
**In The
Circuit Court of Prince William County**

CASE NO. CL24-334-00

KATY BURKE, *et al.*,

Petitioners,

v.

**BOARD OF COUNTY SUPERVISORS,
PRINCE WILLIAM COUNTY, *et al.*,**

Respondents.

**BRIEF OF *AMICUS CURIAE* PIEDMONT ENVIRONMENTAL COUNCIL,
NATIONAL PARKS CONSERVATION ASSOCIATION, ASSOCIATION FOR
THE PRESERVATION OF VIRGINIA ANTIQUITIES, NATIONAL TRUST
FOR HISTORIC PRESERVATION IN THE UNITED STATES, AND
COALITION TO PROTECT AMERICA'S NATIONAL PARKS AND
COALITION TO PROTECT PRINCE WILLIAM COUNTY
IN SUPPORT OF PETITIONERS**

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I. INTRODUCTION

This *Amicus Curiae* Brief is respectfully submitted on behalf of several non-profit organizations whose organizational names, history and purposes are set out below (the “**Amici**”). They share a long-standing investment and involvement in preserving our Nation’s battlefields and national parks, as well as in the protection of our Nation’s natural resources and environment. Many of the Amici organizations have long been invested in Prince William County, the home of one of our Nation’s most sacred sites, the Manassas National Battlefield Park (also, the “**Park**”).

Amici share this interest with at least one of the Petitioners in this matter, the American Battlefield Trust (“**ABT**”), successor of the Civil War Trust, a Virginia nonstock corporation and a 501(c)(3) nonprofit organization who owns land within the historic boundaries of the Second Manassas Battlefield. And they are not alone. The Amici collectively speak for over one million members and supporters, including tens of thousands of Virginia residents. The Amici and their memberships share Petitioners’ deep concern about the recent action taken by the Prince William County Board of Supervisors (“**Board**”) in approving the three rezoning proposals at issue in this case (the “**Rezoning**”). The Rezoning, rushed through by a lame-duck Board, would permit the building of the Prince William Digital Gateway (“**Digital Gateway**”), which proposes to erect eight-story data center warehouses atop and beside the hallowed ground on which the Battle of Second Manassas was fought, and adjacent to Conway Robinson State Park, and other lands and natural resources long-conserved for the benefit of the public.

The Digital Gateway, which would sprawl over 1,700 acres, promises to be the largest cluster of data centers in the world. If the development is allowed to proceed, the solemn nature of this historic site would become marred by sitting in the shadow of the monstrous data centers, along with their associated electrical infrastructure. With 37 data center buildings—with a square footage roughly equivalent to that of 144 Walmart Supercenters—and 14 electric substations proposed, the Digital Gateway threatens to transform this idyllic portion of Prince William County into a buzzing hive of industrial activity, sucking up vast quantities of water and electricity and stretching transmission lines across the County and beyond.

The purpose of this Amicus Brief is three-fold. **First**, Amici wish to draw the Court's attention to the national significance of the Manassas Battlefield, and the many decades of concerted public and private action to protect it. **Second**, Amici wish to provide important historical context as the Court considers the Petitioners' challenge to the Board's unlawful consideration and approval of the Rezoning. The breadth of interests of the proposed Amici demonstrates the diverse impacts of the Rezoning, and consequently the impacts and importance of the Court's decision. **Third**, the Amici seek to give voice to the substantial opposition to the Board's approval, which was minimized, silenced, and ignored by the Board. For instance, no less an authority than the then-Superintendent of Manassas National Battlefield Park, Mr. Brandon Bies, echoed the Amici's concern about the "substantial negative impact" it would have on "historical resources both within and outside the [Manassas National Battlefield] Park," going so far as to call the Digital Gateway Project "the

single greatest threat to Manassas National Battlefield Park in nearly three decades.” Even the County’s own expert environmental and planning staff, as well as the County’s Planning Commission, advised the Board against approving the Rezoning. The proposed Rezoning prompted amicus Association for the Preservation of Virginia Antiquities, a/k/a “Preservation Virginia” to list the Manassas National Battlefield Park in 2022 as one of those “historic places across the Commonwealth that face imminent or sustained threats,” and noted that the Digital Gateway threatened to “irreparably alter the adjacent historic landscapes associated with the[] battlefield, local farmland, and the areas’ rural character.” See Preservation Virginia.org, “2022 List of Virginia’s Most Endangered Historic Places Announced (May 10, 2022), preservationvirginia.org/press_release/2022-list-of-virginias-most-endangered-historic-places-announced/.

Like the Petitioners and the National Park Service, Amici believe that the Board’s hasty decision to approve the Rezoning, if not invalidated, would inevitably lead to the irreversible and irreparable desecration of hallowed ground and the despoiling of the natural and cultural resources that enrich so many in Prince William County and across the Commonwealth. That decision was taken against their formally and informally expressed public and political opposition and governing law, including those designed to further democratic involvement and mature deliberation.

