bureau	4,500	
Fair Associations / Festivals	25,000	
Community Center	34,000	
Youth Program	1,000	
Recreational Programs	10,000	
<b>TOTAL ESTIMATED EXPENDITURES</b>	<b>\$ 895,054</b>	<b>7,611</b>

## MUNICIPALITY OF PARSONS, WEST VIRGINIA

## Regular Current Expense Levy

## FISCAL YEAR JULY 1, 2025 - JUNE 30, 2026

	Certificate of Valuation Assessed Value for Tax Purposes	Levy Rate=1/100	Taxes Levied
<b>CLASS I</b>			
Personal Property	\$ 0	10.47	\$ 0
Public Utility	0		0
<b>Total Class I</b>	<u>\$ 0</u>		<u>\$ 0</u>
<b>CLASS II</b>			
Personal Property	\$ 29,217,810	20.94	\$ 611,82
Real Estate	399,119		836
<b>Total Class II</b>	<u>\$ 29,616,929</u>		<u>\$ 620,18</u>
<b>CLASS IV</b>			
Real Estate	\$ 15,930,000	41.88	\$ 66,715
Personal Property	8,792,238		36,622
Public Utility	3,860,574		16,837
<b>Total Class IV</b>	<u>\$ 28,682,812</u>		<u>\$ 120,174</u>
<b>Total Value &amp; Projected Revenue</b>	<u>\$ 58,299,792</u>		<u>\$ 182,12</u>
Less Delinquencies, Exemptions & Uncollectible Taxes	7.00%		3,788
Less Tax Discounts (use Total Projected Revenue to calculate)	2.00%		0
Less Allowance for Tax Increment Financing (if Applicable)			0
<b>Total Projected Property Tax Collection</b>			<u>\$ 166,000</u>
Less Assessor Valuation Fund	1.50%		2,439
(Subtracted from regular current expense taxes levied only)			
<b>Net Amount to be Raised by Levy of Property Taxes</b>			<u>\$ 163,514</u>

I, Richard L. Lemons, Recording Officer of said municipality, do hereby certify that the foregoing are true copies from the record of the orders made and entered by the council of the said municipality on the 18th day of March 2025.

Paul L. Lums  
(Signature)  
C. J. Bowers  
(Official Title of Receiving Officer)

## LEGAL

**IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER**

**Exceeded Maximum Contaminant Level (MCL) for Haloacetic Acids**  
**HAMRICK FSD, WY234704**

*Our water system recently violated a drinking water standard. Although this is not an emergency, you, as our customers, have the right to know what happened, what you should do, and what we are doing to correct the situation.*

*We routinely monitor for the presence of drinking water contaminants. Test results for 1/1/2025 and 3/3/2025 show that our system exceeds the standard or maximum contaminant level (MCL) for Haloacetic Acids. The average level of Haloacetic Acids over the last four quarters was 62.00000000000000 µg/L at #1 LEADNITE RPS location. The standard for Haloacetic Acids is 60.00 µg/L.*

*You do not need to use an alternative (e.g. bottled) water supply. However, if you have specific health concerns, it is recommended that you consult with your doctor.*

**What does this mean?**  
This is not an immediate risk. If it had been, you would have been notified immediately. However, some people who drink water containing Halocetic Acids in excess of the MCL over many years may have an increased risk of cancer.

The quarterly average of HAA<sub>5</sub> is still just over the MCL. First quarter total was 0.014 µg/L, which is well under the MCL 0.069, but the quarterly average is 0.062 µg/L. Additional flushing has been performed to help

For more information, please contact Jason S. Lipcumb at (304) 478-2898 or P.O. Box 228, Hendricks, WV 26271.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This Notice is being sent to you by: **BLAIRICK PSD**  
State Water System ID #: **WV3304704** Date Distributed: **3/18/25**

## LEGAL

## Tucker County Commission Levy Estimate (Budget)

## STATE OF WEST VIRGINIA

In accordance with Code §11-8-10, as amended, the Tucker County Commission proceeded to make an estimate of the amounts necessary to be raised by levy of taxes for the current year, and both determine and estimate the several amounts to be as follows:

General Fund		Estimated Revenues
Fund Balance		1,000,000
Property Taxes Current Year		3,428,797
Prior Year Taxes		65,000
Tax Penalties, Interest & Publication Fees		30,000
Dog Tax		500
Property Transfer Tax		125,000
Gas & (H) Severance Tax		20,000
Wine & Beer Tax		15,000
Hotel Occupancy Tax		1,000,000
Payment in Lieu of Taxes		45,000
Federal Grants / Federal Payment in Lieu of Taxes		300,000
State Grants		50,000
Sheriff's Service of Process		5,000
Courtesy Clerk's Earnings		20,000
Circuit Clerk's Earnings		6,500
Accident Reports		400
Motor Vehicle License Fee		16,000
Rents & Concessions		50,000
Special Patrol / Security Systems		300
Franchise Agreements		8,700
BPZ Fees (Inmate Registration Plan)		30,000
Regional Jail Operations Partial Reimbursements		6,500
Interest Earned		10,000
Miscellaneous Revenue		21,285
Sheriff's Commission		15,000
Gaming License		40,000
Video Lottery		3,000
Refunds / Reimbursements (External Sources)		706,000
Transfer Awardee's Voluntary Payout		177,282
<b>Total Estimated General Fund Revenues</b>		<b>1,810,454</b>
<b>Cost Severance Tax</b>		<b>Estimated Revenues</b>
Assigned Fund Balance		\$ 33,687
Cost Severance Tax		5,200
<b>Total Cost Severance</b>		<b>\$ 38,887</b>

### ESTIMATED EXPENDITURES

**GENERAL GOVERNMENT**

County Commission	\$ 4,166,611	\$ 38,667
County Clerk	320,762	-
Circuit Clerk	218,320	-
Sherriff - Treasurer	411,508	-
Prosecuting Attorney	340,618	-
Assessor	239,440	-
Assessor's Valuation Fund	177,482	-
Statewide Computer Network	18,090	-
Agriculture Agent	128,031	-
Elections - County Clerk	105,617	-
Magistrate Court	10,000	-
Circuit Court	6,222	-
Courtthouse	867,550	-
Regional Development Authority	2,563	-
Economic Development	82,000	-
Rehabilitation of Property	40,000	-
Contingencies - Not to Exceed 10% of Budget	75,000	-
<b>TOTAL GENERAL GOVERNMENT</b>	<b>5,595,127</b>	<b>38,667</b>
<b>PUBLIC SAFETY</b>	<b>7,206,067</b>	
Sherriff - Law Enforcement	1,051,151	-
Sherriff - Service of Process	150,000	-
Regional Jail	91,034	-
Emergency Services	863,959	-
Communication Center	140,000	-
Fire Department	250,000	-
Ambulance Authority	190,541	-
Dog Warden / Humane Society	538,781	-
Community Based Corrections Program	11,428	-
<b>TOTAL PUBLIC SAFETY</b>	<b>2,580,952</b>	
<b>HEALTH AND SANITATION</b>	<b>35,000</b>	
Local Health Department	35,000	-
<b>TOTAL HEALTH &amp; SANITATION</b>	<b>35,000</b>	
<b>CULTURE AND RECREATION</b>	<b>120,000</b>	
Parks & Recreation	80,000	-
4-H Camp	20,000	-
Historical Commission	500,000	-
Visitor's Bureau	27,500	-
Library	747,500	-
<b>TOTAL CULTURE &amp; RECREATION</b>	<b>217,500</b>	
<b>SOCIAL SERVICES</b>	<b>21,285</b>	
<b>TOTAL SOCIAL SERVICES</b>	<b>21,285</b>	
<b>CAPITAL PROJECTS</b>	<b>21,285</b>	
Assets	21,285	-
<b>TOTAL CAPITAL OUTLAY</b>	<b>21,285</b>	
<b>Total Expenditures</b>	<b>\$ 7,189,464</b>	<b>\$ 38,667</b>

## TUCKER COUNTY, WEST VIRGINIA

## REGULAR CURRENT EXPENSE LEVY

## FISCAL YEAR, JULY 1, 2025 - JUNE 30, 2026

Current Year	Certificate of Valuation Assessed Value for Tax Purposes	Levy Rates/100	Taxes Levied
Class I			
Personal Property	\$ 0	11.28	0
Public Utility	0		
Total Class I	\$ 0		0
Class II			
Real Estate	\$ 448,089.110	22.56	\$ 1,010,889
Personal Property	2,872,322		6,480
Total Class II	\$ 450,961,437		\$ 1,017,369
Class III			
Real Estate	\$ 314,004,660	45.12	\$ 1,416,789
Personal Property	130,947,857		590,837
Public Utility	56,467,222		254,509
Total Class III	\$ 501,359,739		\$ 2,262,135
Class IV			
Real Estate	\$ 69,648,760	45.12	\$ 3,142,255
Personal Property	22,271,249		100,448
Public Utility	9,910,412		44,756
Total Class IV	\$ 101,829,421		\$ 359,461
<b>Total Value &amp; Projected Revenue</b>	<b>\$ 1,054,186,592</b>		<b>\$ 7,379,003</b>
Less Delinquencies, Exonerations & Uncollectible Taxes	5.00%		186,950
Less Property Discounts	2.60%		71,041
Less Allowance for Tax Increment Financing (if Applicable)			0
<b>Total Projected Property Tax Collection</b>			<b>\$,681,012</b>
Less Assessors' Valuation Fund	1.50%		0
(Subtracted from regular current expense taxes levied only)			
<b>Net Amount to be Raised by Levy of Property Taxes</b>			<b>\$ 3,681,012</b>

STATE OF WEST VIRGINIA  
COUNTY OF TUCKER  
I, Sherry Simmons, CLERK OF THE COUNTY COMMISSION OF SAID COUNTY, DO HEREBY CERTIFY THAT THE FOREGOING ARE TRUE COPIES FROM THE RECORD OF ORDERS MADE AND ENTERED BY SAID COMMISSION ON THE 12th DAY OF MARCH 2025.

5. *John J. Danaher*



# The Parsons Advocate

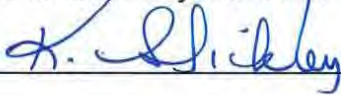
MOUNTAIN MEDIA LLC  
PO Box 429 Lewisburg, WV 24901  
304-647-5724

## CERTIFICATE OF PUBLICATION

State of West Virginia  
County of Tucker, SS:

I, **Kathleen Stickley**, one of the Editors or Agents of **The Parsons Advocate**, a weekly newspaper of general circulation published at Parsons, WV in the County of Tucker, State of West Virginia, do certify that publication of the advertisement or advertisements **Air Quality Permit Notice**, attached here to was made in **1 issue(s)** of the newspaper, dated **March 26<sup>th</sup>, 2025**.

Given under my hand this **31st Day of March 2025**.



Editor or Publisher

**\$38.18**  
**Publication fee**

Subscribed and Sworn to before me

This 31 day of March, 2025

My commission expires: August 20, 2028

Signature



Notary Public





Williams, Jerry &lt;jerry.williams@wv.gov&gt;

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## WV DAQ NSR Permit Application Complete for Fundamental Data LLC - Ridgeline Facility

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Williams, Jerry &lt;jerry.williams@wv.gov&gt;

Wed, Apr 9, 2025 at 10:42 AM

To: Casey Chapman &lt;cchapman@fundamentaldata.com&gt;, Lewis Reynolds &lt;lewis.reynolds@prismrenewables.com&gt;, "Blinn, Leah" &lt;lblinn@cecinc.com&gt;, "Spiker, Casey" &lt;cspiker@cecinc.com&gt;

Cc: Joseph R Kessler &lt;joseph.r.kessler@wv.gov&gt;

**RE: Application Status: Complete  
Fundamental Data, LLC - Ridgeline Facility  
Permit Application R13-3713  
Plant ID No. 093-00034**

Casey,

Your application for a 45 CSR 13 Construction Permit for a turbine power facility was received by this Division on March 18, 2025 and assigned to the writer for review. Upon review of said application, it has been determined that the application is complete and the statutory review period commenced on April 9, 2025.

**In the case of this application, the agency believes it will take approximately 90 days to make a final permit determination.**

This determination of completeness shall not relieve the permit applicant of the requirement to subsequently submit, in a timely manner, any additional or corrected information deemed necessary for a final permit determination.

Should you have any questions, please contact me at (304) 926-0499 ext. 41214 or reply to this email.

Thank you,  
Jerry

**Jerry Williams, P.E.***Engineer, Division of Air Quality*

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**WV Department of Environmental Protection**

601 57th Street SE, Charleston, WV 25304

**Phone** 304 926 0499, ext. 41214**Web** [dep.wv.gov](http://dep.wv.gov) **Email** [jerry.williams@wv.gov](mailto:jerry.williams@wv.gov)



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west virginia department of environmental protection

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Division of Air Quality  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304  
(304) 926-0475

Harold D. Ward, Cabinet Secretary  
dep.wv.gov

April 25, 2025

Mr. Casey Chapman  
Responsible Official  
Fundamental Data LLC  
[cchapman@fundamentaldata.com](mailto:cchapman@fundamentaldata.com)

Re: Confidential Business Information  
Fundamental Data LLC  
Permit Number: R13-3717  
Facility ID Number: 093-00034

Mr. Chapman:

On March 18, 2025, Fundamental Data LLC (FD) submitted an air permit application (R13-3713) that contained information claimed as confidential business information (CBI). A redacted copy of the permit application was provided that has been made available for public review. As you are aware, the Division of Air Quality (DAQ) has received hundreds of public comments concerning the proposed project, many of which have specifically requested release of the information that has been redacted in the public version of the application. These written requests for release of information currently redacted have triggered a review of the CBI claims by the DEP's Office of the General Counsel (OGC). This review is governed by the applicable WV Legislative Rules 45CSR31, 31a, and 31b. At this time, the review has determined that the information claimed as CBI may not qualify for such designation as it falls under the definition of "Types and Amounts of Air Pollutants Discharged" as excluded under §45-31-6 and defined under §45-31-2.4 (and further defined under 45CSR31b). There is also some concern that the claimed CBI may not meet the eligibility requirements under §45-31-4.1(b) and 4.1(c).

At this time the OGC is requesting further justification (beyond that which is given on the CBI cover document) that the information claimed as CBI is not defined as "Types and Amounts of Air Pollutants Discharged" and also does not conflict with the eligibility requirements under §45-31-4.1(b) and 4.1(c). Please note that no information will be released without both FD having a full opportunity to justify the claims of CBI and the opportunity to have a full consultation with the WVDEP over this matter.

While the technical review of the permit application will continue, this request for additional information will pause the statutory review clock and place the permit application in a status of incomplete. Please provide a written response within fifteen (15) days of receipt of this request to facilitate the continued review of Permit Application R13-3713.

Sincerely,



Jason Wandling,  
WVDEP General Counsel

cc: Lewis Reynolds, lreynolds@fundamentaldata.com  
Leah Blinn, CEC, lblinn@cecinc.com



May 7, 2025

Jason Wandling  
General Counsel  
WV Department of Environmental Protection  
601 57th Street, SE  
Charleston, WV 25304

**Re: Confidential Business Information**  
**Permit Number: RB-3717**  
**Facility ID Number: 093-00034**

Dear Mr. Wandling,

We write in reply to your letter dated April 25, 2025, concerning the West Virginia Department of Environmental Protection's (WVDEP) purported rescission of its prior completeness determination for our permit application. We address the confidentiality claims contained in our application and to reaffirm the basis for the redaction of certain proprietary information, which is critical to the Ridgeline project and, by extension, to the broader success of innovative initiatives in the State of West Virginia.

We respond in the spirit of constructive dialogue and cooperation; however, we respectfully assert that the Department's decision appears inconsistent with applicable administrative procedures. We reserve all rights available to us in law and equity.

The Ridgeline project arises at a time of extraordinary technological transformation and global competition. The United States faces growing pressure from foreign adversaries, particularly in areas of artificial intelligence and advanced computing. The essential infrastructure to support this innovation, particularly reliable power generation, has lagged nationwide due to regulatory and permitting delays. Policymakers in West Virginia, including Governor Morrissey and the Legislature, should be commended for their foresight in enacting the Power Generation and Consumption Act of 2025 (the "Power Act"), which positions the State to capitalize on this fleeting opportunity. Our project directly supports West Virginia's stated goal and represents more than a power generation resource — it is a strategic investment in national and economic security.

In this environment, Rule 31 plays a critical role in protecting confidential business information (CBI) and trade secrets from disclosure to the public and to Fundamental's

competitors. The proper interpretation and application of Rule 31 will determine whether West Virginia can compete successfully for next-generation technology and energy infrastructure. The ability to maintain the confidentiality of proprietary business information is not only vital to our company's competitiveness but is also a key factor considered by other investors evaluating projects within the State. If the State cannot protect confidential business information in a manner consistent with its laws, the State will chill investment and drive away businesses the Power Act intends to attract.

We understand that public interest in the project has increased, and we are committed to engaging constructively with local stakeholders. Our confidentiality claims are not intended to obscure our operations from the public but are necessary to protect sensitive, proprietary data from our competitors, as the regulations correctly allow. The public should not assume that redacting information from the public version of our application is an attempt to hide relevant data; rather, such redactions are necessary to protect innovation from theft. Although not directly relevant to the Department's position here, we emphasize the following to provide some comfort to the public:

1. Ridgeline does not plan any consumption or use of water resources from or discharge of wastewater to local rivers, streams, or municipal systems.
2. If advanced, the project will result in the creation of substantial, high-paying, permanent jobs and generate unprecedented tax revenue for local jurisdictions.
3. The plant is sited in a lowland area surrounded by hills that should substantially limit and may even completely obscure visibility of the plant from public roadways or populated areas.
4. The facility expects to operate at noise levels below the threshold requiring hearing protection under OSHA regulations and is physically more than one mile from the nearest occupied structure and is buffered by topography and forest.

Turning to the core issue of confidentiality: while your letter does not explicitly reference a Freedom of Information Act (FOIA) request, §45-31 suggests that a determination under Rule 31 was initiated upon receipt of a public records request under §29B-1-1. We presume, therefore, that such a request has been made and request a copy of all such requests.

