



pennsylvania environmental council

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VIA Electronic Mail

December 31, 2021

Dear Ms. Kucharek and Major Andrieu:

Thank you for the opportunity to provide comment on the Maryland Air National Guard's draft Environmental Assessment and Draft Finding of No Significant Impact for the proposed Duke Low Military Operating Area.

The Pennsylvania Environmental Council is a statewide non-profit corporation deeply involved in thinking and acting on a variety of environmental and conservation issues facing the Commonwealth. We achieve outcomes by working for sensible and sustainable solutions to these challenges.

The proposed Duke Low Military Operating Area ("MOA") impacts our work and our members, partners, staff, and supporters because the MOA impacts areas of the state in which we work either directly or indirectly to promote land conservation, habitat restoration, development and/or recognition of recreational infrastructure and activities, and the economic activation of communities adjacent to or near public lands.

In reviewing the Draft Environmental Assessment ("EA"), Draft Finding of No Significant Impact ("FONSI"), and the comments of a number of agencies and organizations (including, but not limited to, Governor Tom Wolf, the Pennsylvania Department of Conservation and Natural Resources ["DCNR"], and the Western Pennsylvania Conservancy ["WPC"]), our bottom line comment is that it appears that the Draft Environmental Assessment ("EA") prepared for the

Maryland Air National Guard is lacking both substantively and procedurally and that issuing a FONSI for this project based on that work would be arbitrary and capricious.

We come to this position based particularly on the specific concerns laid out by the DCNR and WPC in their comments and incorporate those comments here by reference.

Based on those comments, and based on the requirements of the National Environmental Policy Act of 1970 (“NEPA”), we believe that there are two specific actions that Maryland Air National Guard must take in reference to the current proposals.

First, we request that the Maryland Air National Guard rescind the proposed FONSI as inappropriate given the comments that have been submitted and reassess the EA based on all comments submitted.

Second, as called for under the Council on Environmental Quality’s regulations implementing NEPA, we request that the Maryland Air National Guard develop a scoping process for development of a full Environmental Impact Statement for the proposed MOA (*40 CFR, Section 1501*), including in that process, especially, parties that have indicated that they have questions regarding the EA and FONSI. (*40 CFR, Section 1501.7*)

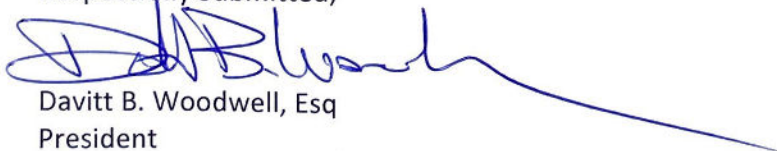
While we do not presage the outcome(s) of a fully developed and robust EIS for the proposed MOA, we do believe that that process will result in better understanding and decision making both by and for all involved. That is, after all, the original intent of NEPA, regardless of all the trials and tribulations that have accompanied the Act over the last fifty years.

Ultimately, of course, it is not better documents but better decisions that count. NEPA’s purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. (*40 CFR, Sect 1550.1 (c)*)

Again, we thank the Maryland Air National Guard for the opportunity to comment on this important issue and also want to recognize the importance of your work, service, and commitment to protecting the United States.

We look forward to working with you as you develop a full EIS for this proposed major federal action significantly affecting the environment.

Respectfully Submitted,


Davitt B. Woodwell, Esq
President