Therefore, Amici respectfully join Petitioners in urging this Court to deny the Demurrers filed by the proponents of the Digital Gateway and put them to their proof, at trial.

II. THE INTERESTS OF THE AMICI

The Piedmont Environmental Council (“**PEC**”) is a Virginia nonstock corporation, a donor-supported 501(c)(3) nonprofit organization, and an accredited land trust that is a leader on conservation, restoration, smart growth and climate action. PEC’s mission is to protect and restore the lands and waters of the Virginia Piedmont, which area includes lands and waters located in Prince William County.

The Association for the Preservation of Virginia Antiquities a/k/a Preservation Virginia (“**Preservation Virginia**”), is a Virginia nonstock corporation and a 501(c)(3) nonprofit organization that is a privately funded, statewide historic preservation leader founded more than 100 years ago. Preservation Virginia works to ensure the relevancy of the Commonwealth of Virginia’s historic places through advocacy, education, revitalization and preservation and stewardship. Preservation Virginia is the nation’s first and oldest statewide nonprofit historic preservation organization. Preservation Virginia works with communities to preserve the significant historic and cultural resources that offer a full telling of Virginia's history.

The National Parks Conservation Association (“**NPCA**”) is a Washington, D.C. headquartered nonprofit membership organization that was founded in 1919 and is the leading voice of the American people in protecting and enhancing our National Park System. With more than 1.6 million members and supporters nationwide, and

more than 44,565 members and supporters in Virginia, NPCA and its members work to protect and preserve our Nation’s most iconic and inspirational places for present and future generations. NPCA’s Mid-Atlantic regional office is located in Washington, D.C., and works to safeguard National Park sites in Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia, including Manassas National Battlefield Park.

The National Trust for Historic Preservation in the United States (“**National Trust**”) is a congressionally chartered and privately funded 501(c)(3) nonprofit organization. As set out in the enabling statute, the National Trust’s role is to work to save America’s historic places; tell the full American story; build stronger communities; further the historic preservation policy of the United States; and “facilitate public participation” in the preservation of our nation’s heritage. 54 U.S.C. § 312102. The National Trust presented testimony in opposition to the Digital Gateway before the Prince William County Board of Supervisors on November 2, 2022 (at 7:55 AM during an all-night hearing), and on December 13, 2023 (at 8:20 AM during an all-night hearing). The National Trust has also been involved for decades in efforts to protect Manassas Battlefield from harmful development proposals, including the Disney’s America proposal in 1994, and the more recent proposals for the Bi-County Parkway.

The Coalition to Protect America’s National Parks is an Arizona nonprofit corporation and 501(c)(3) nonprofit organization comprised of more than 2,100 current and former National Park Service employees united in their mission to study,

educate, speak, and act for the preservation and protection of the National Park System and mission-related programs of the National Park Service. With over 40,000 years of collective experience managing and protecting national parks, the members of the Coalition to Protect America's National Parks believe that America's parks and public lands represent the very best of our Nation, and advocate for their protection by speaking out for national park solutions that uphold the law and apply sound science.

The Coalition to Protect Prince William County is a non-partisan, nonprofit 501(c)(4) grassroots organization formed in 2014 to defend the rural character of Prince William County and the quality of life of county residents. The Coalition to Protect Prince William County is entirely composed of volunteers in partnership with county residents, communities, businesses, and nonprofit organizations united to preserve and enhance the quality of life, natural resources, and historical heritage areas of Prince William County.

Representatives of the six (6) Amici have tracked closely the process resulting in the Rezoning and have through, their membership and other representatives, been active participants, including through written and oral comments at public meetings, throughout that process.

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III. AMICI SUPPORT PETITIONERS' CHALLENGE TO THE REZONING

A. The First and Second Battles of Manassas/Bull Run¹

The Manassas Battlefield represents not only a period of heart-wrenching combat, but also a decisive moment during the Civil War. It is the site of more than 150 years of historic preservation and memorialization. The Manassas National Battlefield Park was the backdrop of two critical battles of the American Civil War, the First and Second Manassas or Bull Run. The Park includes sites designated by the Congressionally created Civil War Sites Advisory Commission (the “CWSAC”) as having the greatest integrity and being most worthy of preservation.