We remain confident that the redacted materials meet the statutory definition of "trade secrets" under §45-31-2.3, as

*"trade secrets" may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or*



*other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors.*

Note that "trade secrets" includes plans, patterns and processes, such as the identity, number and configuration of power sources that provide an advantage over competitors. With that in mind, the redacted materials in our application fall within two categories:

1. Information governed by binding confidentiality and non-disclosure agreements with third-party vendors, and
2. Proprietary data constituting trade secrets under applicable law.

Your letter states that your

*"review has determined that the information claimed as CBI may not qualify for such designation as it falls under the definition of "Types and Amounts of Air Pollutants Discharged" as excluded under §45-31-6 and defined under §45-31-2.4 (and further defined under 45CSR31 b). There is also some concern that the claimed CBI may not meet the eligibility requirements under §45-31-4.l(b) and 4.l(c)."*

The above reflects claims that the redacted information may constitute "types and amounts of air pollutants discharged," which cannot be claimed as confidential under §45-31-6 and the definitions provided in §45-31-2.4 and 45CSR31B. However, this interpretation is not supported by the text of §45-31-2.4, which reads as follows:

*2.4.a.1. Emission data necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;*

*2.4.a.2. Emission data necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and*

*2.4.a.3. A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).*

As we are a proposed new facility and have not yet emitted any pollutants, §45-31-2.4.a.1 is inapplicable. We have duly provided all the required information under §45-31-2.4.a.2 and §45-31-2.4.a.3. The redacted portions of our application pertain solely to specific equipment identification and our system configuration, which do not constitute emissions data. Even without the redacted material, the Department has sufficient information to set verifiable limits on the collective emissions from this equipment, which cumulatively constitute the source. A "stationary source" is defined in §45-13-2.24 as "any building, structure, facility, installation, or emission unit, or combination thereof . . . ." This definition supports our position that emissions data requirements need not extend to the disclosure of sub-emissions from individual components of a source but rather pertain to the source in its entirety. The rule contemplates disclosure of emissions from the "source," not necessarily from each subcomponent of a source, where total emissions can be effectively limited by reasonable permit conditions. The source is broadly defined under §45-13-2.24 as including combinations of emission units, further reinforcing this point. The public, therefore, has full access to all required emissions data as defined, without compromising sensitive technical information.

Furthermore, §45-31-2.4.a.2 refers to "emission data necessary to determine the identity, amount, frequency, concentration or other characteristics" of the emission source, meaning that the information necessary to development of emission limits cannot be CBI. The redacted information can be CBI because it is not necessary to the determination of emission limits. Verifiable limits can be developed without the redacted material, based on general knowledge of turbine operations, permissible fuel sources, hours of operation and other factors that can be specified in the permit. The proposed project is one where alternatives to CBI, such as use of "aggregation, categorization, surrogate parameters, emissions monitoring or sampling, or parametric monitoring", can result in "a practically enforceable method of determining emissions." §45-31B-4.1.

Finally, your letter references potential deficiencies under §45-31-4.1(b) and 4.1(c), which relate to the applicant's efforts to maintain confidentiality. We are uncertain what "concern" exists in this regard, as we have taken and continue to take robust measures to protect the confidentiality of our trade secrets. If WVDEP has reason to believe otherwise, we respectfully request the detailed and specific factual basis for such a concern so we may address it directly.

The Department has an unredacted version of the application before it and its review should continue without pause. The number of inquiries about the project received by the Department does not affect the nature of the information redacted. We respectfully submit that our redactions are correct, consistent with applicable law, and are absolutely crucial to our competitive position in our field.

We trust this response clarifies the basis for our confidentiality designations and supports a determination by Secretary Ward that the information in question qualifies for CBI protection under Rule 31. Should that not be the case, we request further and immediate clarification

of the Department's position without release of **any redacted material to the general public**. In the event of a disagreement between the Department and an applicant regarding CBI, the Department might suspend permitting, but there is no authority for the Department to release information.

Please contact me if you would like to further discuss this response or the project that we have proposed.

Respectfully submitted,

A handwritten signature in black ink that reads "Casey Chapman". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Casey Chapman



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west virginia department of environmental protection

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Office of Legal Services  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304  
(304) 926-0460

Harold D. Ward, Cabinet Secretary  
dep.wv.gov

May 12, 2025

Mr. Casey Chapman  
Responsible Official  
Fundamental Data LLC  
cchapman@fundamentaldata.com

Re: Confidential Business Information  
Fundamental Data LLC  
Permit Number: R13-3713  
Facility ID Number: 093-00034

Mr. Chapman:

The WVDEP appreciates your timely response to the letter from the WVDEP's Office of the General Counsel ("OGC") sent to you on April 25, 2025. To be clear, as stated in the OGC's letter, while the review of your confidential business information ("CBI") claims was triggered by the public comments received that requested additional information to be released, the subsequent letter was sent under the authority granted to the Secretary under 45CSR13, Sections 5.4 and 5.8 relating to the information required for a complete application. It is important to note that all public comments received by the WVDEP are part of the public record and available for your review upon request.


Further, 45CSR13 grants the Secretary the authority to determine when a permit application is complete (§45-13-5.8), and is explicit that such a designation does not preclude the WVDEP from requesting additional information (language that was included in your completeness e-mail sent on April 9, 2025). Clearly, if additional information is requested, the application can no longer be considered complete, and the WVDEP believes that a reasonable interpretation of 45CSR13 allows for the Secretary to have discretion when requesting additional information to pause (or in some cases even later restart) the statutory clock. If this is not the case, an applicant could control the review process through delay in submitting additional information or, detrimental to the regulated community, strip the WVDEP of the flexibility and time to work with applicants to provide a complete application. However, as stated in the OGC's letter, the DAQ's technical review of the permit application was not affected by the change of application status and is on-going, and WVDEP remains as before committed to a full and complete review, pursuant to the rules governing such a review, and done in a timely manner.

Concerning your further justification of the CBI claims, the WVDEP has reviewed the information provided and has determined that there are non-confidential alternatives through the use of aggregation, categorization, surrogate parameters, emissions monitoring or sampling, or parametric monitoring that result in a practically enforceable method of determining emissions from the proposed facility (as provided for under §45-31B-4.1). These alternatives may include, but are not limited to, the use of aggregate hours of operation tracking, aggregate heat input limitations, aggregate emission units, aggregate fuel throughputs, and categorized fuels. These non-confidential alternatives are consistent with applicable rules and standards and will result in a practically enforceable method of determining emissions., etc. Further, the WVDEP has determined that, pursuant to §45-31-4.1(b) and 4.1(c), there are not reasonable means to obtain the information claimed as CBI by using the publicly available aggregated data. It is therefore the WVDEP's determination that the information claimed by Fundamental Data, LLC as CBI in Permit Application R13-3713 satisfies the necessary requirements to be deemed confidential and will be maintained as such.

As noted above, the WVDEP has received a significant number of comments from concerned citizens. Accordingly, the WVDEP encourages sensitivity to those concerns and the exercise of transparency to the greatest extent possible regarding information not claimed as confidential.

Please note that this determination is specific to Permit Application R13-3713 and does not necessarily apply to any changes to the current application or modifications in the future without additional review. With this response, the statutory clock shall restart and will be backdated to the date of submission of the response letter on May 7, 2025.

Sincerely,

  
C. Scott Driver,  
Chief, Office of Legal Services



Williams, Jerry &lt;jerry.williams@wv.gov&gt;

## Publication of Class I Legal Ad for the WV Division of Air Quality

2 messages

**Mink, Stephanie R** <stephanie.r.mink@wv.gov>  
**To: Kathleen Stickley** <legalads@mountainmedianews.com>  
**Cc: Jerry Williams** <jerry.williams@wv.gov>

Thu, Jun 12, 2025 at 3:05 PM

Please publish the information below as a Class I legal advertisement (one time only) in the Wednesday, June 18, 2025 issue of The Parsons Advocate. Please let me know that this has been received and will be published as requested. If this notice cannot be published on June 18 please advise prior to publication; I will need to change the last day for comments within the notice prior to printing.

Send the invoice for payment and affidavit of publication to:

**Stephanie Mink**

[Stephanie.R.Mink@wv.gov](mailto:Stephanie.R.Mink@wv.gov) \*\*

**WV Department of Environmental Protection**

**DIVISION OF AIR QUALITY**

[601- 57th Street](#)

[Charleston, WV 25304](#)

**\*\*To expedite payments for legal notices we are asking that all invoices and affidavits be emailed to the requestor. Any invoices which are mailed to the office are subject to delays due to limited staff being available to sort mail. Thank you for your assistance during this transition\*\***

## AIR QUALITY PERMIT NOTICE

### Notice of Open Comment Period

On March 18, 2025, Fundamental Data LLC applied to the WV Department of Environmental Protection (WVDEP), Division of Air Quality (DAQ) for a permit to construct a turbine power facility (Ridgeline Facility) located off of US-48, near Thomas, Tucker County WV at latitude 39.15364 and longitude -79.46641. A preliminary evaluation has determined that all State and Federal air quality requirements will be met by the proposed facility. The DAQ is providing notice to the public of an open comment period for permit application R13-3713.

The following potential emissions will be authorized by this permit action: Volatile Organic Compounds, 44.21 tons per year (TPY); Nitrogen Oxides, 99.35 TPY; Carbon Monoxide, 56.36 TPY; Sulfur Dioxide, 58.89 TPY; Total Particulate Matter, 97.46 TPY; Particulate Matter less than 10 microns in diameter, 71.86 TPY; Particulate Matter less than 2.5 microns in diameter, 71.54 TPY; Total Hazardous Air Pollutants, 9.70 TPY.

The WVDEP DAQ will hold an in person public meeting to provide information and answer questions on air quality issues relevant to this permit application. The meeting will be held at the Maple/Balsam/Spruce Rooms at Canaan Valley Resort State Park, [230 Main Lodge Road, Davis, WV 26260](#) on Monday, June 30, 2025 from 6:00 p.m. until 9:00 p.m. Doors will open at 5:00 p.m. to register attendees. If you plan to attend the in-person public meeting, to save time and ensure all participants in attendance are registered, please fill out the pre-registration form at <https://forms.gle/jEQTGGPUP73xBmRJ7> by 8:00 a.m. on Monday, June 30, 2025. Upon arrival, we request that you sign your name on the pre-registration list. While pre-registration is not required, it is encouraged to save time and ensure all participants in attendance are registered. If you do not have internet access and want to pre-register, please contact Nicole Ernest at 304-926-0475.

The WVDEP DAQ will also hold a virtual public meeting to accept oral comments that are relevant to this permit application on Thursday, July 17, 2025 from 6:00 p.m. until 8:00 p.m. The purpose of this virtual public meeting is ONLY to accept oral comments, the DAQ will not be responding to questions during this virtual public meeting. Registration is required by 4:00 p.m. on Thursday, July 17, 2025 to participate in the virtual public meeting. To register, please complete the participant registration form at <https://forms.gle/dYSUgFZigRGe8WQp9>. To register to provide an oral comment, please indicate "yes" you want to provide oral comments for the record when you register with the previously provided link. A confirmation e-mail will be sent with your responses when you register. A separate email with information on how to join the public meeting will be sent shortly after registration closes at 4:00 p.m. on Thursday, July 17, 2025. If you do not have internet access and want to register, please contact Nicole Ernest at 304-926-0475. If you have previously provided written comments, you do not need to read your written comment during the virtual public meeting to accept oral comments.

Written comments must be received by the DAQ by 5:00 pm on Friday, July 18, 2025. Written comments may be submitted by:

- Email: Jerry Williams at [Jerry.Williams@WV.gov](mailto:Jerry.Williams@WV.gov) with "Fundamental Data Comments" as the subject line, or
- Mail: WVDEP - Air Quality, Attention: Jerry Williams, [601 57th Street SE, Charleston, WV 25304](#).

According to information provided by the applicant, the proposed facility could begin operation in 2027. The purpose of the DAQ's permitting process is to make a preliminary determination if the proposed construction will meet all state and federal air quality requirements. The purpose of the public review process is to accept public comments on air quality issues relevant to this determination. Only written comments received at the address noted above within the specified time frame, or comments presented orally at the scheduled public meeting, will be considered prior to final action on the permit. All such comments will become part of the public record.

Additional information, including copies of the draft permit, application and all other supporting materials relevant to the permit decision may be obtained by contacting the engineer listed above. The draft permit and engineering evaluation can be downloaded at:

<https://dep.wv.gov/daq/permitting/Pages/NSR-Permit-Applications.aspx>

---

**Mink, Stephanie R** <[stephanie.r.mink@wv.gov](mailto:stephanie.r.mink@wv.gov)>  
To: Jerry Williams <[jerry.williams@wv.gov](mailto:jerry.williams@wv.gov)>, Joseph R Kessler <[joseph.r.kessler@wv.gov](mailto:joseph.r.kessler@wv.gov)>

Thu, Jun 12, 2025 at 3:20 PM

We are confirmed for Wednesday! Jerry and I will coordinate everything else on Monday.

Thanks  
Stephanie

----- Forwarded message -----

From: <[legalads@mountainmedianews.com](mailto:legalads@mountainmedianews.com)>

Date: Thu, Jun 12, 2025 at 3:18 PM

Subject: RE: Publication of Class I Legal Ad for the WV Division of Air Quality

To: Mink, Stephanie R <[stephanie.r.mink@wv.gov](mailto:stephanie.r.mink@wv.gov)>

Received and scheduled as requested!

Thank you & Have a Blessed Day.

Kathleen Stickley

Mountain Media/Virginia Media

304-647-5724

[Quoted text hidden]



*West Virginia Department of Environmental Protection*

*Harold D. Ward  
Cabinet Secretary*

# Construction Permit



**R13-3713**

*This permit is issued in accordance with the West Virginia Air Pollution Control Act (West Virginia Code §§22-5-1 et seq.) and 45 C.S.R. 13 – Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits and Procedures for Evaluation. The permittee identified at the above-referenced facility is authorized to construct the stationary sources of air pollutants identified herein in accordance with all terms and conditions of this permit.*

*Issued to:*

**Fundamental Data LLC  
Ridgeline Facility  
093-00034**

---

*Laura M. Crowder  
Director, Division of Air Quality*

*Issued: Draft*

Facility Location: Off of US-48, Thomas, Tucker County, West Virginia  
Mailing Address: 125 Hirst Rd. Suite 1A, Purcellville, VA 20132  
Facility Description: Turbine Power Facility  
NAICS Codes: 221112 – Fossil Fuel Electric Power Generation  
UTM Coordinates: 632.512 km Easting • 4,334.946 km Northing • Zone 17  
Latitude/Longitude: 39.15364 / -79.46641  
Permit Type: Construction  
Description of Change: Construction and operation of a turbine power facility.

*Any person whose interest may be affected, including, but not necessarily limited to, the applicant and any person who participated in the public comment process, by a permit issued, modified or denied by the Secretary may appeal such action of the Secretary to the Air Quality Board pursuant to article one [§§22B-1-1 et seq.], Chapter 22B of the Code of West Virginia. West Virginia Code §§22-5-14.*

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*The source is not subject to 45CSR30.*

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## 1.0. Emission Units

Emission Unit ID	Emission Point ID	Emission Unit Description	Year Installed	Design Capacity	Control Device
CT	CT	Combustion Turbines	2025	Natural Gas 5,649.6 MMBtu/hr (aggregate)  Diesel 4,503.4 MMBtu/hr (aggregate)	NO <sub>x</sub> – SCR <sup>1</sup> CO -CO Catalyst
TK1	TK1-E	Diesel Storage Tank	2025	10,000,000 gal (nominal <sup>2</sup> )	None
TK2	TK2-E	Diesel Storage Tank	2025	10,000,000 gal (nominal <sup>2</sup> )	None
TK3	TK3-E	Diesel Storage Tank	2025	10,000,000 gal (nominal <sup>2</sup> )	None
UNLOAD	UNLOAD-E	Diesel Truck Unloading	2025	15,000,000 gal/yr	None

<sup>1</sup> Selective Catalytic Reduction

<sup>2</sup> Nominal capacity is “working volume” which considers design liquid levels

## 2.0. General Conditions

### 2.1. Definitions

- 2.1.1. All references to the “West Virginia Air Pollution Control Act” or the “Air Pollution Control Act” mean those provisions contained in W.Va. Code §§ 22-5-1 to 22-5-18.
- 2.1.2. The “Clean Air Act” means those provisions contained in 42 U.S.C. §§ 7401 to 7671q, and regulations promulgated thereunder.
- 2.1.3. “Secretary” means the Secretary of the Department of Environmental Protection or such other person to whom the Secretary has delegated authority or duties pursuant to W.Va. Code §§ 22-1-6 or 22-1-8 (45CSR§30-2.12.). The Director of the Division of Air Quality is the Secretary’s designated representative for the purposes of this permit.

