



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

February 3, 2026

Michael Perlman
Starwood Digital Ventures
1255 23rd St. NW, Suite 250
Washington, DC 20037

Dear Mr. Perlman:

In 1971, Delaware passed the landmark Coastal Zone Act for the purpose of protecting the coastal areas of Delaware from incompatible heavy industry uses. The law acknowledges the need for careful planning to balance between the State's policies encouraging the introduction of new industry and those protecting the coastal zone. Specific activities were prohibited by law or subject to additional restriction in the Coastal Zone for their extraordinary potential to pollute the areas of our state deemed most critical for future quality of life. DNREC provides the opportunity for applicants to obtain a Status Decision, answering whether a specific proposed activity requires a Coastal Zone permit, is exempt from Coastal Zone permitting, or is prohibited within the Coastal Zone based on the laws and regulations that apply. The Status Decision process only exists for the Coastal Zone and is based on the specific attributes of the proposed project.

On October 31, 2025, DNREC received an application for a Status Decision submitted by Verdantas LLC ("Verdantas") on behalf of Starwood Digital Ventures for the proposed development of Project Washington, a data center campus in New Castle County on two parcels of land (New Castle County tax parcels 10-049.00-073 and 12-002.00-025). Project Washington is proposed to include 11 two-story data centers accessible from Hamburg Road and Governor Lea Road and supported by electrical infrastructure and onsite electrical generation intended to support 24/7 facility operations in the event

of outside power supply failure. The application seeks a Status Decision to determine whether the proposed Project Washington is exempt, subject to permitting or prohibited under the Coastal Zone Act.

SUMMARY OF DETERMINATION

DNREC has considered your application for a Status Decision carefully and determined that the proposed Project Washington is prohibited from development in Delaware's Coastal Zone.

Regulations promulgated under the Coastal Zone Act, 7 Del. Admin. C. § 101 (the "Regulations"), identify certain prohibited uses within the Coastal Zone. Section 4.9 of those Regulations state that "Any new tank farm greater than 5 acres in size not associated with a manufacturing use is prohibited as a new heavy industry use." Project Washington as proposed includes some 516 double-walled diesel fuel belly tanks, each capable of storing some 5,020 gallons of fuel. The area dedicated to these tanks far exceeds 5 acres of the project area.

Each of these tanks is co-located with a diesel generator, which rests on top of the tank. Section 5.1.8 of the Regulations lists "Back-up emergency and stand-by source of power generation to adequately accommodate emergency industry needs when outside supply fails" as a use not regulated.

This proposal highlights a tension between two sections of the Regulations. Typical backup generation is exempted out of the coverage of the statute, even when it includes supporting tanks. But a system of backup generation that incorporates more than 5 acres of storage tanks is not at all typical. Indeed, a proposal to operate more than 500 backup generators at a single location with more than 2.5 million gallons of stored diesel fuel appears to be entirely unprecedented, and would have been inconceivable just a few years ago. (For comparison, the most backup generators currently at a facility in the Coastal Zone is 8.) The large tank farm that is incorporated into this proposal will pose exactly the types of risks that justify the categorical exclusion of such a tank farm from the Coastal Zone as a prohibited use.

The project also includes 516 smokestacks, one associated with each of the 516 generators. Such stacks are another characteristic piece of equipment associated with "heavy industry use" as defined in Coastal Zone. Under certain assumptions about how frequently these generators may in fact

operate, the nitrogen oxides emissions associated with these generators could well be the largest source of such emissions in the Coastal Zone, and indeed in the entire state, with the sole exception of the Delaware City refinery.

With these risks and the intent of the Delaware Coastal Zone Act in mind, DNREC concludes that the proposed use is not allowed in the Coastal Zone.

PROCEDURAL BACKGROUND

After a number of preliminary discussions with DNREC, the applicant's agent, Verdantas, submitted an application in draft form on July 31, 2025. Early coordination continued until September 8, 2025, when a signed submission was received. On September 18, 2025, the application was forwarded to subject matter experts within DNREC including the Division of Fish and Wildlife, the Division of Water, the Division of Waste and Hazardous Substances, and the Division of Air Quality. In October 2025, DNREC requested clarification and additional information on questions that arose during the review of that original submission. A revised application was received on October 31, 2025. After a review of the updated submission materials, the application was deemed administratively complete on December 1, 2025.