The First Battle of Bull Run was the first full-scale battle of the Civil War, and at the time, it was the largest battle in the history of the Western hemisphere. Major General John Pope’s defeat at Second Manassas resulted in Pope’s dismissal from command and General Lee’s march northward. These two battles together produced nearly 27,000 casualties. Many Americans drew their last breath on those fields and many still rest there. While many Americans were laid to rest in the park cemeteries, to this day, human remains continue to be discovered.² The proposed Digital

¹ Historical information from the First Battle of Bull Run (Battle of First Manassas) and Second Battle of Bull Run (Battle of Second Manassas) taken from several sources, including the websites maintained by the National Park Service and by ABT: [Bull Run Battle Facts and Summary | American Battlefield Trust \(battlefields.org\)](https://www.battlefields.org/learn/first-battle-of-bull-run); [Second Manassas | American Battlefield Trust \(battlefields.org\)](https://www.battlefields.org/learn/second-battle-of-bull-run); [The Battle of First Manassas \(First Bull Run\) - Manassas National Battlefield Park \(U.S. National Park Service\) \(nps.gov\)](https://www.nps.gov/mana/learn/news/unprecedented-discovery-remains-of-civil-war-soldiers-and-field-hospital-found-at-manassas-national-battlefield.htm); <https://www.nps.gov/mana/learn/news/unprecedented-discovery-remains-of-civil-war-soldiers-and-field-hospital-found-at-manassas-national-battlefield.htm>.

² See, e.g., Christopher Joyce, “Civil War Battlefield ‘Limb Pit’ Reveals Work of Combat Surgeons” NAT’L PUBLIC RADIO (June 20, 2018),

Gateway not only threatens these hallowed grounds, but the remains of those who fell. In fact, a mass burial site for unknown soldiers who died at the Second Battle of Manassas is located approximately 600 feet west of Pageland Lane in a small group of trees, within the lands subject to one of the Rezoning, the location of which depicted in the enclosed exhibits. *See Section III.C infra.*

Although the Civil War officially began when Confederate troops shelled Fort Sumter on April 12, 1861, the fighting did not commence in earnest until the Battle of Bull Run (as it was known by the Federal Army) or First Manassas (as it was known by the Confederate forces), which was fought months later, just 25 miles from Washington D.C. Under public pressure to end the war in 90 days, President Lincoln had pushed the cautious General Irvin McDowell to embark on a campaign to capture the Confederate capital in Richmond, but McDowell's troops were stopped at Bull Run by Brigadier General P.G.T. Beauregard's Confederate forces. Civilian spectators, hoping to witness the termination of the conflict, instead fled with the Federals across the Potomac back to Washington, where the Lincoln administration retooled for a protracted war that would be waged at great human and financial cost.

One year after their stunning victory at the First Battle of Manassas in July 1861, Confederate prospects were uncertain. General Ulysses S. Grant was keeping the Confederates at bay in the West. In the East, General George B. McClellan was leading the Peninsula Campaign, threatening the Confederate capital at Richmond with the largest army ever assembled in North America. Three Union forces in the

<https://www.npr.org/sections/health-shots/2018/06/20/620394034/civil-war-battlefield-limb-pit-reveals-work-of-combat-surgeons>.

Shenandoah Valley were attempting to move south to support McClellan's invasion, but their progress was continually impeded. Frustrated by the failure of those troops to gain ground, President Abraham Lincoln formed the Army of Virginia in June 1862 and appointed Major General Pope to command it.

The Lincoln administration gave Pope the dual task of shielding Washington and operating northwest of Richmond to take pressure off McClellan's army. But Pope's defeat at Second Manassas was a setback. This second loss for the Union near the battlefield at Bull Run resulted in Pope's dismissal from command and Lee's march northward to Maryland and Antietam, which witnessed the bloodiest day in American history. The Battle of Second Manassas, thus, proved to be the deciding battle of the Civil War campaign between Union and Confederate armies in Northern Virginia.

B. History of Preservation of Manassas and of America's Battlefields

The Manassas Battlefield, whose boundaries extend beyond the limits of what is today the Manassas National Battlefield Park, *see* Exhibit I below, has long been at the heart of the national effort to preserve America's battlefields. It remains just as historically and culturally important today. The cultural and historical importance of the Second Manassas Battlefield, which is most keenly threatened by the Digital Gateway, has been recognized since 1921, when descendants of Confederate veterans purchased several acres of the battlefield and made it accessible to the public as a park. In the 1930s, the federal government purchased the veterans' land and, along with additional lands it acquired, developed the site as

a recreation area. In 1940, Congress officially designated portions of the battlefield, a total of more than 1,600 acres, as a National Battlefield Park. In 1966, 4,522 acres were listed in the National Register of Historic Places. In 1988, Congress enlarged the boundaries of the park to include potentially 5,071 acres, much, but not all, of the historic site of the Battle of Second Manassas.

In the late 1980s, around the same time that Congress enlarged the boundaries of the park, a landowner proposed to develop nearly 600 acres of the Manassas Battlefield for a mixed-used development, including building a 1.2 million-square-foot shopping center. This proposed development would have destroyed the site of Robert E. Lee's headquarters during the Second Battle of Manassas. Responding to this threat, the National Park Service ("**NPS**") acquired the proposed development area at a cost of \$120 million, or almost \$320 million in today's dollars. In doing so, the NPS both preserved the sanctity of the Manassas Battlefield and recognized the importance of the battlefield as an historical and cultural site.