### 2.2. Acronyms

<b>CAAA</b>	Clean Air Act Amendments	<b>NO<sub>x</sub></b>	Nitrogen Oxides
<b>CBI</b>	Confidential Business Information	<b>NSPS</b>	New Source Performance Standards
<b>CEM</b>	Continuous Emission Monitor	<b>PM</b>	Particulate Matter
<b>CES</b>	Certified Emission Statement	<b>PM<sub>2.5</sub></b>	Particulate Matter less than 2.5 µm in diameter
<b>C.F.R. or CFR</b>	Code of Federal Regulations	<b>PM<sub>10</sub></b>	Particulate Matter less than 10µm in diameter
<b>CO</b>	Carbon Monoxide	<b>Ppb</b>	Pounds per Batch
<b>C.S.R. or CSR</b>	Codes of State Rules	<b>Pph</b>	Pounds per Hour
<b>DAQ</b>	Division of Air Quality	<b>Ppm</b>	Parts per Million
<b>DEP</b>	Department of Environmental Protection	<b>Ppmv or ppmv</b>	Parts per Million by Volume
<b>dscm</b>	Dry Standard Cubic Meter	<b>PSD</b>	Prevention of Significant Deterioration
<b>FOIA</b>	Freedom of Information Act	<b>Psi</b>	Pounds per Square Inch
<b>HAP</b>	Hazardous Air Pollutant	<b>SIC</b>	Standard Industrial Classification
<b>HON</b>	Hazardous Organic NESHAP	<b>SIP</b>	State Implementation Plan
<b>HP</b>	Horsepower	<b>SO<sub>2</sub></b>	Sulfur Dioxide
<b>lbs/hr</b>	Pounds per Hour	<b>TAP</b>	Toxic Air Pollutant
<b>LDAR</b>	Leak Detection and Repair	<b>TPY</b>	Tons per Year
<b>M</b>	Thousand	<b>TRS</b>	Total Reduced Sulfur
<b>MACT</b>	Maximum Achievable Control Technology	<b>TSP</b>	Total Suspended Particulate
<b>MDHI</b>	Maximum Design Heat Input	<b>USEPA</b>	United States Environmental Protection Agency
<b>MM</b>	Million	<b>UTM</b>	Universal Transverse Mercator
<b>MMBtu/hr or mmbtu/hr</b>	Million British Thermal Units per Hour	<b>VEE</b>	Visual Emissions Evaluation
<b>MMCF/hr or mmcf/hr</b>	Million Cubic Feet per Hour	<b>VOC</b>	Volatile Organic Compounds
<b>NA</b>	Not Applicable	<b>VOL</b>	Volatile Organic Liquids
<b>NAAQS</b>	National Ambient Air Quality Standards		
<b>NESHAPS</b>	National Emissions Standards for Hazardous Air Pollutants		

### **2.3. Authority**

This permit is issued in accordance with West Virginia air pollution control law W.Va. Code §§ 22-5-1. et seq. and the following Legislative Rules promulgated thereunder:

- 2.3.1. 45CSR13 – *Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits and Procedures for Evaluation;*

### **2.4. Term and Renewal**

- 2.4.1. This Permit shall remain valid, continuous and in effect unless it is revised, suspended, revoked or otherwise changed under an applicable provision of 45CSR13 or any other applicable legislative rule;

### **2.5. Duty to Comply**

- 2.5.1. The permitted facility shall be constructed and operated in accordance with the plans and specifications filed in Permit Application R13-3713 and any modifications, administrative updates, or amendments thereto. The Secretary may suspend or revoke a permit if the plans and specifications upon which the approval was based are not adhered to;  
**[45CSR§§13-5.10 and -10.3.]**
- 2.5.2. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the West Virginia Code and the Clean Air Act and is grounds for enforcement action by the Secretary or USEPA;
- 2.5.3. Violations of any of the conditions contained in this permit, or incorporated herein by reference, may subject the permittee to civil and/or criminal penalties for each violation and further action or remedies as provided by West Virginia Code 22-5-6 and 22-5-7;
- 2.5.4. Approval of this permit does not relieve the permittee herein of the responsibility to apply for and obtain all other permits, licenses, and/or approvals from other agencies; i.e., local, state, and federal, which may have jurisdiction over the construction and/or operation of the source(s) and/or facility herein permitted.

### **2.6. Duty to Provide Information**

The permittee shall furnish to the Secretary within a reasonable time any information the Secretary may request in writing to determine whether cause exists for administratively updating, modifying, revoking, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Secretary copies of records to be kept by the permittee. For information claimed to be confidential, the permittee shall furnish such records to the Secretary along with a claim of confidentiality in accordance with 45CSR31. If confidential information is to be sent to USEPA, the permittee shall directly provide such information to USEPA along with a claim of confidentiality in accordance with 40 C.F.R. Part 2.

## **2.7. Duty to Supplement and Correct Information**

Upon becoming aware of a failure to submit any relevant facts or a submittal of incorrect information in any permit application, the permittee shall promptly submit to the Secretary such supplemental facts or corrected information.

## **2.8. Administrative Update**

The permittee may request an administrative update to this permit as defined in and according to the procedures specified in 45CSR13.

[45CSR§13-4.]

## **2.9. Permit Modification**

The permittee may request a minor modification to this permit as defined in and according to the procedures specified in 45CSR13.

[45CSR§13-5.4.]

## **2.10 Major Permit Modification**

The permittee may request a major modification as defined in and according to the procedures specified in 45CSR14 or 45CSR19, as appropriate.

[45CSR§13-5.1]

## **2.11. Inspection and Entry**

The permittee shall allow any authorized representative of the Secretary, upon the presentation of credentials and other documents as may be required by law, to perform the following:

- a. At all reasonable times (including all times in which the facility is in operation) enter upon the permittee's premises where a source is located or emissions related activity is conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times (including all times in which the facility is in operation) any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
- d. Sample or monitor at reasonable times substances or parameters to determine compliance with the permit or applicable requirements or ascertain the amounts and types of air pollutants discharged.

## **2.12. [Reserved]**

## **2.13. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for a permittee in an enforcement action that it should have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this paragraph shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in determining penalties for noncompliance if the health, safety,

or environmental impacts of halting or reducing operations would be more serious than the impacts of continued operations.

#### **2.14. Suspension of Activities**

In the event the permittee should deem it necessary to suspend, for a period in excess of sixty (60) consecutive calendar days, the operations authorized by this permit, the permittee shall notify the Secretary, in writing, within two (2) calendar weeks of the passing of the sixtieth (60) day of the suspension period.

#### **2.15. Property Rights**

This permit does not convey any property rights of any sort or any exclusive privilege.

#### **2.16. Severability**

The provisions of this permit are severable and should any provision(s) be declared by a court of competent jurisdiction to be invalid or unenforceable, all other provisions shall remain in full force and effect.

#### **2.17. Transferability**

This permit is transferable in accordance with the requirements outlined in Section 10.1 of 45CSR13. [45CSR§13-10.1.]

#### **2.18. Notification Requirements**

The permittee shall notify the Secretary, in writing, no later than thirty (30) calendar days after the actual startup of the operations authorized under this permit.

#### **2.19. Credible Evidence**

Nothing in this permit shall alter or affect the ability of any person to establish compliance with, or a violation of, any applicable requirement through the use of credible evidence to the extent authorized by law. Nothing in this permit shall be construed to waive any defense otherwise available to the permittee including, but not limited to, any challenge to the credible evidence rule in the context of any future proceeding.



### 3.0. Facility-Wide Requirements

#### 3.1. Limitations and Standards

- 3.1.1. **Open burning.** The open burning of refuse by any person, firm, corporation, association or public agency is prohibited except as noted in 45CSR§6-3.1.  
[45CSR§6-3.1.]
- 3.1.2. **Open burning exemptions.** The exemptions listed in 45CSR§6-3.1 are subject to the following stipulation: Upon notification by the Secretary, no person shall cause, suffer, allow or permit any form of open burning during existing or predicted periods of atmospheric stagnation. Notification shall be made by such means as the Secretary may deem necessary and feasible.  
[45CSR§6-3.2.]
- 3.1.3. **Asbestos.** The permittee is responsible for thoroughly inspecting the facility, or part of the facility, prior to commencement of demolition or renovation for the presence of asbestos and complying with 40 C.F.R. § 61.145, 40 C.F.R. § 61.148, and 40 C.F.R. § 61.150. The permittee, owner, or operator must notify the Secretary at least ten (10) working days prior to the commencement of any asbestos removal on the forms prescribed by the Secretary if the permittee is subject to the notification requirements of 40 C.F.R. § 61.145(b)(3)(i). The USEPA, the Division of Waste Management, and the Bureau for Public Health - Environmental Health require a copy of this notice to be sent to them.  
[40CFR§61.145(b) and 45CSR§34]
- 3.1.4. **Odor.** No person shall cause, suffer, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor at any location occupied by the public.  
[45CSR§4-3.1] *[State Enforceable Only]*
- 3.1.5. **Permanent shutdown.** A source which has not operated at least 500 hours in one 12-month period within the previous five (5) year time period may be considered permanently shutdown, unless such source can provide to the Secretary, with reasonable specificity, information to the contrary. All permits may be modified or revoked and/or reapplication or application for new permits may be required for any source determined to be permanently shutdown.  
[45CSR§13-10.5.]
- 3.1.6. **Standby plan for reducing emissions.** When requested by the Secretary, the permittee shall prepare standby plans for reducing the emissions of air pollutants in accordance with the objectives set forth in Tables I, II, and III of 45CSR11.  
[45CSR§11-5.2.]

#### 3.2. Monitoring Requirements

- 3.2.1. **Emission Limit Averaging Time.** Unless otherwise specified, compliance with all annual limits shall be based on a rolling twelve month total. A rolling twelve month total shall be the sum of the measured parameter of the previous twelve calendar months. Compliance with all hourly emission limits shall be based on the applicable NAAQS averaging times or, where applicable, as given in any approved performance test method.

### 3.3. Testing Requirements

- 3.3.1. **Stack testing.** As per provisions set forth in this permit or as otherwise required by the Secretary, in accordance with the West Virginia Code, underlying regulations, permits and orders, the permittee shall conduct test(s) to determine compliance with the emission limitations set forth in this permit and/or established or set forth in underlying documents. The Secretary, or his duly authorized representative, may at his option witness or conduct such test(s). Should the Secretary exercise his option to conduct such test(s), the operator shall provide all necessary sampling connections and sampling ports to be located in such manner as the Secretary may require, power for test equipment and the required safety equipment, such as scaffolding, railings and ladders, to comply with generally accepted good safety practices. Such tests shall be conducted in accordance with the methods and procedures set forth in this permit or as otherwise approved or specified by the Secretary in accordance with the following:
- a. The Secretary may on a source-specific basis approve or specify additional testing or alternative testing to the test methods specified in the permit for demonstrating compliance with 40 C.F.R. Parts 60, 61, and 63 in accordance with the Secretary's delegated authority and any established equivalency determination methods which are applicable. If a testing method is specified or approved which effectively replaces a test method specified in the permit, the permit may be revised in accordance with 45CSR§13-4. or 45CSR§13-5.4 as applicable.
  - b. The Secretary may on a source-specific basis approve or specify additional testing or alternative testing to the test methods specified in the permit for demonstrating compliance with applicable requirements which do not involve federal delegation. In specifying or approving such alternative testing to the test methods, the Secretary, to the extent possible, shall utilize the same equivalency criteria as would be used in approving such changes under Section 3.3.1.a. of this permit. If a testing method is specified or approved which effectively replaces a test method specified in the permit, the permit may be revised in accordance with 45CSR§13-4. or 45CSR§13-5.4 as applicable.
  - c. All periodic tests to determine mass emission limits from or air pollutant concentrations in discharge stacks and such other tests as specified in this permit shall be conducted in accordance with an approved test protocol. Unless previously approved, such protocols shall be submitted to the Secretary in writing at least thirty (30) days prior to any testing and shall contain the information set forth by the Secretary. In addition, the permittee shall notify the Secretary at least fifteen (15) days prior to any testing so the Secretary may have the opportunity to observe such tests. This notification shall include the actual date and time during which the test will be conducted and, if appropriate, verification that the tests will fully conform to a referenced protocol previously approved by the Secretary.
  - d. The permittee shall submit a report of the results of the stack test within sixty (60) days of completion of the test. The test report shall provide the information necessary to document the objectives of the test and to determine whether proper procedures were used to accomplish these objectives. The report shall include the following: the certification described in paragraph 3.5.1.; a statement of compliance status, also signed by a responsible official; and, a summary of conditions which form the basis for the compliance status evaluation. The summary of conditions shall include the following:

1. The permit or rule evaluated, with the citation number and language;
2. The result of the test for each permit or rule condition; and,
3. A statement of compliance or noncompliance with each permit or rule condition.

[WV Code § 22-5-4(a)(14-15) and 45CSR13]

### 3.4. Recordkeeping Requirements

- 3.4.1. **Retention of records.** The permittee shall maintain records of all information (including monitoring data, support information, reports, and notifications) required by this permit recorded in a form suitable and readily available for expeditious inspection and review. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation. The files shall be maintained for at least five (5) years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. At a minimum, the most recent two (2) years of data shall be maintained on site. The remaining three (3) years of data may be maintained off site, but must remain accessible within a reasonable time. Where appropriate, the permittee may maintain records electronically (on a computer, on computer floppy disks, CDs, DVDs, or magnetic tape disks), on microfilm, or on microfiche.
- 3.4.2. **Odors.** For the purposes of 45CSR4, the permittee shall maintain a record of all odor complaints received, any investigation performed in response to such a complaint, and any responsive action(s) taken.  
[45CSR§4. *State Enforceable Only.*]

### 3.5. Reporting Requirements

- 3.5.1. **Responsible official.** Any application form, report, or compliance certification required by this permit to be submitted to the DAQ and/or USEPA shall contain a certification by the responsible official that states that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- 3.5.2. **Confidential information.** A permittee may request confidential treatment for the submission of reporting required by this permit pursuant to the limitations and procedures of W.Va. Code § 22-5-10 and 45CSR31.
- 3.5.3. **Correspondence.** All notices, requests, demands, submissions and other communications required or permitted to be made to the Secretary of DEP and/or USEPA shall be made in writing and shall be deemed to have been duly given when delivered by hand, or mailed first class or by private carrier with postage prepaid to the address(es), or submitted in electronic format by email as set forth below or to such other person or address as the Secretary of the Department of Environmental Protection may designate:

**DAQ:**

Director  
WVDEP  
Division of Air Quality  
601 57<sup>th</sup> Street  
Charleston, WV 25304-2345

**US EPA:**

Section Chief, USEPA, Region III  
Enforcement and Compliance Assurance Division  
Air Section (3ED21)  
Four Penn Center  
1600 John F Kennedy Blvd  
Philadelphia, PA 19103-2852

**DAQ Compliance and Enforcement<sup>1</sup>:**

[DEPAirQualityReports@wv.gov](mailto:DEPAirQualityReports@wv.gov)

<sup>1</sup>For all self-monitoring reports (MACT, GACT, NSPS, etc.), stack tests and protocols, Notice of Compliance Status Reports, Initial Notifications, etc.

**3.5.4. Operating Fee**

- 3.5.4.1. In accordance with 45CSR22 – Air Quality Management Fee Program, the permittee shall not operate nor cause to operate the permitted facility or other associated facilities on the same or contiguous sites comprising the plant without first obtaining and having in current effect a Certificate to Operate (CTO). Such Certificate to Operate (CTO) shall be renewed annually, shall be maintained on the premises for which the certificate has been issued, and shall be made immediately available for inspection by the Secretary or his/her duly authorized representative.
- 3.5.4.2. In accordance with 45CSR22 – Air Quality Management Fee Program, enclosed with this permit is an Application for a Certificate to Operate (CTO). The CTO will cover the time period beginning with the date of initial startup through the following June 30. Said application and the appropriate fee shall be submitted to this office prior to the date of initial startup. For any startup date other than July 1, the permittee shall pay a fee or prorated fee in accordance with Section 4.5 of 45CSR22. A copy of this schedule may be found on the reverse side of the CTO application.
- 3.5.5. **Emission inventory.** At such time(s) as the Secretary may designate, the permittee herein shall prepare and submit an emission inventory for the previous year, addressing the emissions from the facility and/or process(es) authorized herein, in accordance with the emission inventory submittal requirements of the Division of Air Quality. After the initial submittal, the Secretary may, based upon the type and quantity of the pollutants emitted, establish a frequency other than on an annual basis.

## 4.0. Source-Specific Requirements

### 4.1. Limitations and Standards

4.1.1. The Ridgeline Facility shall consist of only the pollutant-emitting equipment and processes identified under Section 1.0 of this permit. In accordance with the information filed under Permit Application R13-3713, the equipment shall be installed, maintained and operated so as to minimize any fugitive escape of pollutants and the equipment/processes shall use the specified air pollution control devices.

4.1.2. **Maximum Design Heat Input.** The aggregate maximum design heat input (MDHI) of the combustion turbines/heat recovery steam generating units (HRSG) shall not be exceeded when firing the following fuels:

Fuel Type	MDHI (MMBtu/hr)
Natural Gas	5,649.6
Diesel Fuel	4,503.4

4.1.3. The maximum aggregate hourly emissions during steady state operations (excluding startups and shutdowns) from the combustion turbines/HRSG shall not exceed the following when firing the following fuels:

*a. Natural Gas*

Pollutant	Maximum Hourly Emissions (lb/hr) <sup>2</sup>
Nitrogen Oxides	30.80
Carbon Monoxide	6.30
Volatile Organic Compounds	14.30
Particulate Matter-10/2.5 <sup>1</sup>	23.30
Sulfur Dioxide	19.21
Total Hazardous Air Pollutants	3.04

<sup>1</sup> Includes both filterable and condensable particulate matter.

<sup>2</sup> CT shall have zero duct burner firing emissions. All emissions are attributed to CT only.

*b. Diesel*

Pollutant	Maximum Hourly Emissions (lb/hr) <sup>2</sup>
Nitrogen Oxides	74.50
Carbon Monoxide	5.40
Volatile Organic Compounds	30.90
Particulate Matter-10/2.5 <sup>1</sup>	22.10
Sulfur Dioxide	6.82
Total Hazardous Air Pollutants	5.64

<sup>1</sup> Includes both filterable and condensable particulate matter.

<sup>2</sup> CT shall have zero duct burner firing emissions. All emissions are attributed to CT only.

- 4.1.4. The maximum aggregate annual emissions during startups and shutdowns from the combustion turbines/HRSG shall not exceed the following when firing the following fuels:

*a. Natural Gas*

<b>Pollutant<sup>1</sup></b>	<b>Maximum Annual Emissions (tons/year)</b>
Nitrogen Oxides	4.54
Carbon Monoxide	37.05

<sup>1</sup> Pollutants not listed in this table are limited to the rates in permit conditions 4.1.3 and 4.1.5 at all times including startups and shutdowns.

