WEST VIRGINIA CODE: §54-1-3A

§54-1-3a. Entry by political body to obtain data; compensation to owner.

If the applicant be the State of West Virginia, or any agency or political subdivision thereof, and if the applicant shall have given the person residing thereon, if any, at least three days' notice of its intent, the applicant, by its authorized contractors, officers, agents, and employees, may enter and bring necessary or desirable machinery, equipment and tools upon any property, waters and premises in this state, to make thereon such surveys, inspections, examinations, investigations, tests, soundings and drillings as the applicant shall deem necessary or desirable for the purpose for which the property, or an interest or right therein, is proposed to be taken, which shall include, but shall not be limited to, laying out the lands, ways and easements, and acquiring data and information deemed necessary or desirable by the applicant in contemplation of acquiring the property, waters or premises, or an interest or right therein, by the power of eminent domain. Such entry or acts authorized by this section shall not be deemed either a trespass or an entry under any condemnation proceeding which may then be pending. Such entry or acts shall not continue longer than one year, except by the consent in writing of the owner, or by authority of the circuit court of the county wherein the property lies. It shall be the duty of the applicant to compensate the owner reasonably for the use of his property and to pay him the amount of any actual or demonstrable damages proximately resulting from any such entry or acts. In the event the applicant and the owner cannot agree as to the amount of such damage, if any, the applicant shall institute a condemnation proceeding for the purpose of determining the amount thereof, if any. If the applicant shall fail to institute such a proceeding within sixty days after receipt of demand therefor from the owner, by certified or registered mail, the owner may have a writ of mandamus in the circuit court of the county wherein such entry or act authorized by this section was made or performed, to compel the applicant to institute and prosecute to completion a condemnation proceeding for such purpose.

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