This effort, while localized in Manassas, raised national awareness about the ongoing and dire threats to our nation's Civil War battlefields. In 1990, the U.S. Congress established the aforementioned Civil War Sites Advisory Commission or CWSAC. The CWSAC was tasked with identifying the nation's historically significant Civil War sites, assessing their condition and recommending alternatives for preserving and interpreting them. *See* Civil War Sites Study Act of 1990, Pub. L. No. 101-628, Title XII, Sections 1201-1210, 104 Stat. 4469, 4503-07 (Nov. 28, 1990). At the same time, the U.S. Secretary of the Interior created the American Battlefield

Preservation Foundation to serve as a nonprofit partner to NPS to help protect battlefield lands of the highest priority. The American Battlefield Preservation Found is a predecessor of ABT.³

A few years later, “[i]n November 1993 the Walt Disney Company surprised northern Virginians with the announcement of its intention to build a historic theme park called Disney's America in Haymarket, Virginia, 3.5 miles from the Manassas battlefield.” JOAN M. ZENZEN, *BATTLING FOR MANASSAS: THE FIFTY-YEAR PRESERVATION STRUGGLE AT MANASSAS NATIONAL BATTLEFIELD PARK* (1998), available at https://www.nps.gov/parkhistory/online_books/mana/adhi11b.htm. The combined efforts of numerous conservationist groups, including Amici PEC and the National Trust, historians, political commentators, politicians and private citizens ultimately led Disney to abandon this proposed development and preserve the Manassas Battlefield, just one of the many near misses with development the site has survived. *Id.ad*

During this period, the CWSAC issued “The Report on the National Civil War Battlefields” (“**1993 CWSAC Report**”), attached as **Exhibit A** hereto. In preparing the 1993 CWSAC Report, CWSAC reviewed all 10,500 military actions of the Civil War to prioritize the actions and sites according to historic significance and preservation priority. CWSAC identified the Second Manassas Battlefield as among the 384 sites with the most critical need for coordinated nationwide action and designated it as one of the 50 most threatened Civil War battlefields in the country.

³ See Battlefields.org, “American Battlefield Trust History,” <https://www.battlefields.org/about/history>.

While the CWSAC identified 10,500 military actions, major Civil War battlefields are far less common. Even in Virginia, which contains the largest number of principal battlefield sites of any state, only one-third of the county-level jurisdictions hold any of the major battlefields. (1993 CWSAC Report at 22).

The Report also identified portions of the land rezoned for the Digital Gateway as the historic site of the Second Manassas Battlefield (“**Manassas Battlefield**”), including areas identified by historians and surveyors with the National Park Service (“**NPS**”) as part of the “core areas” and “study areas” of that Battlefield. The NPS reaffirmed that conclusion five years later, in 1998, in its “Profiles of America’s Most Threatened Civil War Battlefields,” attached as **Exhibit B**, and yet again another decade later, in its “Update to the Civil War Sites Advisory Commission’s Report on the Nation’s Civil War Battlefields: Commonwealth of Virginia,” published in July 2009, and attached as **Exhibit C**. “Core areas” of the Manassas Battlefield embrace the main area of fighting on the battlefield. Positions that delivered or received intense fire—places where American soldiers, fought, bled, died and, in some cases, were buried—are classified as being within the “core area.” Conversely, “study areas” include, but extend beyond, core areas and represent the geographical extent to which historic and archeological resources associated with the battle (areas of combat, command, communications, logistics, medical services, etc.) may be found and protected. The study area contains resources known to relate to, or contribute to, battle events: avenues of approach and where troops maneuvered, deployed, and skirmished immediately before, during, and after intense combat. Historic accounts,

terrain analysis, and geographic feature identification inform the delineation of the study area.

Part of the preservation of battlefields includes not only conservation of the battlefields themselves, but also careful management of adjacent lands. CWSAC noted the importance of the viewshed of each battlefield, and the need for local authorities to take the viewshed into consideration when planning for the use of neighboring lands. CWSAC recommended adopting precautions such as density or height limitations and guidelines for unobtrusive building materials and signage. (1993 CWSAC Report at 45).

Indeed, before the Rezoning, the Prince William Digital Gateway Comprehensive Plan Amendment imposed height restrictions of 85 feet in the northern district and 45 feet in the south. With the Rezoning, the Board has approved buildings of far greater heights, expanding far beyond its boundaries the Digital Gateway's negative impact. Specifically, in the northern district, the Board has approved building heights of 83 feet, plus 10 feet for penthouse offices. In the south, the Board has approved heights of 90 feet, plus 10 feet for penthouse offices. While the Developer advertises these heights without the penthouse space, the actual heights permitted has increased substantially in the northern districts, and dramatically in the southern districts, lying adjacent to the Park. These increased heights mean the Digital Gateway will be visible from within the Park, materially and irreparably changing the nature of the Park itself, as well as the overall visitor experience of the more than half a million people that visit the Park every year, and

the untold thousands more who may not enter, but yet enjoy from nearby its tranquility and beauty.