*b. Diesel*

<b>Pollutant<sup>1</sup></b>	<b>Maximum Annual Emissions (tons/year)</b>
Nitrogen Oxides	6.22
Carbon Monoxide	46.10

<sup>1</sup> Pollutants not listed in this table are limited to the rates in permit conditions 4.1.3 and 4.1.5 at all times including startups and shutdowns.

- 4.1.5. The maximum aggregate total annual emissions<sup>1</sup> from the combustion turbines/HRSG shall not exceed the following emission limits when firing either fuel (natural gas or diesel exclusively) or any combination of natural gas or diesel:

<b>Pollutant</b>	<b>Maximum Annual Emissions (tons/year)<sup>3</sup></b>
Nitrogen Oxides	99.35
Carbon Monoxide	56.36
Volatile Organic Compounds	43.84
Particulate Matter-10/2.5 <sup>2</sup>	71.44
Sulfur Dioxide	58.89
Total Hazardous Air Pollutants	9.33

<sup>1</sup> Includes annual startup and shutdown emissions in permit condition 4.1.4.

<sup>2</sup> Includes both filterable and condensable particulate matter.

<sup>3</sup> CT has no duct burner firing emissions. All emissions are attributed to CT only.

- 4.1.6. The permittee shall meet the air pollution control technology requirements for the combustion turbines/HRSG:

<b>Pollutant</b>	<b>Control Technology</b>
Nitrogen Oxides	SCR
Carbon Monoxide	CO Catalyst

- 4.1.7. During startup and shutdown operations, the permittee shall minimize emissions by:

- a. Operating and maintaining the combustion turbines/HRSG and associated air pollution control devices in accordance with good combustion and air pollution control practices, safe operating practices, and protection of the facility. Good combustion and air pollution control practices shall mean proper operation and maintenance of combustion control systems and air pollution control equipment in accordance with manufacturer specifications. Additionally, it shall mean such practices that promote sufficient residence time of fuel in the combustion zone, thorough mixing of air and fuel, and proper combustion temperatures.

- b. Implementing operations and maintenance practices comprised of maintaining a high level of steady state operation time and minimizing (as much as practicable) the frequency of startup and shutdown events.

4.1.8. **Fuel Operating Parameters.** The combustion turbines/HRSG at the facility are capable of firing either natural gas or diesel fuel. The following fuel operating parameters apply to the permittee to address the various fuel firing scenarios:

Fuel Type	Operating Condition	Operating Parameter
Natural Gas	Maximum Hourly Fuel Consumption	5.35 MMscfh (all units)
Diesel	Maximum Hourly Fuel Consumption	32,872 gal/hr (all units)
	Sulfur Content	15 ppm (ULSD)

4.1.9. **Annual Operational Limitation.**

- a. The operating hours of each combustion turbine/HRSG, the throughput of each type of fuel (natural gas/diesel), and operation type (steady state or startup/shutdown) will be continuously monitored and recorded. The permittee will keep records of the fuel consumption (natural gas/diesel), and operating hours (natural gas/diesel) for each combustion turbine/HRSG. The 12-month rolling sum of emissions will be calculated monthly in accordance with permit condition 4.4.1.
- b. Natural gas and diesel fuel meters shall be installed on each combustion turbine/HRSG.
- c. Operational hour meters shall be installed on each combustion turbine/HRSG.

4.1.10. In order to minimize NO<sub>x</sub> emissions, within 180 days of startup, the permittee shall determine the optimal injection rate of aqueous ammonia into each SCR. The permittee shall then operate the SCR at the determined optimal injection rate.

4.1.11. Emissions of NO<sub>x</sub> from each of the combustion turbines/HRSG shall not exceed one of the following when firing natural gas:

- a. 25 ppm at 15% O<sub>2</sub>; or
- b. 1.2 lb/MW-hr gross energy output.  
[40 CFR §60.4320]

4.1.12. Emissions of NO<sub>x</sub> from each of the combustion turbines/HRSG shall not exceed one of the following when firing diesel fuel:

- a. 74 ppm at 15% O<sub>2</sub>; or
- b. 3.6 lb/MW-hr gross energy output.  
[40 CFR §60.4320]

4.1.13. Each combustion turbine/HRSG shall meet one of the following requirements:

- a. The permittee shall not cause to be discharged into the atmosphere from the subject stationary combustion turbine any gases which contain SO<sub>2</sub> in excess of 110 nanograms per Joule (ng/J) (0.90 pounds per megawatt-hour (lb/MWh) gross output; or

- b. The permittee must not burn in the subject stationary combustion turbine any fuel which contains total potential sulfur emissions in excess of 26 ng SO<sub>2</sub>/J (0.060 lb SO<sub>2</sub>/MMBtu) heat input.

**[40 CFR §60.4330(a)]**

- 4.1.14. The combustion turbines/HRSG shall use the air pollution control devices specified in Section 1.0 and permit condition 4.1.6 and identified in Permit Application R13-3713 at all times when in operation except during periods of startup and shutdown when operating temperatures do not allow for proper use of the air pollution control devices.

- 4.1.15. The maximum annual throughput of diesel fuel to the storage tanks shall not exceed the following:

Storage Tank ID	Nominal Capacity (gal)	Product Stored	Maximum Annual Throughput (gal/yr)
TK1, TK2, TK3	10,000,000 (each)	Diesel Fuel	15,000,000 (all tanks)

- 4.1.16. The storage tanks (TK1, TK2, TK3) shall be designed and operated as specified in the paragraphs (a) through (c).

- a. The cover and all openings on the cover (e.g., access hatches, sampling ports, pressure relief valves and gauge wells) shall form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel.
- b. Each cover opening shall be secured in a closed, sealed position (e.g., covered by a gasketed lid or cap) whenever material is in the unit on which the cover is installed except during those times when it is necessary to use an opening as follows:
- (i) To add material to, or remove material from the unit (this includes openings necessary to equalize or balance the internal pressure of the unit following changes in the level of the material in the unit);
  - (ii) To inspect or sample the material in the unit; or
  - (iii) To inspect, maintain, repair, or replace equipment located inside the unit.
- c. The storage tanks (TK1, TK2, TK3) thief hatch shall be weighted and properly seated.  
**[45CSR§13-5.10]**

- 4.1.17. The permittee shall comply with all applicable provisions of 45 CSR 17 to minimize fugitive particulate matter emissions on the plant roads.

- 4.1.18. The permittee shall comply with the alternative applicable provisions of 45 CSR 40 Section 6.6.

- a. The permittee shall conduct initial performance testing as required by 40 CFR 60 Subpart KKKK, as prescribed in permit condition 4.3.2.
- b. The permittee shall continuously monitor the parameters of the SCR systems to verify proper operation as required in permit conditions 4.2.4 and 4.4.3.
- c. The permittee shall continuously monitor and record the amount of each type of fuel to determine the heat input of each combustion turbine. The total monthly heat input will be determined using the monitored fuel data.



- d. The permittee will calculate the total monthly NO<sub>x</sub> emissions for each month during the ozone season. The total NO<sub>x</sub> mass emissions will be calculated for the ozone season each year. Ozone season is defined as May 1 through September 30 in the same calendar year.

- 4.1.19. The permittee shall comply with all applicable provisions of 45 CSR 33 (Acid Rain Provisions and Permits), 40 CFR 60 Subpart TTTTa (Standards of Performance for Greenhouse Gas Emissions for Modified Coal-Fired Steam Electric Generating Units and New Construction and Reconstruction Stationary Combustion Turbine Electric Generating Units), 40 CFR 72 (Permits Regulation – Acid Rain Program), and 40 CFR 97 Subpart DDDDD (Federal NO<sub>x</sub> Budget Trading Program, CAIR NO<sub>x</sub> and SO<sub>2</sub> Trading Programs, CSAPR NO<sub>x</sub> and SO<sub>2</sub> Trading Programs, and Texas SO<sub>2</sub> Trading Program).

If it is determined that 45 CSR 33 and 40 CFR 72 applies, the permittee is required to submit applications for an Acid Rain permit and a 45 CSR 30 permit. These permit types are independent of the 45 CSR 13 permitting process.

- 4.1.20. **Operation and Maintenance of Air Pollution Control Equipment.** The permittee shall, to the extent practicable, install, maintain, and operate all pollution control equipment listed in Section 1.0 and associated monitoring equipment in a manner consistent with safety and good air pollution control practices for minimizing emissions, or comply with any more stringent limits set forth in this permit or as set forth by any State rule, Federal regulation, or alternative control plan approved by the Secretary.  
[45CSR§13-5.10]

- 4.1.21. The permittee shall install, maintain, and operate all above-ground piping, valves, pumps, etc. that service lines in the transport of potential sources of regulated air pollutants to minimize any fugitive escape of regulated air pollutants (leak). Any above-ground piping, valves, pumps, etc. that shows signs of excess wear that have a reasonable potential for fugitive emissions of regulated air pollutants shall be repaired or replaced.  
[45CSR§13-5.10]

## 4.2. Monitoring Requirements

- 4.2.1. To determine compliance with permit conditions 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.6, and 4.1.9, the permittee shall monitor the operation type (steady state or startup/shutdown), number of startup/shutdown events, and hours of operation in each operating mode (natural gas/diesel) on a daily basis.
- 4.2.2. To demonstrate compliance with permit condition 4.1.8, the permittee shall monitor aggregate fuel consumption (natural gas/diesel) on a daily basis.
- 4.2.3. To demonstrate compliance with permit conditions 4.1.10 and 4.1.14, the permittee shall monitor the operating times for the SCR on at least an hourly basis.
- 4.2.4. The permittee will install SCR systems on each turbine to control NO<sub>x</sub> emissions. The parameters of the SCR systems must be continuously monitored to verify proper operation. The permittee shall monitor each catalyst bed inlet temperature and pressure differential across each catalyst bed to indicate proper operation. [40CFR§60.4340(b)(iii)]
- 4.2.5. The permittee will install a CO catalyst on each turbine to control CO emissions. The CO catalyst shall be continuously monitored to verify proper operation. The permittee shall operate the CO catalyst in accordance with manufacturer specifications. [45CSR§13-5.10]
- 4.2.6. To demonstrate compliance with permit condition 4.1.15, the permittee shall monitor diesel fuel unloading throughput on a daily basis.

- 4.2.7. To demonstrate compliance with permit condition 4.1.17, the permittee shall conduct a visible inspection of the paved roads once each operating day to ensure no fugitive particulate matter emissions from diesel truck and employee traffic are generated. If necessary, roads will be swept and/or watered to minimize fugitive particulate matter.
- 4.2.8. The permittee shall, at the time of initial startup, maintain on-site and have readily available to be made available to the Director or his/her representative upon request, a copy of all current vendor guarantees relevant to the air emissions associated with the facility. This includes information relating to the performance of both emission units and air pollution control devices.
- 4.2.9. The permittee shall meet all applicable requirements, including those not specified above, as given under 45 CSR 4, 45 CSR 13, 45 CSR 16, 45 CSR 17, 45 CSR 22, 45 CSR 40, and 40 CFR 60, Subpart KKKK. Any final revisions made to the above rules will, where applicable, supersede those specifically cited in this permit.
- 4.2.10. **Record of Monitoring.** The permittee shall keep records of monitoring information that include the following:
  - a. The date, place as defined in this permit, and time of sampling or measurements;
  - b. The date(s) analyses were performed;
  - c. The company or entity that performed the analyses;
  - d. The analytical techniques or methods used;
  - e. The results of the analyses; and
  - f. The operating conditions existing at the time of sampling or measurement.

#### 4.3. Testing Requirements

- 4.3.1. See Facility-Wide Testing Requirements Section 3.3.
- 4.3.2. The permittee shall perform an initial performance test for NO<sub>x</sub> emissions as required under §60.8 and §60.4400, and to demonstrate compliance with permit condition 4.1.3 (compliance demonstration is on a per combustion turbine basis). The initial performance test will be conducted within 60 days after achieving the maximum production rate, but not later than 180 days after initial startup. The performance test must be done at any load condition within plus or minus 25 percent of 100 percent of peak load. Separate performance testing is required for natural gas and diesel fuel.
- 4.3.3. The permittee shall perform an initial performance test for SO<sub>2</sub> emissions as required under §60.8 and §60.4415, and to demonstrate compliance with permit condition 4.1.3 (compliance demonstration is on a per combustion turbine basis). The initial performance test will be conducted within 60 days after achieving the maximum production rate, but not later than 180 days after initial startup. The performance test must be done at any load condition within plus or minus 25 percent of 100 percent of peak load. Separate performance testing is required for natural gas and diesel fuel.
- 4.3.4. The permittee shall perform an initial performance test for CO emissions to demonstrate compliance with permit condition 4.1.3 (compliance demonstration is on a per combustion turbine basis). The initial performance test will be conducted within 60 days after achieving the maximum production rate, but not later than 180 days after initial startup. The performance test must be done at any load condition within plus or minus 25 percent of 100 percent of peak load. Separate performance testing is required for natural gas and diesel fuel. A representative number of combustion turbines will be tested as approved in the stack test protocol as required in permit condition 3.3.1.c.

The permittee shall utilize Method 10 – Determination of Carbon Monoxide Emissions from Stationary Sources (Instrumental Analyzer Procedure) or approved alternative procedure outlined in permit condition 3.3.1 to comply with this permit condition.

**[45CSR§13-5.10]**

#### **4.4. Recordkeeping Requirements**

- 4.4.1. To determine compliance with permit conditions 4.1.5, 4.1.8, and 4.1.9, the permittee shall keep records of the operating hours of each combustion turbine/HRSG, the throughput of each type of fuel (natural gas/diesel), and operation type (steady state or startup/shutdown) on a daily basis. The permittee shall multiply the hourly steady state operation emissions in permit condition 4.1.3 by the number of hours of steady state operations and adding the appropriate startup and shutdown emission from permit condition 4.1.4. The permittee shall calculate the emissions monthly and on a twelve-month rolling total. A twelve-month rolling total shall mean the sum of emissions at any given time during the previous twelve consecutive calendar months.
- 4.4.2. To determine compliance with permit condition 4.1.2, the permittee shall keep a verifiable record of the total MDHI of the combustion turbines.
- 4.4.3. To determine compliance with permit condition 4.2.4, the permittee shall keep records of the SCR continuous monitoring data, and 4-hour rolling unit operating hour averages of the monitored parameters. The permittee will develop an SCR monitoring plan that will outline the procedures used to document proper operation of the SCR systems in accordance with §60.4355. The SCR monitoring plan must include the following:
- a. Include the indicators to be monitored and show there is a significant relationship to emissions and proper operation of the NO<sub>x</sub> emission controls;
  - b. Select ranges (or designated conditions) of the indicators, or describe the process by which such range (or designated condition) will be established;
  - c. Explain the process used to make certain that the data that is obtained is representative of the emissions or parameters being monitored (such as detector location, installation specification if applicable);
  - d. Describe quality assurance and control practices that are adequate to ensure the continuing validity of the data;
  - e. Describe the frequency of monitoring and the data collection procedures which are used; and
  - f. Submit justification for the proposed elements of the monitoring. If a proposed performance specification differs from manufacturer recommendation, the differences must be explained.
- [40CFR§60.4355]**
- 4.4.4. To determine compliance with §60.4365(a), the permittee shall keep records of the fuel characteristics in a current, valid purchase contract, tariff sheet or transportation contract for the fuel, specifying the following parameters:
- a. The maximum total sulfur content of oil is 0.05 weight percent (500 ppmw) or less.
  - b. The total sulfur content for natural gas is 20 grains of sulfur or less per 100 standard cubic feet.
  - c. Potential sulfur emissions are less than 0.060 pounds SO<sub>2</sub>/million Btu heat input.

- 4.4.5. To determine compliance with permit condition 4.2.7, the permittee shall keep records of the daily road particulate matter fugitive inspections and any corrective actions taken.
- 4.4.6. To determine compliance with permit conditions 4.1.15 and 4.2.6, the permittee shall keep records of the diesel unloading on a daily basis. Compliance with the throughput limit shall be determined on a 12 month rolling total basis.
- 4.4.7. To demonstrate compliance with permit condition 4.1.21, the permittee shall keep records of the fugitive emissions components repairs and replacements.

#### **4.5. Reporting Requirements**

- 4.5.1. See Facility-Wide Reporting Requirements Section 3.5.
- 4.5.2. The permittee shall submit notifications of the date construction commences, the actual date of initial startup as required under §60.7.
- 4.5.3. The permittee shall submit the results of the combustion turbines initial performance test before the close of business on the 60<sup>th</sup> day following the completion of the performance tests.
- 4.5.4. The permittee shall report excess emissions and monitor downtime semi-annually, in accordance with §60.4375(a) and §60.7(c). Excess emissions will be reported for all periods of unit operation, including startup, shutdown, and malfunction. An excess emission is a 4-hour rolling unit operating hour average in which any monitored parameter does not achieve the target value or is outside the acceptable range defined in the parameter monitoring plan. A period of monitor downtime is a unit operating hour in which any of the required parametric data are either not recorded or are invalid.

## CERTIFICATION OF DATA ACCURACY

I, the undersigned, hereby certify that, based on information and belief formed after reasonable inquiry, all information contained in the attached \_\_\_\_\_, representing the period beginning \_\_\_\_\_ and ending \_\_\_\_\_, and any supporting documents appended hereto, is true, accurate, and complete.

Signature<sup>1</sup>

(please use blue ink)

\_\_\_\_\_  
Responsible Official or Authorized Representative

\_\_\_\_\_  
Date

Name & Title

(please print or type)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

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<sup>1</sup> This form shall be signed by a "Responsible Official." "Responsible Official" means one of the following:

- a. For a corporation: The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
  - (i) the facilities employ more than 250 persons or have a gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or
  - (ii) the delegation of authority to such representative is approved in advance by the Director;
- b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- c. For a municipality, State, Federal, or other public entity: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of U.S. EPA); or
- d. The designated representative delegated with such authority and approved in advance by the Director.