On December 10, 2025, DNREC solicited public comments with a notice published in the Daily State News, The News Journal, on the DNREC public notices webpage (posted in English and Spanish), and sent electronically to the CZA public listserv pursuant to 7 Del. Admin. C. §§ 101-7.0 and -14.0. In addition, the public notice was posted in the Delaware City Public Library, New Castle Public Library, and the Bear Public Library. The public comment period closed on January 12, 2026, and nearly 400 comments were received for consideration by DNREC and inclusion in the record. All of those comments received during the established duration of the comment period are being posted online by DNREC to accompany the announcement of the Status Decision.

ANALYSIS

The following analysis considers the information provided by the applicant, previous Status Decisions, previous decisions issued by the Coastal Zone Industrial Control Board (CZICB), 7 Del. C. Chapter 70 (CZA), 7 Del. Admin. C. § 101 (Regulations), public comments responsive to the solicitation

described above, consultation with legal counsel, and consultation with DNREC subject matter experts.

The application asserts that the proposed project does not include manufacturing, as regulated by the CZA, and that the project's primary functions—storage of data; emergency generation of electricity to assure continuous access when outside power supply fails; and electrical infrastructure—are specifically identified as Uses Not Regulated by the Regulations, 7 Del. Admin. C. § 101-5.0 as follows:

5.1.2 Warehouses or other storage facilities, not including tank farms.

5.1.5 Facilities used in transmitting, distributing, transforming, switching, and otherwise transporting and converting electrical energy.

5.1.8 Back-up emergency and stand-by source of power generation to adequately accommodate emergency industry needs when outside supply fails.

The function of data storage and related data services is proposed to occur inside 11 two-story buildings, each on the order of 500,000 to 700,000 square feet. Submitted plans show each of those buildings will be flanked by the proposed electrical generation equipment yards. The proposed data center buildings include design elements intended to resemble warehouses in physical appearance, including existing warehouses on proximal properties, as described on pages 23-24 of the application. The primary functions of the proposed data center buildings appear to align with the intent of 5.1.2; however, further analysis regarding the presence of a tank farm is warranted to determine whether 5.1.2 can be applied to the proposed project.

The proposed electrical equipment, including 5 substations over 16.2 acres and one switch station on 15.2 acres, while substantial in size as compared to surrounding uses, also appears to align with the intent of 5.1.5. The applicant describes the necessity of the proposed electrical equipment to provide appropriate voltage to the data center campus. DNREC acknowledges that the application on page 25 indicates that specific electrical equipment has not been identified but provided typical information on the potential to pollute from such facilities and equipment. The proposed use of batteries containing sulfuric acid and transformers that employ cooling fluids with varying potential to cause environmental harm is discussed. The application discusses spill

containment systems and claims installation would be performed according to relevant standards.

The application proposes a data center campus including approximately 579 acres, with approximately 17 acres devoted to generator yards holding 516 stationary generators, each co-located with a 5,020-gallon double-walled diesel fuel belly tank. Those generators are proposed to provide electricity to sustain 24/7 operations on the campus in the event of outside power failure. The application asserts that these generators fall under the Use Not Regulated described in 5.1.8. Similar to the above analyses, DNREC considers these generators and fuel tanks in light of the proposed development's purpose and the intent of the CZA. Tank farms are mentioned once in the CZA in the context of on-shore support facilities constructed in support of off-shore research, exploration, and development operations; and mentioned multiple times in the Regulations including § 101-4.9, which prohibits "Any new tank farm greater than 5 acres in size not associated with a manufacturing use...as a new heavy industry use."

"Tank farm" is not defined by the CZA nor the Regulations. While the Merriam-Webster dictionary suggests that a "tank farm" is "a continuous area used exclusively for the field storage of oil in tanks," nothing in the Regulations suggests that an area dedicated to tanks needs to be "exclusively" dedicated to tanks. The first criterion for evaluating tank farms focuses on their spatial extent, with a 5-acre threshold. The proposed generator yards will span an approximate cumulative (but non-contiguous) 17 acres of the facility. Each of the proposed 516 generators will have a diesel tank 12 feet wide, 39.5 feet long, and 2 feet high, with a storage capacity of 5,020 gallons. The proposed acreage of the tank footprints, alone, totals 5.6 acres, though the usual calculation of the size of a tank farm would include space between tanks as well as the tanks themselves. Further, any proposed tank farm greater than 5 acres in size must be associated with a manufacturing use to be permissible. The applicant states clearly throughout the application, and DNREC concurs, that the proposal does not include a manufacturing use. The intent of the CZA to facilitate compatible development in the Coastal Zone is enabled by this rule: large tank farms are allowable if they are associated with manufacturing because they would be a reviewable component of a new manufacturing permit application.