In 1996, Congress passed the act authorizing the American Battlefields Protection Program. Pub. L. No. 104-333, at § 604(b); 110 Stat. 4093, 4173 (Nov. 12, 1996).⁴ There, Congress specifically identified the purpose of the law as being to:

Assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

Id.

In 2002, Congress again recognized the importance of preserving Civil War battlefields when it enacted the Civil War Battlefield Preservation Act of 2002. Pub. L. No. 107-359, 111 Stat. 3016 (December 17, 2002) (“**Battlefield Preservation Act**”). The Battlefield Preservation Act authorized the Secretary of the Interior to establish a grant program for the acquisition of Civil War battlefield lands. In passing the Battlefield Preservation Act, Congress found that “Civil War battlefields provide a means for the people of the United States to understand a tragic period in the history of the United States.” *Id.* § 2(a)(1). Congress further cited the Report, finding that of the 384 principal Civil War battlefields, almost 20% were lost or fragmented, 17% were in poor condition, and a 60% were either lost or were in imminent danger of being lost as coherent historic sites. *Id.* § 2(a)(2). Congress

⁴ Later recodified at 54 U.S.C. §§ 308101-308103.

therefore enacted the Battlefield Preservation Act for the specific purpose of acting “quickly and proactively to preserve and protect nationally significant Civil War battlefields....” *Id.* § 2(b)(1).

C. The Digital Gateway Presents a Grave Threat to Conservation of the Manassas Battlefield.

The Prince William Digital Gateway poses a dire threat to Manassas Battlefield. This has been recognized by various stakeholders with an interest in preserving the historic treasure that is the battlefield, as well as those with significant expertise in historical preservation. As noted above, the then-Superintendent of the Manassas Battlefield National Park wrote a letter, and submitted comments, to the Board of Supervisors expressing his “grave concerns ... over the potential irreparable harm that this development would cause” to the Park. He described the data center plan as “extremely concerning to the National Park Service,” and “the single greatest threat to Manassas National Battlefield Park in nearly three decades.” He likened this threat to the proposed development in the late 1980s that galvanized the community and motivated Congress to take action to preserve these unique and valuable national treasures. *See* Ltr. from Brandon S. Bies, Superintendent of Manassas Nat’l Battlefield Park, U.S. Dep’t of the Interior, to Chairwoman Ann Wheeler, Prince William Bd. of Cnty. Supvrs. (Dec. 3, 2021), attached as **Exhibit D.**

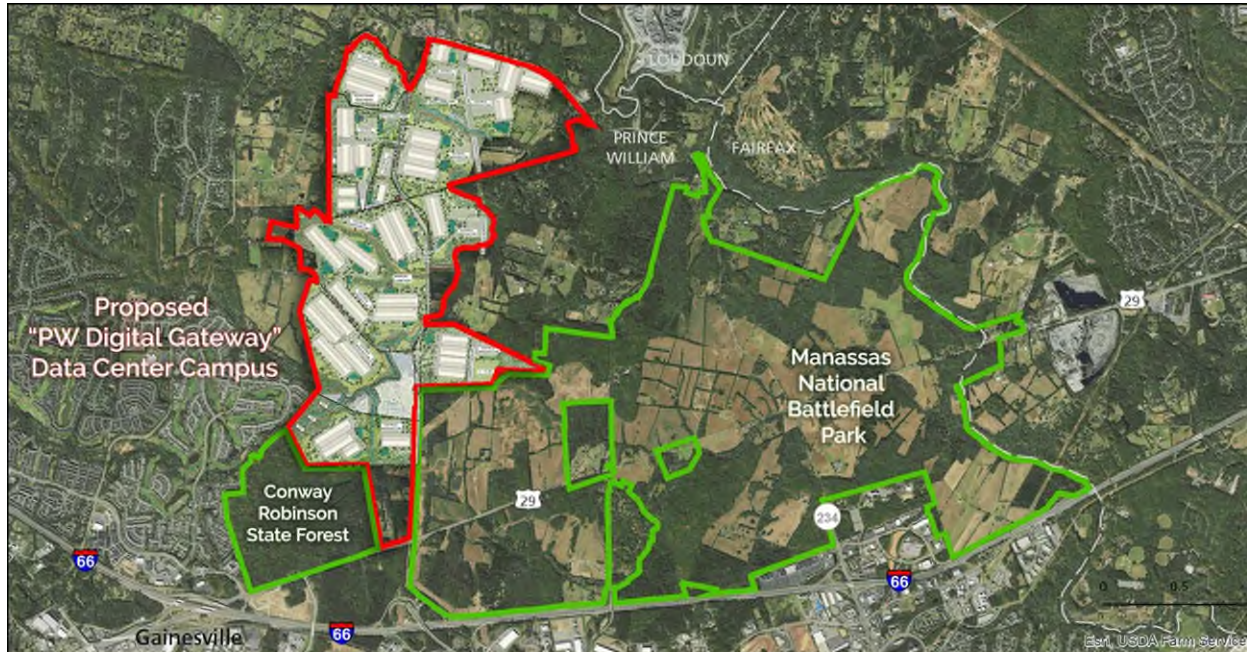
The Prince William County Historical Commission (“**Commission**”) subsequently passed a resolution opposing the development of the data centers as planned due to the detrimental impact on the Manassas Battlefield. In its resolution,