**west virginia** department of environmental protection

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Harold D. Ward, Cabinet Secretary  
dep.wv.gov

**ENGINEERING EVALUATION / FACT SHEET**

**BACKGROUND INFORMATION**

Application No.:	R13-3713
Plant ID No.:	093-00034
Applicant:	Fundamental Data LLC
Facility Name:	Ridgeline Facility
Location	Thomas, Tucker County
NAICS Code:	221112 – Fossil Fuel Electric Power Generation
Application Type:	Construction
Received Date:	March 18, 2025
Engineer Assigned:	Jerry Williams
Fee Amount:	\$2,000 (\$1,000 45 CSR 13 Application Fee, \$1,000 NSPS Fee)
Date Received:	March 31, 2025
Complete Date:	April 9, 2025
Hold Date Start/Stop:	April 25, 2025/May 7, 2025 (Request for additional information)
Due Date:	July 20, 2025
Applicant Ad Date:	March 26, 2025
Newspaper	<i>The Parsons Advocate</i>
UTM's:	Easting: 632.512 km      Northing: 4,334.946 km      Zone: 17
Latitude/Longitude:	39.15364 / -79.46641
Description:	Construction and operation of a turbine power facility.

## CONFIDENTIAL BUSINESS INFORMATION OVERVIEW

Fundamental Data LLC (Fundamental) submitted an air permit application for a turbine power facility to be located near Thomas and Davis in Tucker County. This permit application included confidential business information (CBI) submitted under 45 CSR 31, entitled “Confidential Information”. Therefore, both a CBI and redacted version of the application were submitted. Fundamental provided all CBI under the requirements of 45 CSR 31, which is the Division of Air Quality (DAQ) regulation that establishes the requirements for claiming information submitted to the DAQ as confidential and the procedures for determinations of confidentiality in accordance with the provisions of W. Va. Code §22-5-10.

The reason for the CBI submittal according to Fundamental is that the application contains information regarding the configuration of the proposed facility as well as confidential technical information related to the combustion turbines and control device manufacturer. For each submission of information any portion of which is claimed to be confidential, a complete set of the information, including the document justifying the claim of confidentiality shall be submitted simultaneously on uncolored paper with the information claimed to be confidential blacked out, and with the words “redacted copy – claim of confidentiality” marked clearly on each such page, so that such a set of information is suitable for public disclosure and provides notice to the public that a claim of confidentiality has been made. The DAQ allows for electronic submittals (via email) of redacted permit applications. However, all CBI applications must be submitted via mail or hand delivered. During the Notice of Application period, the DAQ received hundreds of public comments concerning the proposed project, many of which specifically requested the release of information that has been redacted.

As stated in 45 CSR 31, Section 4, during the course of the DAQ’s review of whether the information claimed to be confidential is a trade secret in accordance with this rule, the DAQ considered the following:

- The claim of confidentiality has not expired by its terms, nor been waived or withdrawn;
- The person asserting the claim of confidentiality has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures;
- The information claimed confidential is not, and has not been, reasonably obtainable without the person’s consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding);
- No statute specifically requires disclosure of the information; and
- Either the person has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the business’s competitive position or the information is voluntarily submitted information, and its disclosure would likely to impair the State’s ability to obtain necessary information in the future.

Additionally, 45 CSR 31, Section 6, states that no person shall claim as confidential, information concerning the types and amounts of pollutants discharged. “Types and amounts of air pollutants discharged” is defined in 45 CSR 31 Section 2.4. Furthermore, 45 CSR 31B entitled “Confidential Business Information and Emission Data” is an interpretive rule that provides guidance and clarification concerning the term “types and amounts of air pollutants discharged” defined under 45CSR§31-2.4, the

DAQ's legislative rule entitled "Confidential Information," and thus what information may not be claimed confidential in accordance with 45CSR§31-6.

The public comments received during the Notice of Application comment period triggered a review of the CBI claims by the DEP's Office of the General Counsel (OGC). A letter dated April 28, 2025, from the OGC was issued to Fundamental that stated that the information claimed as CBI *may* not qualify for such designation as it falls under the definition of "Types and Amounts of Pollutants Discharged" as excluded under §45-31-6 as defined under §45-31-2.4 (and further defined under 45 CSR 31B). This letter was made available to the public on the WVDEP Application Xtender (AX) website at that time. There was also concern that the claimed CBI *may* not meet the eligibility requirements under §45-31-4.1(b) and 4.1(c). The letter requested further justification that the information claimed as CBI is not defined as "Types and Amounts of Pollutants Discharged" and also does not conflict with the eligibility requirements of §45-31-4.1(b) and 4.1(c). The letter requested a written response within 15 days.

Fundamental provided a response to this request on May 7, 2025. This response was made available to the public on the AX website at that time. As part of this response, Fundamental states that the redacted materials do meet the statutory definition of 'trade secrets', under §45-31-2.3. Additionally, Fundamental's response referenced §45-31B-4.1, which states:

*Information or data that is indispensable or essential to determining emissions or location in accordance with subsection 2.3 will be considered emission data and thus nonconfidential, unless there is a readily available non-confidential alternative for determining emissions or location. Where there is no readily available non-confidential alternative, the Secretary may approve non-confidential alternatives through the use of aggregation, categorization, surrogate parameters, emissions monitoring or sampling, or parametric monitoring; provided that such use is consistent with applicable rules and standards and results in a practically enforceable method of determining emissions.*

This section specifically states that information that is indispensable or essential for determining emissions or location will be considered emission data and thus non-confidential, *unless* there is a readily available non-confidential alternative to make this determination. §45-31B-4.1 allows the WVDEP to approve non-confidential alternatives. These alternatives include aggregation, categorization, surrogate parameters, emissions monitoring or sampling, or parametric monitoring that result in a practically enforceable method of determining emissions from the proposed facility. These aforementioned terms are specifically defined in 45 CSR 31B, section 2.

*"Aggregation" means the combining of individual elements, such as equipment, units, throughputs or capacities, into one total.*

*"Categorization" means the combining of individual elements, such as materials or chemicals, into one category.*

*"Emissions monitoring and sampling" means real-time monitoring, such as continuous emissions monitors, or statistically valid periodic sampling and monitoring that provides reliable and accurate data on emissions.*



*“Parametric monitoring” means combining the use of surrogate parameters and monitoring or sampling.*

*“Surrogate parameter” means a value that stands in place of throughput, production or some other variable claimed confidential. The term may include an alternative measure of production or throughput or some other production unit that correlates with production or throughput and with emissions. A surrogate parameter must have a simple direct relationship to the value it replaces.*

The WVDEP reviewed the response provided by Fundamental and determined that there are non-confidential alternatives. These alternatives include the use of aggregate hours of operation tracking, aggregated heat input limitations, aggregate emission limits, aggregate fuel throughputs, and categorized fuels for the combustion turbines. The permit will establish emissions monitoring and sampling, parametric monitoring, and surrogate parameters that ensure that all applicable rules and standards will be met and will result in practical enforceability in determining emissions.

It was also determined that pursuant to §45-31-4.1(b) and (c), there are not reasonable means to obtain the information claimed CBI by using the publicly available aggregated data. Therefore, WVDEP made the determination that the information that was claimed CBI by Fundamental satisfied the necessary requirements to be deemed CBI and will be maintained as such. A response letter was sent from WVDEP to Fundamental on May 12, 2025, and was made available to the public on the AX website at that time.

The specifically approved non-confidential alternatives can be found in the associated draft permit in the following permit conditions:

Table 1.0	Combustion Turbines (Aggregate Heat Input Limitations (§45-31B-2.1).
4.1.2, 4.2.1, 4.4.2	Combustion Turbines (Aggregate Heat Input Limitations (§45-31B-2.1). Monitoring of operation type, startup/shutdown events, and hours of operation on a daily basis is required.
4.1.3, 4.2.1	Aggregate and categorized (fuel type) hourly combustion turbines emission limitations (§45-31B-2.1, 2.2, 2.4, 2.5). Monitoring of operation type, startup/shutdown events, and hours of operation on a daily basis is required.
4.1.5, 4.2.1, 4.4.1	Aggregate and categorized (fuel type) annual combustion turbines emission limitations (§45-31B-2.1, 2.2, 2.4, 2.5). Monitoring of operation type, startup/shutdown events, and hours of operation on a daily basis is required.
4.1.8, 4.2.2, 4.4.1	Aggregate and categorized (fuel type) operating parameters (§45-31B-2.1, 2.2, 2.4, 2.5). Monitoring of maximum natural gas hourly fuel consumption, diesel fuel hourly consumption, and diesel fuel sulfur content on a daily basis is required.
4.1.9, 4.2.1, 4.4.1	Emissions monitoring of the combustion turbines to validate emissions data (§45-31B-2.1, 2.2, 2.4).

It is important to note that 45 CSR 31B applies to all information submitted to the WVDEP, regardless of the regulatory context, and includes, but is not limited to, information submitted in the permitting, enforcement, and emission inventory contexts.

This engineering evaluation/fact sheet (EE/FS) contains only the information that was provided in the redacted version of the permit application. Furthermore, the information contained herein is more than adequate to make the appropriate permitting determinations and can be used to determine compliance with all applicable rules and regulations. This includes all necessary monitoring, recordkeeping, reporting, and testing that will be required as part of the proposed draft permit.

## DESCRIPTION OF PROCESS

The proposed station will be powered via combustion turbines equipped with heat recovery steam generators (HRSG) which generate steam by using the heat present in the turbine exhaust gas. The HRSG units are designed where the turbine exhaust will pass through, and no additional firing emissions occur as a result of the HRSG units. This process has been designed to ensure that no duct burners are required as part of the HRSGs. The permit states that there shall be zero duct burner firing emissions. The turbines will be equipped with selective catalytic reduction (SCR) and carbon monoxide (CO) catalyst systems. SCR and oxidation catalysts are emission control technologies that reduce nitrogen oxides (NOx) and CO emissions.

SCR systems function by injecting ammonia into the combustion turbine exhaust stream. This injection reacts with NOx to convert into nitrogen (N<sub>2</sub>), water (H<sub>2</sub>O) and carbon dioxide (CO<sub>2</sub>). An oxidation catalyst functions by facilitating chemical reactions. The oxidation process occurs as exhaust gases flow through the catalyst which converts CO and hydrocarbons into CO<sub>2</sub> and H<sub>2</sub>O. In addition to the aforementioned emissions reductions, oxidation catalysts improve fuel efficiency which results in a reduction of particulates.

The turbines will primarily use natural gas as fuel. However, the turbines will also be permitted to use diesel as a backup fuel source when necessary, such as during a natural gas pipeline failure. It is the intention of Fundamental to operate the turbines solely on natural gas. To avoid designation as a Prevention of Significant Deterioration (PSD) and/or Title V facility, the proposed facility will restrict turbine operations as discussed below.

Fundamental is proposing to be permitted as a synthetic minor facility. Fundamental may operate using any combination of natural gas and diesel such that they restrict the total hours of operation as needed to remain under the permitted minor source thresholds. Fundamental will keep records of the total hours of operation for each turbine, including the total amount of hours each turbine uses natural gas as a fuel and the total amount of hours each turbine uses diesel as a fuel. Fundamental will keep rolling 12-month emission calculations to ensure their emissions remain below any major source thresholds. Pages 57 and 58 of Attachment N of the permit application are provided for illustrative purposes to represent the potential emissions from the proposed facility while combusting natural gas and/or diesel under operational limitations to remain below PSD and Title V permitting thresholds. The hourly values are represented for each fuel source and indicate the worst case operating hours when combusting either fuel on a continuous twelve month basis and does not take into account that the proposed facility intends to utilize diesel as a backup fuel source.

Additional emission sources at the proposed facility will include a paved roadway, three (3) - 10,000,000-gallon diesel storage tanks, and associated truck loading of the diesel fuel. The proposed facility will also have storage tanks for well water. The well water tanks are not expected to emit any regulated air pollutants and are therefore not included as sources in this application due to being de minimis sources under 45CSR13, Table 45-13 B, Item 50.

This proposed facility shall consist of only the pollutant-emitting equipment and processes identified under Section 1.0 of the associated permit. In accordance with the information filed under Permit Application R13-3713, the equipment shall be installed, maintained and operated so as to minimize any fugitive escape of pollutants and the equipment/processes shall use the specified air pollution control devices. Additionally, the permit will require Fundamental to install, maintain, and operate all above-ground piping, valves, pumps, etc. that service lines in the transport of potential sources of regulated air pollutants to minimize any fugitive escape of regulated air pollutants (leak). Any above-ground piping, valves, pumps, etc. that shows signs of excess wear that have a reasonable potential for fugitive emissions of regulated air pollutants shall be repaired or replaced.

## ADDITIONAL BACKGROUND INFORMATION

### *Data Center*

Due to potential misinformation that has been circulated, it should be stated that Permit Application R13-3713 **did not** include a data center and was not definitive on the ultimate end user of the power that will be generated from the proposed site. The non-disclosure of the final end use of the power generated is not a cause for denial of the permit. How the power is used will have an impact on the need for Fundamental to potentially be required to obtain an Acid Rain Permit (45 CSR 33) and a Title V Permit (45 CSR 30). However, the process of applying for and receiving an Acid Rain or Title V Permit is independent of the 45 CSR 13 permitting process. These potential requirements are outlined in permit condition 4.1.19 and the regulatory applicability is discussed in the REGULATORY APPLICABILITY section of this document.

### *House Bill 2014 (HB 2014)*

It is important to note that HB 2014 does not impact the 45 CSR 13 permitting process. HB 2014 known as the “Power Generation and Consumption Act of 2025” established the Certified Microgrid Program under the Division of Economic Development to encourage the continued development, construction, operation, maintenance, and expansion in West Virginia of high impact industrial plants and facilities, in certain circumstances where the availability of electricity generated from renewable sources is demonstrated to be necessary. HB 2014 also allows for the certification of high impact data centers, prohibits certain tax arrangements, and provides special valuation for these properties. HB 2014 also states the standards for certifying microgrid districts while highlighting the significance of data centers for economic growth and national security. HB 2014 also creates the Electric Grid Stabilization and Security Fund to establish regulations for certified microgrid districts and high impact data centers. As stated above, Permit Application R13-3713 did not include a data center and was not definitive on the ultimate end user of the power that will be generated from the proposed site. To restate, HB 2014 does not impact the 45 CSR 13 permitting process.

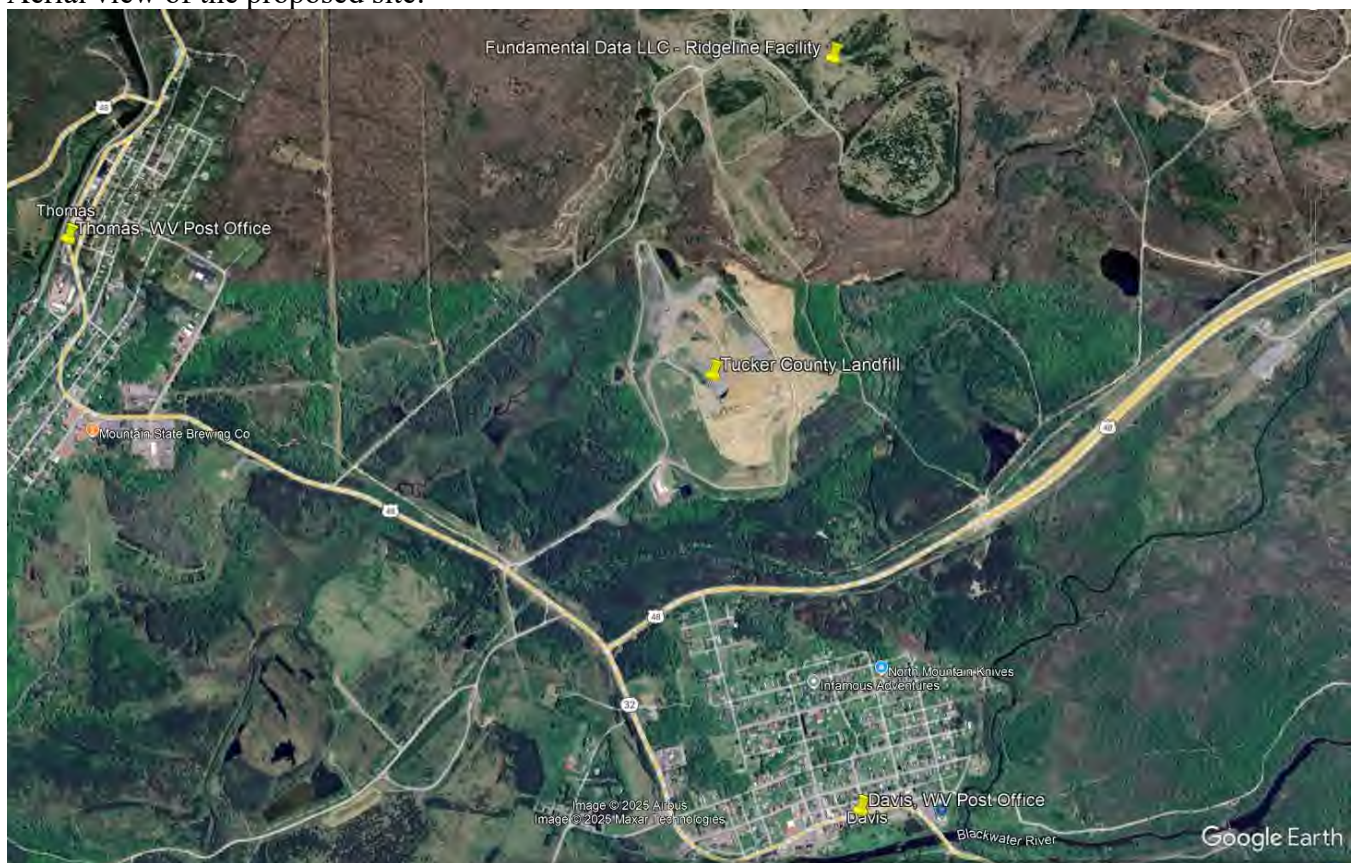
## SITE INSPECTION

A site inspection of the proposed location was conducted on April 8, 2025, by the writer and Joe Kessler (NSR Program Manager) of the DAQ. We met with representatives of Fundamental Data and Western Pocahontas Land Company. This is a greenfield site, and no construction or equipment installation was visible at the time of the site inspection. The proposed site is in a remote location approximately 1.5 miles from US-48 that is only accessible by use of a private gate. The site will be located about 0.75 miles north of the Tucker County Landfill and will be situated on a reclaimed coal mine. For reference purposes, the proposed facility is located approximately 1.7 air miles from both the Thomas and Davis United States Post Offices. The closest residence is approximately 1.1 air miles from the proposed facility.