The CZA defines manufacturing as "the mechanical or chemical transformation of organic or inorganic substances into new products,

characteristically using power-driven machines and materials handling equipment, and including establishments engaged in assembling component parts of manufactured products, provided the new product is not a structure or other fixed improvement.”

The only component of the proposed activity that could be interpreted to meet that definition is the use of diesel fueled generators to produce electricity. However, the applicant is not proposing to produce electricity as a product to be sold on the market, rather for the purpose of providing continuous uninterrupted operations of the facility in the event of outside power supply failure. Therefore, DNREC finds that the proposed activity includes a prohibited use – a tank farm greater than 5 acres in size that is not associated with a manufacturing use.

The proposed large diesel fuel tank farm and generators that will emit air pollution during maintenance, testing, and operation are further evaluated against the overarching prohibition of new heavy industry uses in the Coastal Zone. The CZA defines heavy industry uses as:

characteristically involving more than 20 acres, and characteristically employing some but not necessarily all of such equipment such as, but not limited to, smokestacks, tanks, distillation or reaction columns, chemical processing equipment, scrubbing towers, pickling equipment and waste-treatment lagoons; which industry, although conceivably operable without polluting the environment, has the potential to pollute when equipment malfunctions or human error occurs.

The definition further identifies some examples of uses that would qualify as heavy industry, such as oil refineries and petrochemical complexes, and other uses that would not qualify as heavy industry such as garment factories, automobile assembly plants and jewelry and leather goods manufacturing establishments, and on-shore facilities supporting of off-shore research, exploration and development operations.

The application proposes a data center campus, an operation not specifically identified in the definition of heavy industry. The use will constitute approximately 579 acres, considerably more than the 20 acres threshold found in the CZA’s heavy industry use definition. The generator yards will include two of the heavy industry definition’s listed equipment: smokestacks

and tanks, both associated with the generators. These generator yards also carry a significant potential for pollution, as each generator will be accompanied by a 5,020-gallon diesel fuel tank, for a total of 2,590,320 gallons. These tanks will require periodic refueling by truck – estimated in the application to be performed 1 to 20 times annually for each tank, based on the minimum and worst-case generator use estimates. Both the diesel fuel storage and the refueling activities present scenarios for pollution.

There are also two presentations of the proposed project's potential to pollute in the application that purport to establish an environmentally friendly scenario while reserving the exploration of alternatives. The closed loop cooling system mentioned on page 14 is listed as one of an unknown number of alternatives being considered. The application mentions the volume of water for closed loop system charging, and also that maintenance and repair of the closed loop system may require partial or complete drainage and re-charging. The closed loop cooling system is interpreted to approximate the minimum water usage by a viable cooling system, and thus represents a minimum potential to pollute in case of equipment malfunction or human error.

The second unspecified design element with a potential to pollute is the cooling fluid to be used in transformers within the proposed substations, which is left undetermined on page 25. An environmentally friendly fluid is mentioned as an alternative to hydrocarbon or mineral fluids, with the application further mentioning spill containment systems to mitigate inadvertent releases of such substances.

Additionally, there is discussion of unspecified batteries as a component of uninterruptable power systems on page 20 – noting that the batteries have a 12-year warranted lifespan and that “preliminary estimates indicate that approximately 960, 1 MW batteries may be needed.” The hazardous waste stream created by such batteries is an additional potential source of negative environmental impacts. DNREC understands that the proposed development would be leased to unspecified tenants, who would select and manage electronic components.