the Commission noted the significant events that transpired not just on the battlefield generally, but in areas that will be directly impacted by the development. The Commission noted, for example, that the Georgia Infantry camped on Pageland, that approximately 374 to 476 soldiers died of measles while encamped there and were buried on site. There are no records indicating disinterment or removal of those remains. *See* Ltr. of October 26, 2022, and attachments from Prince William County Historical Commission, a copy of which is attached as **Exhibit E**. In September 2023, the current Superintendent of the Manassas Battlefield National Park, Kristofer B. Butcher, has reaffirmed his predecessor’s commitment to protection of not only the Park, but the larger Manassas Battlefield, from the development contemplated by the Digital Gateway, *see* **Exhibit F**. Thereafter, Superintendent Butcher submitted various comments on the Rezoning, noting that

The proposed project is located directly adjacent to the battlefield and across multiple historic landscapes with significant ties to MNBPN. The NPS has determined that the proposed project will likely adversely affect MNBPN and directly affect numerous other historic resources associated with MNBPN. Due to the need for additional research to identify other likely present resources, there are potentially additional historic resources that will be adversely affected.

Specifically with respect to the need for “additional research,” the Superintendent of the Park or MNBPN pointed to “the presence of the post-Civil War settlement community of African Americans” and the need for a Cultural Landscape Report. None of this was addressed prior to approval of the Rezoning, which gave the developers of the Digital Gateway *carte blanche*. Earlier in 2023, Superintendent Butcher petitioned the County to make three locations outside the Park’s boundaries County Registered Historic Sites. A copy of this letter is attached as **Exhibit G**.

The following map shows the location of the Digital Gateway, the size of the approved development, and the location and certain intrusion upon the Manassas National Battlefield Park:



In the end, the Rezoning would allow the conversion of over 1,700 acres of historic land to industrial development of data centers, a land mass almost half the size of the Park's 5,071 acres. A more detailed rendition of what is illustrated above, prepared by PEC, is available online.⁵ The map attached as **Exhibit H** illustrates the extent to which the land subject to the Rezoning would overlap, or front, land within the Park. The map attached as **Exhibit I** illustrates that part of the Digital

⁵ Digital Gateway, by Piedmont Environmental Council: Digital Gateway Data Center Campus Proposal in Prince William County, <https://www.flickr.com/photos/pecphotos/albums/72177720312365356/>. Additional information from PEC about the Digital Gateway and these depictions may be found at Piedmont Environmental Council, Putting the Pieces Together on Digital Gateway (Nov. 1, 2023), <https://www.pecva.org/region/fauquier/putting-the-pieces-together-on-digital-gateway>.

Gateway would be constructed on portions of the historic Manassas Battlefield that fall outside the boundaries of the Park. Finally, pictures showing on a human scale the Digital Gateway's effect on the viewshed from a key portion of the Park are enclosed as **Exhibit J**.

In addition to the dramatic, negative and irreparable impact the Rezoning would have on the Battlefield, the Rezoning will detrimentally impact the region in numerous other ways, outlined in brief below.

D. The Digital Gateway Also Threatens Certain Immediate and Permanent Environmental Harms.

The visual, noise and environmental impacts will be severe, exacerbated by the widespread removal of trees, which will take decades to restore. With respect to the viewshed, even the developers have recognized that significant portions of the data centers and new electrical substations and transmission lines necessitated by the Digital Gateway are anticipated to be visible from the Park, forever altering the scenic landscape. Pictures illustrating the scale of additional transmission infrastructure the Digital Gateway would require are attached as **Exhibit K**.

With respect to noise, the various activities around data center construction and operation have well-documented impacts on the noise environment in the areas surrounding their facilities. From back-up generators that run intermittently to large air conditioning units on top of each building that run 24-7, data centers produce an audible and continuous hum. Noise analysis done by John W. Lyver, IV, Ph.D. indicates that the Brawner Farm Interpretive Center, located within the Park, would see a 12.4 decibel increase at full PW Digital Gateway buildout, more than

doubling the noise levels for visitors.⁶ This would have lasting adverse impacts on the Battlefield, devaluing the visitor experience and the interpretive abilities of National Park Service employees, and impacting wildlife who make the Park their home.

These effects would be even worse during the long construction phase. It is expected that construction of these data centers would take a minimum of six years to complete. This construction process will involve heavy machinery, cranes, dump trucks, and more, which would cause immediate and significant visual and noise impairment, even before the approved data centers are operational. The developers have done nothing to mitigate or reduce these impacts to the Park during that time.