### Directions to the site:

*From Thomas, head north on Spruce Street toward 3<sup>rd</sup> Street. Take a sharp left onto US-48. An access road to the proposed facility will be located off of US-48, approximately 0.5 miles east of Thomas. The access road will be on the left. The site is located approximately 1.5 miles after passing through the private gate.*

### Aerial view of the proposed site:



The map above includes markers for the proposed Fundamental site, the Tucker County Landfill, and the Thomas and Davis United States Post Offices.



The proposed site will be located behind an elevated mound and situated approximately close to the arrow in the photo found below. This permit application review only includes the air quality elements afforded to the DAQ under West Virginia State Code. However, upon viewing the proposed remote location, it is not anticipated that any noise and/or viewshed issues would be encountered.



## ESTIMATE OF EMISSIONS BY REVIEWING ENGINEER

Emissions associated with this proposed facility consist of the equipment listed in the following table and fugitive emissions.

<b>Emission Unit ID#</b>	<b>Process Equipment</b>	<b>Calculation Methodology</b>
Combustion Turbines	Combustion Turbines NG - 5,650 MMBtu/hr (aggregate) Diesel - 4,503.4 MMBtu/hr (aggregate)	Manufacturer Data (criteria pollutants) EPA AP-42 Emission Factors Chapter 3.1 (HAPs)
TK1 – TK3	3 – Diesel Storage Tanks (10 MM gal each)	EPA TANKS Emissions Estimation Software, Version 5.1
1R	Paved Roadways	EPA AP-42 Emission Factors, Chapter 13.2.1
UNLOAD	Diesel Truck Unloading	EPA AP-42 Emission Factors, Chapter 5.2

The potential emissions from the combustion turbines were estimated using the ability to fire the combustion turbines with natural gas or diesel. The combustion turbines at the proposed facility are capable of firing either fuel. Fundamental has requested that this proposed facility have enforceable emission limits that maintain the source as minor for New Source Review (NSR) and Title V. In order for the proposed facility to be a minor source, the potential emissions for any regulated air pollutant must be less than 100 tons per year. The supporting regulatory discussion can be found in the REGULATORY APPLICABILITY section under 45 CSR 14. Taking this limitation would establish the proposed facility as a synthetic minor for the purposes of PSD and Title V.

It is the intent of Fundamental to operate the combustion turbines solely using natural gas. However, diesel fuel is also being permitted as a backup fuel source if natural gas is not available.

If a combination of natural gas and diesel fuel are utilized to fire the combustion turbines, the total hours of operation will be restricted as needed to remain under the synthetic minor permitting thresholds. The operating hours of each turbine and the throughput of each type of fuel will be continuously monitored and recorded. Fundamental will be required to keep records of the total amount of hours each turbine uses natural gas as a fuel and the total amount of hours each turbine uses diesel as a fuel. The 12-month rolling sum of emissions will be calculated monthly.

The following tables represent the operating conditions associated with the combustion turbines firing the different fuels:

***Natural Gas***

<b>Operating Condition</b>	<b>Parameter</b>
Hourly Fuel Consumption	5.35 MMscfh (all units)
Maximum Design Heat Input	5,649.6 MMBtu/hr

***Diesel***

<b>Operating Condition</b>	<b>Parameter</b>
Hourly Fuel Consumption	32,872 gal/hr (all units)
Maximum Design Heat Input	4,503.4 MMBtu/hr
Sulfur Content	15 ppm (ULSD)

The tables on the following page represent the potential aggregate hourly emissions when the combustion turbines are operated in controlled steady state operations firing the different fuels if burning only that fuel source:

### *Natural Gas*

<b>Pollutant</b>	<b>Hourly Emissions (lb/hr)</b>
Nitrogen Oxides	30.80
Carbon Monoxide	6.30
Volatile Organic Compounds	14.30
Particulate Matter-10/2.5	23.30
Sulfur Dioxide	19.21
Total Hazardous Air Pollutants	3.04
Formaldehyde (HAP)	1.26

### *Diesel*

<b>Pollutant</b>	<b>Hourly Emissions (lb/hr)</b>
Nitrogen Oxides	74.50
Carbon Monoxide	5.40
Volatile Organic Compounds	30.90
Particulate Matter-10/2.5	22.10
Sulfur Dioxide	6.82
Total Hazardous Air Pollutants	5.64
Formaldehyde (HAP)	1.26
Manganese (HAP)	3.56

These combustion turbines experience different NOx and CO emissions during startup and shutdown episodes. The following tables represent the potential annual emissions for the combustion turbines during startups and shutdown periods for each fuel type:

### *Natural Gas*

<b>Pollutant</b>	<b>Annual Emissions (tons/year)</b>
Nitrogen Oxides	4.54
Carbon Monoxide	37.05

### *Diesel*

<b>Pollutant</b>	<b>Annual Emissions (tons/year)</b>
Nitrogen Oxides	6.22
Carbon Monoxide	46.10



The following table represents the permitted emission limit for the combustion turbines. This will represent a worst-case scenario for each pollutant when combusting either fuel at its potential hourly emission limitation. Fundamental will be required to continuously monitor and record the hours of operation, fuel throughput, and operation mode for each turbine to show compliance with the annual permitted limits.

<b>Pollutant</b>	<b>Fuel Type</b>	<b>Annual Emissions (tons/year)</b>
Nitrogen Oxides	Diesel	99.35
Carbon Monoxide	Natural Gas	56.36
Volatile Organic Compounds	Natural Gas	43.84
Particulate Matter-10/2.5	Natural Gas	71.44
Sulfur Dioxide	Natural Gas	58.89
Total Hazardous Air Pollutants	Natural Gas	9.33
Formaldehyde (HAP)	Natural Gas	3.86
Manganese (HAP)	Diesel	4.45

The potential emissions for the 3 – 10-million-gallon diesel storage tanks include the losses from working, standing, rim seal, and deck fittings. It has been assumed that the tank rim vents will be open and weighted mechanical actuation, gasketed rim vents will be utilized. The hourly emissions have been averaged over 8,760 hours per year. Due to the very low vapor pressure of diesel fuel (0.005 psia), the emissions associated with the diesel fuel tanks are low. The applicant conservatively estimated that all diesel fuel tank emissions are being counted as HAPs. EPA TANKS 5.1 allows users to enter specific information about a storage tank (dimensions, construction, paint condition, etc.), the liquid contents (chemical components and liquid temperature), and the meteorological conditions and location of the tank (nearest city, ambient temperature, etc.) to generate an air emissions report. Report features include estimates of monthly, annual, or partial year emissions for each chemical or mixture of chemicals stored in the tank. The closest meteorological location available in EPA TANKS 5.1 that was used was Elkins. As stated above, due to the very low vapor pressure of diesel fuel, the emissions associated with the diesel fuel tanks are low. The results of the EPA TANKS 5.1 analysis resulted in the following diesel storage tank emissions:

<b>Pollutant</b>	<b>Hourly Emissions (lb/hr)</b>	<b>Annual Emissions (tons/year)</b>
Volatile Organic Compounds	0.20	0.10
Total Hazardous Air Pollutants	0.20	0.10

EPA TANKS 5.1 does allow customization of the meteorological data location. DAQ entered the atmospheric pressure, average minimum and maximum monthly temperatures, and average monthly wind speeds for Thomas, WV into the EPA TANKS 5.1 emission estimation software model to recalculate the emissions based on that location. Upon doing this, the resultant emissions of VOCs and HAPs were estimated to have a value of 0.08366 tons per year. Therefore, utilizing the meteorological data from Thomas in place of Elkins would result in a decrease of VOC and HAP emissions. Additionally, DAQ also estimated the diesel storage tank emissions using Bryan Research & Engineering, LLC ProMax 5.0 (ProMax). ProMax is a versatile process simulation software package that is used to simulate and optimize various processes in the oil and gas, refining, chemical, and sustainable energy sectors. Based upon storage tank data, diesel throughput values, and Thomas, WV weather data, the predicted total VOC emissions for the 3 diesel storage tanks were 0.01233 tons per

year, which is less than the values predicted by EPA TANKS 5.1 using Elkins or Thomas meteorological data. Therefore, the storage tank emission estimates used by Fundamental in permit application R13-3713 were deemed appropriate.

There will also be potential emissions associated with the truck loading of the 3 – 10-million-gallon diesel storage tanks. The estimated aggregate annual total throughput to the diesel tanks is 15 million gallons per year. AP-42, *Compilation of Air Pollutant Emissions Factors from Stationary Sources*, has been published since 1972 and is the primary compilation of EPA's emissions factor information. It contains emissions factors and process information for more than 200 air pollution source categories. A source category is a specific industry sector or group of similar emitting sources. The emissions factors have been developed and compiled from source test data, material balance studies, and engineering estimates. Chapter 5.2 for Transportation and Marketing of Petroleum Liquids is a standard that is commonly utilized to estimate the potential evaporation loss associated with tank truck unloading. The formula that is utilized to calculate the loading loss emission factor utilizes the type of loading performed, otherwise known as the saturation factor, the true vapor pressure of the liquid loaded (psia), the molecular weight (lb-lb/mol) and the temperature (°R). Due to the very low vapor pressure, the emissions associated with the diesel fuel tanks will only contain very small amounts of HAPs.

$$L_L = 12.46 * S * P * M / T$$

Where:

- $L_L$  Loading Loss (pounds per 1,000 gallons of liquid loaded)
- $S$  Saturation Factor (Loading Type)
- $P$  True Vapor Pressure of Liquid Loaded (psia)
- $M$  Molecular Weight of Vapors (lb/lb-mole)
- $T$  Temperature of Bulk Liquid Loaded (° R)

Utilizing this formula results in the following diesel storage tank loading emissions.

Pollutant	Annual Emissions (tons/year)
Volatile Organic Compounds	0.17
Total Hazardous Air Pollutants	0.17

There are paved haul road activities associated with this facility. The following table indicates the assumptions made in estimating the emissions:

Operating Condition	Parameter
Potential Operating Days	365
Estimated Roundtrip Distance per Vehicle	2.99 miles/vehicle
Diesel Trucks per Year	2,308
Vehicle Miles Traveled per Year (Diesel Trucks)	6,909 miles/year
Employee Vehicles per Day	50
Vehicle Miles Traveled per Year (Employee Vehicles)	54,632 miles/year

Using these operating conditions, the potential emissions associated with these haul road operations result in the following:

<b>Pollutant</b>	<b>Hourly Emissions (lb/hr)</b>	<b>Annual Emissions (tons/year)</b>
Particulate Matter	0.48	2.11
Particulate Matter-10	0.10	0.42
Particulate Matter-2.5	0.02	0.10

At the time of application submittal, the fugitive equipment leaks (VOC/HAP) associated with fugitive components (valves, pressure relief valves, connections, flanges, etc.) were estimated to be negligible based upon the potential product leaking being natural gas/diesel and due to the final design of all piping not being finalized. In order to be conservative, it has been assumed that the fugitive equipment leaks (VOC/HAP) associated with this proposed facility would be less than 0.10 tons per year. This is based on industry-wide estimated component counts and utilization of Table 2-8 of EPA's Protocol for Equipment Leak Emission Estimates. The permit does require minimization of fugitive emissions and further requires any above-ground piping, valves, pumps, etc. that shows signs of excess wear that have a reasonable potential for fugitive emissions of regulated air pollutants to be repaired or replaced.

The following table represents the emissions associated with this permit application:

<b>Emission Source</b>	<b>Annual Emissions (tons/year)</b>					
	<b>NO<sub>x</sub></b>	<b>CO</b>	<b>VOC</b>	<b>SO<sub>2</sub></b>	<b>PM<sub>10</sub></b>	<b>Total HAPs</b>
Combustion Turbines	99.35	56.36	43.84	58.89	71.44	9.33
Diesel Storage Tanks	-	-	0.10	-	-	0.10
Diesel Truck Unloading	-	-	0.17	-	-	0.17
Paved Haul roads	-	-	-	-	0.42	-
Fugitive Leaks	-	-	0.10	-	-	0.10
<b>Proposed Facility PTE</b>	<b>99.35</b>	<b>56.36</b>	<b>44.21</b>	<b>58.89</b>	<b>71.86</b>	<b>9.70</b>

## REGULATORY APPLICABILITY

The following potential rules may apply to this permit application:

### **State**

#### **45 CSR 2 - Particulate Air Pollution from Combustion of Fuel in Indirect Heat Exchangers (*not applicable*)**

This rule establishes emission limitations for smoke and particulate matter which are discharged from fuel burning units. 45 CSR 2 states that any fuel burning unit that has a heat input under ten (10) million B.T.U.'s per hour is exempt from sections 4 (weight emission standard), 5 (control of fugitive particulate matter), 6 (registration), 8 (testing, monitoring, recordkeeping, reporting) and 9 (startups, shutdowns, malfunctions).

The combustion turbines are equipped with HRSG units which generate steam by using the heat present in the turbine exhaust gas. The HRSG units are designed where the turbine exhaust will pass through, and no additional firing emissions occur as a result of the HRSG units. This process has been designed to ensure that no duct burners are required as part of the HRSGs. Therefore, these units would not be considered as fuel burning units and not subject to this rule. To ensure this, the permit states that there shall be zero duct burner firing emissions. The combustion turbines do not meet the definition of a fuel burning unit because they do not produce power through indirect heat transfer.

**45 CSR 4 - To Prevent and Control the Discharge of Air Pollutants into the Open Air Which Causes or Contributes to an Objectionable Odor or Odors**

The purpose of this rule is to prevent and control the discharge of pollutants into the open air which causes or contributes to an objectionable odor or odors. This proposed facility would generally be subject to this rule, however, this type of proposed facility normally does not have issues with odors. However, the DAQ will, using the authority under this rule to respond to complaints involving objectionable odors if confirmed while the facility is operating, and may require mitigation at that time to reduce the odor potential of the source. An objectionable odor must be determined by the DAQ in the course of an inspection or investigation of an actual odor, and is possible to prove quantitatively, pursuant to this rule, that an objectionable odor will be present before a facility is in operation.

**45 CSR 10 -To Prevent and Control Air Pollution from the Emissions of Sulfur Oxides (*not applicable*)**

This rule establishes emission limitations for sulfur dioxide which are discharged from fuel burning units. 45 CSR 10 states that any fuel burning unit that has a heat input under ten (10) million B.T.U.'s per hour is exempt from sections 3 (weight emission standard), 6 (registration), 7 (permits), and 8 (testing, monitoring, recordkeeping, reporting).

The combustion turbines are equipped with HRSG units which generate steam by using the heat present in the turbine exhaust gas. The HRSG units are designed where the turbine exhaust will pass through, and no additional firing emissions occur as a result of the HRSG units. This process has been designed to ensure that no duct burners are required as part of the HRSGs. Therefore, these units would not be considered as fuel burning units and not subject to this rule. To ensure this, the permit states that there shall be zero duct burner firing emissions. The combustion turbines do not meet the definition of a fuel burning unit because they do not produce power through indirect heat transfer.

**45 CSR 13 - Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, and Procedures for Evaluation**

Pursuant to §45-13-5.1, “[n]o person shall cause, suffer, allow or permit the construction, modification, relocation and operation of any stationary source to be commenced without . . . obtaining a permit to construct.” Based upon the potential emissions for the facility, Fundamental is required to obtain a permit under 45CSR13 for this facility.

As required under §45-13-8.3 (“Notice Level A”), Fundamental placed a Class I legal advertisement in *The Parsons Advocate* on March 26, 2025. Additionally, Fundamental paid the appropriate application fee of \$2,000 (\$1,000 45 CSR 13 permit application fee, \$1,000 NSPS fee).

Because this permitting action will limit the physical and operational capacity of the proposed facility below major stationary source thresholds (45 CSR 14, 45 CSR 30), Fundamental is subject to Notice Level C in section 8.5 and will be required to place a commercial display advertisement in *The Parsons Advocate* as required in section 8.4.a within one week prior to the placement of the DAQ’s Class I legal advertisement of the agency’s intent to issue or within three working days of the placement of the advertisement. The commercial display advertisement shall be at least 3 inches by 5 inches and contain at a minimum, the name of the applicant, the type and location of the source, the type and amount of air pollutants that will be discharged, the nature of the permit being sought, the proposed start-up date for the source and a contact telephone number for more information.

Additionally, Fundamental is required to post a visible and accessible sign as required in section 8.5.a, at a minimum of 2 feet square, at the entrance to the proposed site. The sign must be clearly marked indicating that an air quality permit has been applied for and include the West Virginia Division of Air Quality permitting section telephone number for additional information. The applicant must post the sign for the duration of the public notice period.

**45 CSR 14** - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollutants *(not applicable)*

**45 CSR 19** - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution which Cause or Contribute to Nonattainment *(not applicable)*

45CSR14 establishes and adopts a preconstruction permit program for the construction and major modification of major stationary sources in areas of attainment with the National Ambient Air Quality Standards (NAAQS). Tucker County is currently classified as in attainment/unclassifiable with the NAAQS and, therefore, a proposed new “major stationary source” in Tucker County would be subject to the provisions of 45CSR14. The proposed facility is defined as a source listed under §45-14-2.43(a) - “Fossil Fuel-fired Steam Electric Plants of More than 250 Million Btu/hr Heat Input” - and, therefore, pursuant to 2.4(b), would be defined as a “major stationary source” if any regulated pollutant has a PTE in excess of 100 TPY. The proposed facility, however, does not have PTE of any regulated pollutant in excess of 100 TPY as shown in the table below, therefore, not defined as a major stationary source and is not subject to the provisions of 45 CSR 14. 45 CSR 19 applies to sources that are located in areas that are classified as non-attainment with the NAAQS. Tucker County is an attainment/unclassified area, therefore, 45 CSR 19 would not apply.

