



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

MAR 22 2017

Mr. Edward (Ted) A. Boling
Acting Chairman
Council on Environmental Quality
Washington, D.C. 20503

Dear Mr. Boling,

I write in response to the Council on Environmental Quality's (CEQ) January 19, 2017 letter to then Assistant Secretary of the Army for Civil Works (ASA-CW) Ms. Jo-ellen Darcy regarding Dominion Virginia Power's application for a Department of the Army permit to construct the Surry-Skiffes Creek-Wheaton Transmission Line. A portion of the proposed work would require a Department of the Army permit pursuant to the Rivers and Harbors Act (RHA) and the Clean Water Act (CWA). As explained in the January 30, 2017 letter from Mr. Douglas Lamont, performing the duties of ASA-CW, to Mr. Edward Boling, authority to issue or deny such permits is delegated through regulation to me as the Norfolk District Commander.

In the January 19, 2017 letter, CEQ states its agreement with former Secretary of the Interior, Sally Jewell, who in her January 17, 2017 letter, recommended that the Corps prepare an environmental impact statement (EIS) for this proposal. As explained in the enclosed response to Secretary Jewell's letter, the U.S. Army Corps of Engineers (USACE) has fully addressed each of her stated reasons for preparing an EIS. Pursuant to USACE NEPA implementation regulations, we are currently conducting an environmental assessment (EA) to assess the impacts of the proposed project and determine whether, after considering proposed mitigation efforts, the proposed project would significantly affect the quality of the human environment.

The Corps has evaluated impacts to aquatic resources and determined they are minimal. We have appropriately coordinated with National Marine Fisheries Service and the US Fish and Wildlife Service and have received concurrence that the proposed project is not likely to adversely affect species protected under the Endangered Species Act (ESA). Through coordination with the maritime community and our Operations Branch who is responsible for maintaining the federal shipping channel, we have determined that the project will not adversely affect navigation within the James River.

The USACE has considered impacts to historic and cultural resources in accordance with NEPA and Section 106 of the National Historic Preservation Act (NHPA). We have held five consulting party meetings with representatives from over twenty consulting parties, including the National Park Service, The Advisory Council on Historic

Preservation (ACHP), the Virginia Department of Historic Resources, and the National Trust for Historic Preservation (NTHP). The consulting parties have provided input on the identification of historic properties, the assessment of potential impacts to historic properties, and potential mitigation measures for those impacts. As indicated in the CEQ letter, the concerned parties have focused their objections on the proposal's secondary, visual impacts. The intensity of such impacts and the effect they may have on visitor experience are largely subjective in nature. However, the applicant has provided and we have evaluated information that provides an appropriate basis for identifying affected resources and assessing the degree of the effects.

Based on information obtained through the consultation process the applicant has proposed a comprehensive mitigation package, currently incorporated in a draft Section 106 Memorandum of Agreement (MOA). We have worked with the applicant to ensure that mitigation for project impacts follows the appropriate sequence of avoidance, minimization, and compensation. The applicant has designed the proposed project to, where possible, avoid direct impacts to historic and archaeological resources, and the draft MOA requires that Dominion implement an avoidance plan during construction. While the applicant's preferred alternative cannot be constructed in a way that entirely avoids indirect visual effects, the MOA includes stipulations to minimize the visual intrusion. In addition, the draft MOA includes compensatory mitigation measures intended to benefit the integrity, specifically the setting and feeling, of the affected resources and surrounding viewshed. We appreciate your comments on mitigation, and we will consider your input as we work to finalize the MOA with the applicant and the consulting parties.

The CEQ letter stresses that the USACE should evaluate all reasonable alternatives to the project. USACE has taken a hard look at a range of alternatives to the proposed transmission line, including those initially examined by the Virginia State Cooperation Commission (SCC) during its approval process and those suggested during public comment and historic resource consultation. Recently, Tabors Caramanis Rudkevich (TCR) proposed four alternatives that it suggested were cost effective and technically feasible. Dominion subsequently presented explanation why these alternatives were not practicable and do not satisfy necessary North American Electric Reliability Corporation (NERC) requirements. PJM, the responsible Regional Transmission Organization confirmed, in a March 1, 2017 letter, that these alternatives fail to address all of the reliability criteria violations that would be addressed by the applicant's preferred alternative.


CEQ also emphasizes agency and public participation as a key element of the National Environmental Policy Act (NEPA) process. In addition to the Section 106 consultation process outlined above, we have issued four separate public notices requesting comments on the overall project, its effects, and alternatives to the proposal. We invited the public to provide its views and other information during a public hearing in October of 2015.

We have maintained a publicly accessible webpage, where we have posted and continually updated information about the project. Finally, we note that our efforts to involve the public are in addition to the public hearing held by the SCC during its review of Dominion's proposal. The public has had multiple opportunities and avenues to engage during review of Dominion's proposed project, and we feel our record is sufficiently informed by public comment.

In summary, the Corps has taken a hard look at the alternatives to the proposed work, the resources being impacted, the nature of those impacts, and the proposed compensatory mitigation. While we agree that the resources potentially impacted are nationally important, we remain unconvinced that the intensity of the effects reaches a level of significance to the human environment.