Moreover, the demands placed on the electricity grid will inevitably lead to increased air pollution. Each data center relies on diesel generators to provide backup energy in the event of power outages. For a development the size of PWDG, it is expected that more than 2,000 backup diesel generators, each the size of a tractor trailer, will be required. Each generator can run in accordance with Virginia Department of Environmental Quality permitting requirements for up to 500 hours—20 plus days—a year. 9 Va. Admin. Code § 5-80-1105(B)(2). Their operation, even intermittently, would increase air pollution in Manassas National Battlefield Park and beyond.

To be sure, these effects would not be a phenomenon occurring in the distance from the Park. The approved development includes 10 acres within the Park's

⁶ Noise Modeling of Planned Data Centers and Roadways in the Gainesville and Manassas National Battlefield Park Area, John W. Lyver, IV, Ph.D. May 30, 2022.

designated borders, 9,282 feet of which fronts the Digital Gateway land. Indeed, part of the approved development would also fall within the National Register of Historic Places designation of Manassas National Battlefield Park. A total of 101.2 acres of the land rezoned for the Digital Gateway is within the core area of the Manassas Battlefield, and 7,984 feet fronts that area. Approximately 264.6 acres of the land rezoned for the Digital Gateway is in the study area of the Manassas Battlefield, a total of 21,299 feet, over four miles, of which front the Digital Gateway. Moreover, 570 acres of the land rezoned for the Digital Gateway has been formally designated by federal or state agencies as significant to the Second Battle of Manassas.

The Rezoning flies in the face of the local and national preservation efforts undertaken for over a century. It would sadly diminish the experience of the approximately half a million people who visit the Battlefield each year, threatening the \$37.8 million spent by those tourists and the 458 local jobs they support.⁷ Indeed, many visitors seek solace in the history and natural beauty of the Battlefield. The data centers would in essence box in the Battlefield, creating a wall around the landscape. Moreover, encroachment on the Battlefield by the data centers would desecrate the resting place of the over 4,000 Americans who died on the site in 1861 and 1862.

Environmental Impacts: Data centers are a fundamental part of the technology infrastructure that supports the modern economy, and they have a place

⁷ See U.S. Nat'l Park Service, Social Science, "Visitor Spending Effects - Economic Contributions of National Park Visitor Spending," Manassas Nat'l Battlefield Park (Sept. 10, 2024), <https://home.nps.gov/subjects/socialscience/vse.htm>.

in Prince William County and other localities in Virginia. However, given the enormous impacts they can have on the surrounding environment and nearby communities, it is essential that they be appropriately sited and scaled. Setting aside the years of construction, and the erosion and sedimentation that naturally follow, should the Digital Gateway proceed, substantial environmental impacts will continue. For instance, data centers rely upon on-site diesel generators to provide power should there be an interruption from the grid, and are deployed at regular intervals, even when power is available, to ensure preparedness. The Digital Gateway may be expected to host thousands of such generators, emitting substantial noise, smell and particulate matter in the vicinity of the Park and beyond.

Rural Crescent: The Rural Crescent was established with the adoption of the 1998 Comprehensive Plan. The Rural Crescent is an 80,000-acre urban growth boundary in the northern and western areas of the County, and was established to protect the rural area with limits on development and infrastructure, such as public water, sewers, roads and schools. It is a vital smart growth tool that has been successful in curbing sprawl, protecting the Occoquan Reservoir Watershed, and reducing public infrastructure costs, while encouraging investment in the development area where it is most cost-effective. The Digital Gateway proposal would remove 2,133 acres from the designated rural area without adding acres elsewhere to offset that loss. Removing such vast amounts of land from the Rural Crescent contradicts the current Comprehensive Plan and would impact the rural character, commitment to open space, and public investment to support the quality

of life of residents throughout the county. The Rural Crescent also acts as the county's de facto climate plan, storing climate pollution and reducing the county's carbon footprint. The removal of this land from protection to be developed into an industrial area sets the county backwards on its goal of 100% clean energy.

Water Quality and the Occoquan Reservoir: The Occoquan Reservoir provides drinking water to more than 800,000 people living in the region, and the reservoir is managed by Fairfax Water. On March 21, 2022, Fairfax Water wrote a letter to the Board expressing its concern with the Digital Gateway's impact on regional water supply. Fairfax Water requested that the Board convene the Occoquan Basin Policy Board and oversee a comprehensive study on the impacts that this development would have on the watershed. Fairfax Water reiterated this request in another letter to the Board on October 24, 2022. Although the Board agreed to study these water quality impacts, it removed language ensuring that this critical analysis would take place *before* the Digital Gateway could be approved.