Pollutant	PSD (45CSR14) Threshold (tpy)	NANSR (45CSR19) Threshold (tpy)	Ridgeline Facility PTE (tpy)	45CSR14 or 45CSR19 Review Required?
Carbon Monoxide	100	NA	56.36	No
Nitrogen Oxides	100	NA	99.35	No
Sulfur Dioxide	100	NA	58.89	No
Particulate Matter 2.5	100	NA	71.54	No
Ozone (VOC)	100	NA	44.21	No

#### **45 CSR 16 - Standards of Performance for New Stationary Sources**

This rule incorporates the federal Clean Air Act (CAA) standards of performance for new stationary sources (NSPS) set forth in 40 CFR Part 60 by reference. 45 CSR 16 applies to this source by reference of 40 CFR 60 Subpart KKKK. See detailed discussion in Federal Regulatory section under 40 CFR 60 Subpart KKKK.

#### **45 CSR 17 - To Prevent and Control Particulate Matter Air Pollution from Materials Handling, Preparation, Storage and Other Sources of Fugitive Particulate Matter**

The purpose of this rule is to prevent and control particulate matter air pollution from materials handling, preparation, storage and other sources of fugitive particulate matter. Fundamental will ensure appropriate precautions are taken to prevent the escape of fugitive particulate matter beyond the boundary lines of the property.

#### **45 CSR 21 - Control of Air Pollution from the Emission of Volatile Organic Compounds (*not applicable*)**

This rule establishes reasonably available control technology to control emissions of volatile organic compounds from sources that manufacture, mix, store, use, or apply materials containing volatile organic compounds that are located in Cabell, Kanawha, Putnam, Wayne and Wood Counties. This proposed facility is located in Tucker County, and therefore, not applicable to this rule.

#### **45 CSR 22 - Air Quality Management Fee Program**

The proposed facility is a minor source and not subject to 45CSR30. Fundamental is required to pay the appropriate annual fees and keep their Certificate to Operate current. The fee class would be 1B (Electric Utility greater than 300 MW).

#### **45 CSR 27 - To Prevent and Control the Emissions of Toxic Air Pollutants (*not applicable*)**

The purpose of this rule is to prevent and control the discharge of toxic air pollutants requiring the application of best available technology (BAT) for chemical processing units. Section 2.4 defines a chemical processing unit as an assembly of reactors, tanks, distillation columns, heat exchangers, vaporizers, compressors, dryers, decanters, and/or other equipment used to treat, store, manufacture, or use toxic air pollutants. For the purpose of this rule, the term chemical processing unit includes surface coating equipment or similar equipment utilizing a toxic air pollutant as a solvent or for other purposes but does not include equipment used in the production and distribution of petroleum products providing that such equipment does not produce or contact materials containing more than 5% benzene by weight. Potential emissions of toxic air pollutants from the proposed facility result from the combustion of natural gas or diesel in the combustion turbines. Regulation of emissions of toxic air pollutants from these unit types are not included in this rule, and therefore, not applicable.

#### **45 CSR 31 - Confidential Information**

The purpose of this rule is to establish the requirements for claiming information submitted to the Director as confidential and the procedures for determinations of confidentiality in accordance with the provisions of W. Va. Code §22-5-10. The reason for the CBI submittal is that the application contains trade secrets regarding the configuration of the proposed facility as well as confidential technical information related to the combustion turbines. This was previously discussed in detail in the CONFIDENTIAL BUSINESS INFORMATION section.

#### **45 CSR31B – Confidential Business Information and Emission Data**

The purpose of this rule is to provide guidance and clarification concerning the term “types and amounts of pollutants discharged” defined under 45 CSR §31-2.4, the DAQ’s legislative rule (45 CSR 31) and thus what information may not be claimed confidential in accordance with 45 CSR §31-6. An in-depth discussion regarding this was previously discussed in detail in the CONFIDENTIAL BUSINESS INFORMATION section.

#### **45 CSR 33 - Acid Rain Provisions and Permits**

This rule establishes and adopts general provisions and the operating permit program requirements for affected sources and affected units under the Acid Rain Program promulgated by the United States Environmental Protection Agency under Title IV of the Clean Air Act, as amended (CAA). The rule and associated reference methods, performance specifications and other test methods which are appended to these standards are adopted by reference. At this time, it has not been determined that Fundamental is subject to this rule pending Fundamental’s selection of final power end user. If it is determined that Fundamental is subject, permit condition 4.1.19 requires Fundamental to comply with all applicable provisions of this rule. Additionally, Fundamental would be required to apply for an Acid Rain permit and comply with all applicable requirements of that permit.

As required in §72.30, the designated representative of any source with an affected unit under §72.9 shall submit a complete Acid Rain permit application by the applicable deadline in paragraphs (b) and (c) of this section, and the owners and operators of such source and any affected unit at the source shall not operate the source or unit without a permit that states its Acid Rain program requirements.

For any source with a new unit under §72.6(a)(3)(i), the designated representative shall submit a complete Acid Rain permit application governing such unit to the permitting authority at least 24 months before the later of January 1, 2000, or the date on which the unit commences operation.

Giving notice by publication in the Federal Register and in a newspaper of general circulation in the area where the source covered by the Acid Rain permit application is located or in a State publication designed to give general public notice is required. Notwithstanding the prior sentence, if a draft permit requires the affected units at a source to comply with §72.9(c)(1) and to meet any applicable emission limitation for NOx under §§76.5, 76.6, 76.7, 76.8, or 76.11 of this chapter and does not include for any unit a compliance option under §72.44, part 74 of this chapter, or §76.10 of this chapter, the Administrator may, in his or her discretion, provide notice of the draft permit by Federal Register publication and may omit notice by newspaper or State publication.

#### **45 CSR 34 - Emission Standards for Hazardous Air Pollutants (*not applicable*)**

This rule incorporates the federal Clean Air Act (CAA) national emission standards for hazardous air pollutants (NESHAPs) set forth in 40 CFR Parts 61 and 63 by reference. There are no regulations in 40 CFR Parts 61 or 63 that apply to the Ridgeline Facility. Therefore, 45 CSR 34 does not apply.

#### **45 CSR 40 (Control of Ozone Season Nitrogen Oxide Emissions)**

The purpose of this rule is to establish ozone season NO<sub>x</sub> emission limitation, monitoring, recordkeeping, reporting, excess emissions, and NO<sub>x</sub> budget demonstration requirements for large industrial boilers and combustion turbines that have a maximum design heat input greater than 250 MMBTU/hr, in accordance with 40 CFR §51.121. Ozone season is defined as May 1 through September 30 in the same calendar year. The combustion turbines will be subject to an ozone season NO<sub>x</sub> limitation, and will have monitoring, recordkeeping, and reporting requirements to demonstrate compliance.

§45-40-6 requires the owner or operator subject to this rule to comply with the provisions of 40 CFR part 75, subpart H, or shall install a CEMS or a certified PEMS as necessary to attribute ozone season mass emissions of NO<sub>x</sub> to each unit. NO<sub>x</sub> mass emissions recorded and reported shall be used to determine a unit's compliance with the ozone season NO<sub>x</sub> emission limitation. Section 6.6 of this rule allows an owner or operator to elect an alternative monitoring scenario. Fundamental has met the requirement of this section by requesting an alternative in this permit application. Fundamental has proposed the following parameters to identify how NO<sub>x</sub> emissions will be determined:

- Conduct initial performance testing as required by 40 CFR 60 Subpart KKKK., as prescribed in permit condition 4.3.2.
- Continuously monitor the parameters of the SCR systems to verify proper operation as required in permit conditions 4.2.4 and 4.4.3.
- Continuously monitor and record the amount of each type of fuel to determine the heat input of each combustion turbine. The total monthly heat input will be determined using the monitored fuel data.
- Calculate the total monthly NO<sub>x</sub> emissions for each month during the ozone season. The total NO<sub>x</sub> mass emissions will be calculated for the ozone season each year. Ozone season is defined as May 1 through September 30 in the same calendar year.

#### **Federal**

#### **40 CFR 51.166 - Prevention of Significant Deterioration of Air Quality (*not applicable*)**

Federal construction permitting programs regulate new and modified sources of attainment pollutants under Prevention of Significant Deterioration (PSD) and new and modified sources of non-attainment pollutants under Non-Attainment New Source Review (NANSR). The provisions of this section are captured in the West Virginia state rules discussed above known as 45 CSR 14 (PSD) and 45 CSR 19 (NANSR). Both of these rules are part of West Virginia's State Implementation Plan (SIP).



Tucker County is designated as attainment/unclassifiable for all criteria pollutants. PSD regulations apply when a new source is constructed in which emissions exceed major source thresholds, an existing minor source undergoes modification in which emission increases exceed PSD major source thresholds, or an existing major source undergoes a modification in which emission increases exceed PSD significant emission rates.

The permit application indicates that this proposed electric generation facility will be powered by combustion turbines equipped with HRSG. This description indicates that this proposed facility would be considered a natural gas combined cycle (NGCC) power plant. NGCC plants with a total heat input of more than 250 mmBtu per hour are identified as one of the 28 listed sources ("fossil fuel-fired steam electric plants" source category) that would be subject to the 100 tpy major source threshold.

The permit will implement physical and operational limitations so that the source is a synthetic minor and below major PSD thresholds and is not subject to PSD application review. These limitations will result in enhanced monitoring and recordkeeping and discussed in more detail in the MRRT OF OPERATIONS section of this document.

**40 CFR 60 Subpart Kc - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After October 4, 2023 (*not applicable*)**

Subpart Kc applies to storage vessels of volatile organic liquids with capacities greater than or equal to 20,000 gallons for which construction commenced after October 4, 2023. § 60.110c(b)(8) exempts storage vessels that only store volatile organic liquids with a maximum true vapor pressure less than 0.25 psia (1.7 kPa absolute). Because the diesel fuel vapor pressure is 0.005 psia and is less than 0.25 psia, Subpart Kc is not applicable.

**40 CFR 60 Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units (*not applicable*)**

Subpart Db applies to each steam generating unit that commences construction, modification, or reconstruction after June 19, 1984, and that has a heat input capacity from fuels combusted in the steam generating unit of greater than 29 megawatts (MW) (100 MMBtu/hr). As stated in §60.40b(i), affected facilities (i.e., heat recovery steam generators) that are associated with stationary combustion turbines and that meet the applicability requirements of subpart KKKK of this part are not subject to this subpart. This subpart will continue to apply to all other affected facilities (i.e. heat recovery steam generators with duct burners) that are capable of combusting more than 29 MW (100 MMBtu/h) heat input of fossil fuel. If the proposed affected facility (i.e. heat recovery steam generator) is subject to this subpart, only emissions resulting from combustion of fuels in the steam generating unit are subject to this subpart. (The stationary combustion turbine emissions are subject to subpart GG or KKKK, as applicable, of this part.)

**40 CFR 60 Subpart GG - Standards of Performance for Stationary Gas Turbines (*not applicable*)**

Subpart GG applies to stationary gas turbines with a heat input at peak load of 10 MMBtu/hr or more based on the lower heating value of the fuel fired. As stated in §60.4305(b), stationary combustion

turbines regulated under 40 CFR 60 Subpart KKKK are exempt from the requirements of subpart GG of this part.

#### **40 CFR 60 Subpart KKKK - Standards of Performance for Stationary Gas Turbines**

Subpart KKKK applies to stationary combustion turbines with a heat input at peak load equal to or greater than 10 MMBtu per hour, based on the higher heating value of the fuel, which commenced construction, modification, or reconstruction after February 18, 2005. The turbines at the proposed facility rated at greater than 10 MMBtu per hour; therefore, this rule does apply. Subpart KKKK regulates NO<sub>x</sub> and SO<sub>2</sub>.

The NO<sub>x</sub> emission limit for a new turbine firing natural gas with a heat input between 50 MMBtu per hour and 850 MMBtu per hour is 25 ppm at 15 percent O<sub>2</sub> or 1.2 lb/MWh of useful output. The NO<sub>x</sub> emissions limit for a new turbine firing fuels other than natural gas with a heat input between 50 MMBtu per hour and 850 MMBtu per hour is 74 ppm at 15 percent O<sub>2</sub> or 3.6 lb/MWh of useful output.

SO<sub>2</sub> emissions are limited to either 0.90 lb/MWh gross output, or 0.060 lb/MMBtu heat input.

The combustion turbines located at the proposed facility meet the emission standards found in Subpart KKKK. Fundamental will be using selective catalytic reduction (SCR) systems to reduce NO<sub>x</sub> emissions. Since Fundamental is not using water or steam injection to control NO<sub>x</sub> emissions, they are required to perform initial and annual performance testing to demonstrate compliance. §60.4340(b) allows an alternative to the annual performance testing requirement by installing, calibrating, maintaining and operating a continuous parameter monitoring system. These requirements are found in permit conditions 4.2.4 and 4.4.4 of the draft permit.

#### **40 CFR 60 Subpart TTTTa - Standards of Performance for Greenhouse Gas Emissions for Modified Coal-Fired Steam Electric Generating Units and New Construction and Reconstruction Stationary Combustion Turbine Electric Generating Units**

Subpart TTTTa applies to stationary combustion turbines that commence construction after May 23, 2023, that also serve a generator or generators capable of selling greater than 25 MW of electricity to a utility power distribution system. At this time, a final decision on whether power will be sold has been determined by Fundamental. If it is determined that Fundamental is subject, permit condition 4.1.19 requires Fundamental to comply with all applicable provisions of this rule.

#### **40 CFR 63 Subpart EEEE - National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) (*not applicable*)**

Subpart EEEE applies to organic liquids storage and distribution at major sources of HAPs. The proposed facility is not a major source of HAPs because its PTE of total HAPs is less than 25 tons per year and its PTE of any single HAP is less than 10 tons per year. Therefore, Subpart EEEE does not apply.

**40 CFR 63 Subpart YYYY** - National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines (*not applicable*)

Subpart YYYY applies to stationary combustion turbines at major sources of HAPs. The proposed facility is not a major source of HAPs; therefore, Subpart YYYY does not apply.

**40 CFR 63 Subpart ZZZZ** - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (*not applicable*)

Subpart ZZZZ applies to reciprocating internal combustion engines located at major and area sources of HAP emissions. There are no reciprocating internal combustion engines located at the facility; therefore, Subpart ZZZZ does not apply.

**40 CFR 64** - Compliance Assurance Monitoring (*not applicable*)

Compliance Assurance Monitoring (CAM) applies to pollutant-specific emissions units at a major source under 40 CFR 70. The proposed facility is not a major source under 40 CFR 70; therefore, CAM does not apply.

**40 CFR 70** - Title V Operating Permit Program

Part 70 establishes the Title V Operating Permit Program. The Title V Operating Permit Program has also been incorporated in the West Virginia Code of State Regulations (CSR) 45-30. Under the West Virginia Title V Operating Permit Program, the major source thresholds are 10 tons per year of a single HAP, 25 tons per year of any combination of HAPs, and 100 tons per year for all other regulated pollutants. Fundamental will accept operating limitations on the proposed facility to be a synthetic minor source with respect to the Title V Operating Permit Program. Therefore, Part 70 does not apply. At this time, it has not been determined that Fundamental is subject to 45 CSR 33 due to selection of final power end user. If it is determined that Fundamental is subject to 45 CSR 33, this facility will be subject to Part 70 requirements and will be required to submit a Title V permit application.

**40 CFR 72** - Permits Regulation

The purpose of this part is to establish certain general provisions and the operating permit program requirements for affected sources and affected units under the Acid Rain Program, pursuant to title IV of the Clean Air Act, 42 U.S.C. 7401, et seq., as amended by Public Law 101-549 (November 15, 1990).

At this time, it has not been determined that Fundamental is subject to this rule pending Fundamental's selection of final power end user. If it is determined that Fundamental is subject, permit condition 4.1.19 requires Fundamental to comply with all applicable provisions of this rule. Additionally, Fundamental would be required to apply for an Acid Rain permit and comply with all applicable requirements of that permit.

As required in §72.30, the designated representative of any source with an affected unit under §72.9 shall submit a complete Acid Rain permit application by the applicable deadline in paragraphs (b) and

(c) of this section, and the owners and operators of such source and any affected unit at the source shall not operate the source or unit without a permit that states its Acid Rain program requirements.

For any source with a new unit under §72.6(a)(3)(i), the designated representative shall submit a complete Acid Rain permit application governing such unit to the permitting authority at least 24 months before the later of January 1, 2000, or the date on which the unit commences operation.

Giving notice by publication in the Federal Register and in a newspaper of general circulation in the area where the source covered by the Acid Rain permit application is located or in a State publication designed to give general public notice is required. Notwithstanding the prior sentence, if a draft permit requires the affected units at a source to comply with §72.9(c)(1) and to meet any applicable emission limitation for NO<sub>x</sub> under §§76.5, 76.6, 76.7, 76.8, or 76.11 of this chapter and does not include for any unit a compliance option under §72.44, part 74 of this chapter, or §76.10 of this chapter, the Administrator may, in his or her discretion, provide notice of the draft permit by Federal Register publication and may omit notice by newspaper or State publication.

#### **40 CFR 97 Subpart DDDDD - Federal NO<sub>x</sub> Budget Trading Program, CAIR NO<sub>x</sub> and SO<sub>2</sub> Trading Programs, CSAPR NO<sub>x</sub> and SO<sub>2</sub> Trading Programs, and Texas SO<sub>2</sub> Trading Program**

This rule sets forth the general, designated representative, allowance, and monitoring provisions for the Cross-State Air Pollution Rule (CSAPR) SO<sub>2</sub> Group 2 Trading Program, under section 110 of the Clean Air Act and §52.39 of this chapter, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

This rule applies to fossil-fuel-fired combustion turbines serving at any time, on or after January 1, 2005, a generator with a nameplate capacity of more than 25 MWe producing electricity for sale. At this time, it has not been determined that Fundamental is subject to this rule pending Fundamental's selection of final power end user. If it is determined that Fundamental is subject, permit condition 4.1.19 requires Fundamental to comply with all applicable provisions of this rule.