I appreciate your input and recent opportunities to meet with you and your staff. I look forward to continuing productive dialogue as we conclude this analysis. Please do not hesitate to contact me should you have any questions or desire further discussion at 757-201-7601.

Sincerely,


Jason E. Kelly, PMP
Colonel, U.S. Army
Commanding

Enclosure



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March 20, 2017

Executive Office

Honorable Ryan Zinke
Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Mr. Zinke:

I write in response to former Secretary Sally Jewell's January 17, 2017 letter to then Assistant Secretary of the Army for Civil Works (ASA-CW) Ms. Jo-Ellen Darcy regarding Dominion's proposed construction of the Surry-Skiffes Creek-Wheaton Transmission Line. A portion of the proposed work would require a Department of the Army permit pursuant to the Rivers and Harbors Act (RHA) and the Clean Water Act (CWA). Authority to issue or deny such permit is delegated through regulation to me as the Norfolk District Commander. Therefore, as explained in his recent letter to you, Mr. Douglas Lamont, performing the duties of ASA-CW, has passed along to me your letter and enclosures.

In her letter, Secretary Jewell raised concerns related to the impacts of Dominion's proposed project and our review. Secretary Jewell states that "an overhead powerline is unsuitable at this location" and suggests the Corps should either deny the permit for the proposed work or prepare an Environmental Impact Statement (EIS). As with others, Secretary Jewell supports the need for an EIS more with a desire to further explore the project need and alternatives and to allow for greater public input and scrutiny than with the need to further evaluate the significance of the effects.

The need driving the proposed project has been thoroughly evaluated and confirmed. Dominion is proposing to construct this line to address grid reliability concerns created by the shutdown of its Yorktown generation plant. The Corps has independently evaluated all information supplied by the applicant supporting the project need. Additionally, the Virginia State Corporation Commission (SCC), through its separate review process has approved the project need, design, and location. Finally, PJM, the responsible Regional Transmission Organization, has since 2012, supported the proposed project as the most effective solution to address grid reliability criteria violations that will occur immediately following the deactivation of the Yorktown Plant. In a March 1, 2017 letter to me, PJM again confirmed the need supporting the proposed project based on its recently updated 2017 Load Forecast Report. Therefore, I find no reason to question the conclusion that regional demand and transmission system stress, exacerbated by deactivation of two coal-fired generators at the Dominion Yorktown facility, present a clear need to improve system reliability.

We have evaluated a wide range of alternatives including those initially considered by Dominion and those suggested by other parties during our review. Dominion has provided persuasive information that eliminates many of these alternatives from further consideration based on some combination of failure to resolve North American Electric Reliability Corporation (NERC) reliability criteria violations, cost, logistics, and time to implement. In our October 2015 Alternatives Whitepaper, we analyzed a range of alternatives including generation alternatives, upgrades to existing facilities, use of existing transmission lines, and the construction of new transmission at varying capacities. In that Whitepaper we concluded, that only the proposed project and the Chickahominy alternative are both practicable and meet the project's purpose and need. We have continued to evaluate alternatives. Most recently, Tabors Caramanis Rudkevich (TCR) proposed four alternatives that it suggested were cost effective and technically feasible. Dominion subsequently explained and PJM has affirmed that these alternatives fail to address all of the reliability criteria violations that are being addressed by the proposed project. To be clear, we have to date appropriately evaluated every alternative that has been proposed by any party.

We have provided multiple opportunities and avenues for public involvement. During our review, we have issued four separate public notices with request for comment covering the overall project and alternatives as well as specific project aspects. We held a public hearing on the project in October of 2015, inviting the general public to provide views, opinions, and information on the proposed project. As part of our historic resources consultation pursuant to Section 106 of the National Historic Preservation Act, we have held five consulting party meetings attended by representatives from over twenty consulting parties. We have maintained a publicly accessible webpage, where we have posted and continually updated information about the project. We emphasize that at no time during this process have we turned away input from consulting parties or the public.


Finally, Ms. Jewell suggests robust consultation with the Pamunkey Tribe. We have consulted with the Pamunkey and facilitated consultation between Dominion and the Tribe. The latest input from Chief Robert Gray confirms that all parties have participated in good faith and the consultation has been beneficial, resulting in mitigation measures that are agreeable to the tribe.

Regulations implementing the National Environmental Policy Act (NEPA) require an agency prepare an EIS for "major Federal actions significantly affecting the quality of the human environment." The decision on significance is based on both the context and intensity of the impact. While regulations do contemplate a deeper investigation will occur with an EIS, an EIS is not required in order for rigorous analysis to occur.

The Corps has taken a hard look at the alternatives to the proposed work, the resources being impacted, the nature of those impacts, and the proposed compensatory mitigation. While we agree that the resource potentially impacted are nationally important, we remain unconvinced that the intensity of the effects reaches a level of significance to the human environment.

I appreciate the input provided to date by the National Park Service (NPS) and the Department of the Interior (DOI). I look forward to continuing productive dialogue as we conclude this analysis. Should DOI or NPS desire further discussion, please consider having your agency staff contact me directly at 757-201-7601.

Sincerely,



Jason E. Kelly
Colonel, U.S. Army
Commanding

cc:
Office of the Assistant Secretary of the Army for Civil Works