As a result, the impacts of the Rezoning on the Occoquan Reservoir, which is the drinking water supply for more than 800,000 people in the region, have not been fully studied. It is known, however, that both the construction and operation of the Digital Gateway will increase erosion, sedimentation, and polluted runoff, particularly salinity levels, in the reservoir. Using what information is known, water quality engineers have conducted studies indicating that a development of this size would lead to extensive increases in sedimentation runoff from heavy construction activities—up to 57,000 tons of sediment if the proper stormwater control practices

are not in place and strictly enforced. *See* Ltr. from Kyle Hart, Mid-Atlantic Program Manager, Nat'l Parks Cons. Assoc., *et al.*, to Chair Ann Wheeler and Members of the Prince William Cnty. Bd. of Supvrs. (Oct. 31, 2022), attached as **Exhibit L**.

The Digital Gateway would also convert an extensive amount of natural terrain, more than 1,700 acres of currently pervious surface, like fields and forests, into impervious surfaces like buildings, parking lots and roads. Unlike pervious surfaces, where water can penetrate into the ground and recharge groundwater, water simply runs off the impervious surfaces into waterways, carrying with it solvents, oils, dirt and debris from the impervious surfaces. The unavoidable result would be to increase stormwater runoff pollution into local streams and the Occoquan River (even with required stormwater management), up to 280 million additional gallons per year. This pollution will include salt-related constituents, such as sodium chlorides, which the Fairfax County Water Authority is unable to filter from drinking water at this time and can be removed only through a process of desalination, usually by reverse osmosis, the operation of which is uneconomical at best, practically impossible at worst. A development of this size in an existing rural area of the Occoquan Reservoir is unprecedented. Impacts will be felt downstream for years to come.

Energy and Climate: The current rezoning documents submitted by QTS and Compass Data Centers do nothing to advance the stated climate goals of the County, the Commonwealth, or the Country, and the applicants' commitments to

sustainability pale in comparison to the massive energy needs this project will certainly have.

Loudoun County uses roughly 2 gigawatts to power its 27 million square feet of data center space, which requires miles of transmission lines and numerous substations. The Digital Gateway, which would allow up to a comparable 27 million square feet of data center space, would require upgrades to the existing 500kV and 230kV lines that run up through the Manassas National Battlefield and feed electricity from the north and south to Loudoun's data center mark. *See* Ltr. from Julie Bolthouse, Director of Land Use, Piedmont Env. Council, Prince William Cnty. Planning Cms'rs, (Sept. 14, 2022), attached as **Exhibit M**. At full buildout, transmission lines over Pageland Lane would be required to access land on its western side and substations would be required to serve the numerous buildings.

Proponents of the Digital Gateway have provided no information about their energy usage or the type or number of backup generators they will require. Given the dearth of information, environmental experts have estimated the project's expected power demand using industry trends and energy usage of other data centers in the Northern Virginia area. These experts estimate that the Digital Gateway, including all three rezoning applications, will require more than 2.9 gigawatts of power to operate. This is the approximate amount of energy required to power more than 717,000 homes at peak load, a greater number of homes than are currently sited in Prince William and Fairfax Counties combined.

Beyond the clear lack of clean energy commitments, the Digital Gateway sustainability proffer statement lists sixteen possible measures the applicants may undertake. Unfortunately, the applicants only commit to executing five of these sixteen commitments for the entire project. And even those reflect an anemic commitment, such as counting the commitment to 85% LED lightbulb usage as two of the five commitments. This low bar of commitment to sustainability is unacceptable.

IV. CONCLUSION

Virginia Civil War sites are a precious legacy to this Commonwealth as well as to the Nation as a whole. The Board was duty bound to give due account to the historical, environmental, and other impacts of its decision, to follow regular order in their deliberative processes, and to provide sufficient notice to allow the public so that the exercise of the Board's representative duties might be duly informed by the will of the people they were elected to represent. This did not occur here. Because of this fact, and because the Rezonings represent exercises of public authority that threaten destruction of this Commonwealth's and our Country's historical legacy, they must be met with judicial skepticism and held to the letter of the law, particularly the letter of those provisions intended to enable public input and mitigate damage to private and public goods.

Instead, as the Petitioners have amply pled and the legislative record demonstrates, the Board little considered the importance of the Manassas Battlefield, or the irreparable harm that would be caused by permitting an enormous

development on the doorstep of the Battlefield itself. Both in its process and in its decision, the Board did not act reasonably or with regard for its own role and responsibility as a representative body charged with the exercise of powers delegated, and delimited, by law.

Amici accordingly join the Petitioners in requesting that this Court deny the Demurrers and allow this lawsuit, the latest in a long line of efforts to preserve the Manassas Battlefield for generations to come, to advance.

Date: October 3, 2024
Richmond, Virginia

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on this 3rd day of October 2024, a true copy of the foregoing was served via first-class mail and electronic mail on the following:

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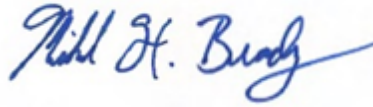
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A handwritten signature in blue ink that reads "Will H. Brady". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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