The backup generators will also emit air pollutants, including significant nitrogen oxides, carbon monoxide and volatile organic compounds emissions. The application notes that the generators will emit, at minimum, 25 tons of nitrogen oxides per year (based on manufacturer-recommended specifications for annual maintenance and testing) and, “under worst-case conditions of

operating 500 hours per year,” 616 tons of nitrogen oxides. In such worst-case conditions, there would also be some 25 tons of particulate matter, 6.8 tons of sulfur oxides, 419 tons of carbon monoxide, and some 49 tons of volatile organic compounds emitted from the generators. These “worst-case conditions” are consistent with EPA guidance estimating that 500 hours is an appropriate default assumption for the number of hours that an emergency generator could be expected to operate under worst-case power outage conditions. Under this worst-case assumption, this proposed campus has the potential to emit more tons of nitrogen oxides than any other industrial use in the coastal zone, with the exception of the Delaware City refinery.

The Coastal Zone Act focuses upon “heavy industry use” because such uses include the type of equipment that “has the potential to pollute when equipment malfunctions or human error occurs.” 7 Del. Code § 7002(d). The application suggests that the onsite generators will operate only for required maintenance and testing purposes and for “any emergency use,” a scenario which could involve human error.

Importantly, given the dramatic uncertainty in regional power markets and operations, there are scenarios in which Delaware-based backup generators could routinely operate even short of actual blackout conditions. During the recent snowstorm and cold weather of January 22-February 2, 2026, the Secretary of the U.S. Department of Energy determined that “statutory emergency condition exists in the PJM Interconnection, L.L.C. region, due to a sudden increase in demand, a shortage of facilities for the generation of electric energy, and other causes.” DOE Order 202-26-06 at 1. The declared emergency authorized PJM to direct backup generation sources at data centers to operate as a “last resort” before firm load interruption. Were these proposed 516 generators to become subject to such orders on an ongoing basis, the potential to pollute would be significant.

CONCLUSION

The proposal to develop a data center campus intended for continuous uninterrupted operation by relying on an unprecedented number of diesel generators, with a potential to produce air pollution at heavy industry levels, as well as a tank farm greater than 5 acres in size with further potential to pollute, is a heavy industry use not compatible with Delaware’s Coastal Zone, and is prohibited from development therein.

Notice of this decision is intended to be announced on February 4, 2026, and a copy of the legal notice is attached for your records. There is a fourteen (14) day appeal period to the Coastal Zone Industrial Control Board following the date of announcement of this decision, detailed further in 7 Del. Admin. C. § 101-16.0. If you have any questions about this decision, please contact DNREC Division of Climate, Coastal and Energy's Coastal Programs Section.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Gregory Patterson', with a stylized flourish at the end.

Gregory Patterson
Secretary

Enclosure

cc: David Small, Verdantas



DNREC – DIVISION OF CLIMATE, COASTAL AND ENERGY

LEGAL NOTICE

Starwood Digital Ventures Status Decision

The Secretary of the Department of Natural Resources and Environmental Control (DNREC) has made a decision regarding the request for a Coastal Zone Act (CZA) status decision (Project CZA-448SD) from Starwood Digital Ventures (“Starwood”). On October 31, 2025, a status decision application was submitted on the behalf of Starwood to determine whether or not the development of a data center campus on two contiguous New Castle County, Delaware tax parcels (10-049.00-073 on Hamburg Road and River Road and 12-002.00-025 on Governor Lea Road and South Dupont Highway) requires a CZA permit, is exempt from CZA permitting, or is prohibited by the CZA. The proposed activities included a two-phased development plan for the construction of 11 two-story buildings, 5 substations, one switch station, equipment yards, parking lots, driveways, stormwater management areas, and the installation of 516 generators. The Secretary’s decision was made in consideration of the status decision application, the public comments received, previous status decisions, and in consultation with legal counsel.

The decision can be found on the DNREC public notice web page at <https://de.gov/dnrecnotices>

Pursuant to 7 Del. C. § 7007(b), anyone wishing to appeal this decision to the State Coastal Zone Industrial Control Board (CZICB) must do so by end of day on February 18, 2026. A written appeal for this decision may be submitted by emailing DNREC_CZICB_Appeals@delaware.gov (note the underscores between DNREC and CZICB and Appeals) or to the following address:

CZICB
89 Kings Highway, Dover, DE 19901

There is an appeal application fee of \$100. If no appeal is received within the appeal period, this decision becomes final.

Encuentre la versión en español de este aviso en <https://de.gov/dnrecavisos>

View DNREC’s non-discrimination policy at <https://de.gov/titlevi>

DNREC Notice No. CCE20260043