#### **ANALYSIS OF NON-CRITERIA REGULATED POLLUTANTS**

This section provides information on those regulated pollutants that are not classified as "criteria pollutants". Criteria pollutants are defined as Carbon Monoxide (CO), Lead (Pb), Oxides of Nitrogen (NO<sub>x</sub>), Ozone, Particulate Matter (PM<sub>10</sub> and PM<sub>2.5</sub>), and Sulfur Dioxide (SO<sub>2</sub>). These pollutants have National Ambient Air Quality Standards (NAAQS) set for each that are designed to protect public health and welfare. Other pollutants of concern, although designated as non-criteria *and without national air quality standards*, are regulated through various state and federal programs designed to limit their emissions and public exposure. These programs include federal source-specific HAP regulations promulgated under 40 CFR 61 and 40 CFR 63 (NESHAPS/MACT), and WV Legislative Rule 45 CSR 27 that regulates certain HAPs as Toxic Air Pollutants (TAPs). Any potential applicability to these programs were addressed in the REGULATORY APPLICABILITY section of this document.

The majority of non-criteria regulated pollutants fall under the definition of HAPs which, with some revision since, were 188 compounds identified under Section 112(b) of the Clean Air Act (CAA) as pollutants or groups of pollutants that EPA knows, or suspects *may* cause cancer or other serious human

health effects. These adverse health effects may be associated with a wide range of ambient concentrations and exposure times and are influenced by source-specific characteristics such as emission rates and local meteorological conditions. Health impacts are also dependent on multiple factors that affect variability in humans such as genetics, age, health status (e.g., the presence of pre-existing disease) and lifestyle. As stated previously, *there are no federal or state ambient air quality standards for these specific chemicals*. It is also important to note that the USEPA does not divide the various HAPs into further classifications based on toxicity or if the compound is a suspected carcinogen. The HAP emissions associated with this application are found in the ESTIMATE OF EMISSIONS section of this document. For a complete discussion of the known health effects of each compound refer to the IRIS database located at [www.epa.gov/iris](http://www.epa.gov/iris).

The HAPs emitted from the proposed facility are created during the combustion of natural gas. The HAP emission values were estimated using EPA AP-42: Compilation of Air Emissions Factors from Stationary Sources. AP-42 contains emission factors and process information for more than 200 air pollution source categories. AP-42 Chapter 3.1 contains emission factors for stationary gas turbines. Available data indicate that emission levels of HAP are lower for gas turbines than for other combustion sources. This is due to the high combustion temperatures reached during normal operation. The emissions data also indicate that formaldehyde is the most significant HAP emitted from combustion turbines. For natural gas fired turbines, formaldehyde accounts for about two-thirds of the total HAP emissions. Polycyclic aromatic hydrocarbons (PAH), benzene, toluene, xylenes, and others account for the remaining one-third of HAP emissions. For diesel-fired turbines, small amount of metallic HAPs are present in the turbine's exhaust in addition to the gaseous HAP identified under natural gas fired turbines. These metallic HAP are carried over from the fuel constituents.

The following table lists each HAP currently identified by Fundamental as potentially being emitted based upon the information available in AP-42 Chapter 3.1 Tables 3.1.3, 3.1.4, and 3.1.5 and manufacturer data. Additionally, the Chemical Abstracts Service (CAS) registry number, the type of HAP, the potential to emit (PTE) of the individual HAP, and any potentially applicable Most Available Control Technology (MACT) is provided.

<b>Pollutant</b>	<b>CAS #</b>	<b>Type</b>	<b>PTE (TPY)</b>	<b>MACT<sup>1</sup></b>
1, 3 Butadiene	106-99-0	VOC	0.09	None
Acetaldehyde	75-07-0	VOC	0.69	None
Acrolein	107-02-8	VOC	0.11	None
Benzene	71-43-2	VOC	0.31	None
Propylene Oxide	75-56-9	VOC	0.50	None
Ethylbenzene	100-41-4	VOC	0.55	None
Formaldehyde	50-00-0	VOC	3.86	None
Naphthalene	91-20-3	VOC	0.20	None
Toluene	108-88-3	VOC	2.25	None
Xylenes	1330-20-7	VOC	1.11	None
Arsenic	7440-38-2	Non-VOC	0.06	None
Cadmium	7440-43-9	Non-VOC	0.03	None
Chromium	18540-29-9	Non-VOC	0.06	None
Manganese	7439-96-5	Non-VOC	4.45	None

Mercury	7439-97-6	Non-VOC	0.01	None
Nickel	12035-72-2	Non-VOC	0.03	None
Selenium	7446-34-6	Non-VOC	0.14	None

<sup>1</sup> Does a MACT apply to this specific HAP for any emission unit at the facility? See REGULATORY APPLICABILITY section for discussion.

## AIR QUALITY IMPACT ANALYSIS

Air dispersion modeling is not required of this source because the proposed facility is not subject to 45 CSR 14 (Permits for Construction and Major Modification of Major Stationary Sources of Air Pollutants) as discussed in the Regulatory Discussion Section.

## SOURCE AGGREGATION

“Building, structure, facility, or installation” is defined as all the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous and adjacent properties, and are under the control of the same person.

Fundamental does have control of the proposed site. There are no other emission units located on contiguous or adjacent properties with the Ridgeline Facility. Therefore, the emissions from the proposed facility should not be aggregated in determining Title V or PSD status.

## MONITORING, RECORDKEEPING, REPORTING, AND TESTING (MRRT) OF OPERATIONS

Fundamental will be required to perform the following MRRT:

- **Synthetic Minor Limitations (40 CFR 51.166 and 40 CFR 70)**
  - Operating limits have been established for the combustion turbines. Fundamental will be required to restrict the total number of operating hours for the turbines.
    - Combination of natural gas and diesel - Restrict the total hours of operation as needed to remain under all major source thresholds. The operating hours of each turbine and the throughput of each type of fuel will be continuously monitored and recorded. Keep records of the total amount of hours each turbine uses natural gas as a fuel and the total amount of hours each turbine uses diesel as a fuel. The permittee shall multiply the hourly steady state operation emissions represented in draft permit condition 4.1.3 by the number of hours of steady state operations and adding the appropriate startup and shutdown emission from draft permit condition 4.1.4. The permittee shall calculate the emissions monthly and on a twelve-month rolling total. A twelve-month rolling total shall mean the sum of emissions at any given time during the previous twelve consecutive calendar months.

■ **40 CFR 60 Subpart KKKK MRRT and 45 CSR 13**

- Install selective catalytic reduction (SCR) systems on each turbine to control NO<sub>x</sub> emissions. SCR parameters will be continuously monitored to verify proper operation (§60.4340(b)(iii)). Monitor the catalyst bed inlet temperature and pressure differential across the catalyst bed to indicate proper operation.
- Keep records of the SCR continuous monitoring data, and 4-hour rolling unit operating hour averages of the monitored parameters.
- An SCR parameter monitoring plan will be developed which explains the procedures used to document proper operation of the SCR units in accordance with §60.4355. The plan must:
  - Include the indicators to be monitored and show there is a significant relationship to emissions and proper operation of the NO<sub>x</sub> emission controls
  - Pick ranges (or designated conditions) of the indicators, or describe the process by which such range (or designated condition) will be established
  - Explain the process used to make certain that data is obtained that are representative of the emissions or parameters being monitored (such as detector location, installation specification if applicable)
  - Describe quality assurance and control practices that are adequate to ensure the continuing validity of the data
  - Describe the frequency of monitoring and the data collection procedures which you will use, and
  - Submit justification for the proposed elements of the monitoring. If a proposed performance specification differs from manufacturer's recommendation, the reasons for the differences must be explained.
- In accordance with §60.4365(a), keep records of the fuel characteristics in a current, valid purchase contract, tariff sheet or transportation contract for the fuel, specifying:
  - The maximum total sulfur content of oil is 0.05 weight percent (500 ppmw) or less
  - The total sulfur content for natural gas is 20 grains of sulfur or less per 100 standard cubic feet
  - Potential sulfur emissions are less than 0.060 pounds SO<sub>2</sub>/million Btu heat input
- Submit notifications of the date construction commences, the actual date of initial startup as required under §60.7.
- Report excess emissions and monitor downtime semiannually, in accordance with §60.4375(a) and §60.7(c). Excess emissions will be reported for all periods of unit operation, including start-up, shutdown, and malfunction. An excess emission is a 4-hour rolling unit operating hour average in which any monitored parameter does not achieve the target value or is outside the acceptable range defined in the parameter monitoring plan. A period of monitor downtime is a unit operating hour in which any of the required parametric data are either not recorded or are invalid.
- Submit the results of the initial performance test within 60 days following completion of the test.
- An initial performance test for NO<sub>x</sub> and SO<sub>2</sub> emissions is required under §60.8 and §60.4400. The initial performance test will be conducted within 60 days after achieving the maximum production rate, but not later than 180 days after initial startup. The performance test must be done at any load condition within plus or minus 25 percent of

100 percent of peak load. Separate performance testing is required for natural gas and diesel fuel.

- An initial performance test for CO emissions to demonstrate compliance with permit condition 4.1.3. The initial performance test will be conducted within 60 days after achieving the maximum production rate, but not later than 180 days after initial startup. The performance test must be done at any load condition within plus or minus 25 percent of 100 percent of peak load. Separate performance testing is required for natural gas and diesel fuel. [45CSR§13-5.10]
- **45 CSR 17 Fugitive Sources of Particulate Matter**
  - Sources of fugitive particulate matter at the proposed facility include diesel truck and employee traffic on paved plant roads. Conduct a visual inspection of the paved roads once each operating day to ensure no fugitive emissions are generated. When needed, roads will be swept and/or watered to minimize fugitive dust. Records will be kept of the inspections and any corrective actions.
- **45 CSR 40 – Control of Ozone Season NO<sub>x</sub>**
  - Fundamental is proposing an alternative monitoring scenario in accordance with Section 6.6 of 45 CSR 40. The alternative monitoring scenario is consistent with the requirements in 40 CFR 60 Subpart KKKK.
  - Conduct initial performance testing to determine the NO<sub>x</sub> emission rate in pounds per million Btu. Approved SCR parameters will be monitored to demonstrate compliance with the NO<sub>x</sub> emission limit.
  - To determine the heat input for each turbine, the amount of each type of fuel will be continuously monitored and recorded. The total monthly heat input will be determined using the monitored fuel data. The total monthly NO<sub>x</sub> emissions will be calculated for each month during ozone season. The total NO<sub>x</sub> mass emissions will be calculated for the ozone season each year.
  - It should be noted, as stated in permit condition 4.1.14, the combustion turbines/HRSG shall use the air pollution control devices specified in Section 1.0 and permit condition 4.1.6 and identified in Permit Application R13-3713 *at all times when in operation* except during periods of startup and shutdown when operating temperatures do not allow for proper use of the air pollution control devices.
- Maintain records of diesel fuel unloading operations in accordance with the permit. Said records shall be maintained on-site or in a readily accessible off-site location.
- Maintain records of testing conducted in accordance with the permit. Said records shall be maintained on-site or in a readily accessible off-site location.
- Maintain the corresponding records specified by the on-going monitoring requirements of and testing requirements of the permit.
- Maintain a record of all PTE HAP calculations for the entire facility.

The records shall be maintained on site or in a readily available off-site location maintained by Fundamental for a period of five (5) years.



## STATUTORY AUTHORITY OF THE DAQ

The statutory authority of the DAQ is given under the Air Pollution Control Act (APCA) – West Virginia Code §22-5-1, *et. seq.* – which states, under §22-5-1 (“Declaration of policy and purpose”), that:

It is hereby declared that public policy of this state and the purpose of this article is to achieve and maintain such levels of air quality ***as will*** (underlining and emphasis added) protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state.

Therefore, while the code states that the intent of the rule includes the criteria outlined in the latter part of the above sentence, it is clear by the underlined and bolded section of the above sentence that the scope of the delegated authority does not extend beyond the *impact of air quality* on these criteria. Based on the language under §22-5-1, *et. seq.*, the DAQ, in making determinations on issuance or denial of permits under WV Legislative Rule 45 CSR 13 (45 CSR 13), does not take into consideration substantive non-air quality issues such as job creation, economic viability of proposed project, strategic energy issues, non-air quality environmental impacts, nuisance issues, etc.

The basis for issuance or denial of an air quality permit is given under 45 CSR 13. Pursuant to §45-13-5.7, the DAQ shall issue a permit unless:

a determination is made that the proposed construction, modification, registration or relocation will violate applicable emission standards, will interfere with attainment or maintenance of an applicable ambient air quality standard, cause or contribute to a violation of an applicable air quality increment, or be inconsistent with the intent and purpose of this rule or W. Va. Code § 22-5-1, *et seq.*, in which case the Secretary shall issue an order denying such construction, modification, relocation and operation. The Secretary shall, to the extent possible, give priority to the issuance of any such permit so as to avoid undue delay and hardship.

It is clear under 45 CSR 13 that denial of a permit must be based on one of the above explicitly stated criteria or, as noted, is inconsistent with 45 CSR 13 or §22-5-1, *et. seq.* As is stated above, it is the DAQ’s position that the intent of both the APCA and 45 CSR 13 is to circumscribe the authority of the DAQ to air quality issues as outlined in the APCA and in West Virginia’s State Implementation Plan (SIP).

The air quality issues evaluated relating to Fundamental’s proposed construction are outlined in this document. All applicable and potentially applicable rules were evaluated in the REGULATORY DISCUSSION section. The items covered under that section represent the extent of the substantive air quality issues over which the DAQ has authority to evaluate under 45 CSR 13 and the APCA as relating to this permit application.

## PUBLIC INVOLVEMENT

From the date of Fundamental's notice of application (March 26, 2025) until the release of this EE/FS and draft permit, the DAQ received comments and requests for a public meeting from various individuals and organizations concerning the proposed facility. All comments/public meeting requests received were provided with an email response acknowledging receipt.

The DAQ provided notice to the public of an open comment period for permit application R13-3713 in *The Parsons Advocate* on June 18, 2025. This notice of open comment period provided information on the facility and proposed emissions.

Additionally, the DAQ will hold an in person public meeting to provide information and answer questions on air quality issues relevant to this permit application. The meeting will be held at the Maple/Balsam/Spruce Rooms at Canaan Valley Resort State Park, 230 Main Lodge Road, Davis, WV 26260 on Monday, June 30, 2025, from 6:00 p.m. until 9:00 p.m. Doors will open at 5:00 p.m. to register attendees. If you plan to attend the in-person public meeting, to save time and ensure all participants in attendance are registered, please fill out the pre-registration form at <<https://forms.gle/jEQTGGPUP73xBmRJ7>> by 8:00 a.m. on Monday, June 30, 2025. Upon arrival, we request that you sign your name on the pre-registration list. While pre-registration is not required, it is encouraged to save time and ensure all participants in attendance are registered. If you do not have internet access and want to pre-register, please contact Nicole Ernest at 304-926-0475.

The DAQ will also hold a virtual public meeting to accept oral comments that are relevant to this permit application on Thursday, July 17, 2025, from 6:00 p.m. until 8:00 p.m. The purpose of this virtual public meeting is ONLY to accept oral comments, the DAQ will not be responding to questions during this virtual public meeting. Registration is required by 4:00 p.m. on Thursday, July 17, 2025, to participate in the virtual public meeting. To register, please complete the participant registration form at <<https://forms.gle/dYSUgFZigRGe8WQp9>>. To register to provide an oral comment, please indicate "yes" you want to provide oral comments for the record when you register with the previously provided link. A confirmation e-mail will be sent with your responses when you register. A separate email with information on how to join the public meeting will be sent shortly after registration closes at 4:00 p.m. on Thursday, July 17, 2025. If you do not have internet access and want to register, please contact Nicole Ernest at 304-926-0475. If you have previously provided written comments, you do not need to read your written comment during the virtual public meeting to accept oral comments.

Written comments must be received by the DAQ by 5:00 pm on Friday, July 18, 2025. Written comments may be submitted by:

- Email: Jerry Williams at [Jerry.Williams@WV.gov](mailto:Jerry.Williams@WV.gov) with "Fundamental Data Comments" as the subject line, or
- Mail: WVDEP - Air Quality, Attention: Jerry Williams, 601 57th Street SE, Charleston, WV 25304.

According to information provided by the applicant, the proposed facility could begin operation in 2027. The purpose of the DAQ's permitting process is to make a preliminary determination if the proposed construction will meet all state and federal air quality requirements. The purpose of the public review process is to accept public comments on air quality issues relevant to this determination. Only written

comments received at the email address/physical address noted above within the specified time frame, or comments presented orally at the scheduled public meeting, will be considered prior to final action on the permit. All such comments will become part of the public record.

The draft permit and engineering evaluation can be downloaded at:

<https://dep.wv.gov/daq/permitting/Pages/NSR-Permit-Applications.aspx>

At the conclusion of the Notice of Open Comment Period which begins on June 18, 2025 and ends on July 18, 2025, the DAQ will prepare a RESPONSE TO PUBLIC COMMENTS document which will include background information, overview of comments received, a response to comments, list of commenters, the actual comments received, and any other pertinent information that is needed as a result of the public comments received.

This document will be made available for review on DEP's AX website (<https://documents.dep.wv.gov/AppXtender/>) and a copy will be provided via email to all parties that commented during either public comment period.

#### RECOMMENDATION TO DIRECTOR

The information provided in permit application R13-3713 indicates that compliance with all applicable state and federal air quality regulations will be achieved. Therefore, I recommend to the Director that the DAQ go to public notice with a preliminary determination to issue Permit Number R13-3713 to Fundamental Data for the proposed construction of a turbine power facility located in Thomas, Tucker County, WV.

**Jerry  
Williams**

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Jerry Williams, P.E.  
Engineer

Digitally signed by: Jerry  
Williams  
DN: CN = Jerry Williams email =  
jerry.williams@wv.gov C = US  
Date: 2025.06.17 06:46:15 -  
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