

**DRAFT
MEMORANDUM OF AGREEMENT
AMONG
DOMINION VIRGINIA POWER,
THE VIRGINIA STATE HISTORIC PRESERVATION OFFICE,
U.S. ARMY CORPS OF ENGINEERS NORFOLK DISTRICT, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**SUBJECT: ISSUANCE OF U.S. ARMY CORPS OF ENGINEERS' PERMITS
FOR THE PROPOSED SURRY-SKIFFES CREEK-WHEALTON
TRANSMISSION LINE PROJECT, SURRY COUNTY, JAMES CITY COUNTY,
YORK COUNTY, CITIES OF NEWPORT NEWS AND HAMPTON, VIRGINIA**

MONTH, YEAR

WHEREAS, pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, 54 U.S.C. § 306108, and 33 CFR Part 325, Appendix C, Processing of Department of the Army Permits: Procedures for Protection of Historic Places, the US Army Corps of Engineers Norfolk District (Corps) is required to take into account the effects of federally permitted undertakings on properties included in or eligible for inclusion in the National Register of Historic Places (NRHP) prior to the issuance of permits for the undertaking and to consult with the Virginia State Historic Preservation Office (SHPO); and with the Advisory Council on Historic Preservation (ACHP) where historic properties are adversely affected; and

WHEREAS, Virginia Electric and Power Company, d/b/a Dominion Virginia Power (Dominion), proposes to construct new electrical transmission line infrastructure in the Hampton Roads area of Virginia. The project is intended to provide sufficient and reliable electricity to residents, businesses, and government agencies located on the Virginia Peninsula, and to meet mandatory federal North American Electric Reliability Corporation Reliability Standards. The project is collectively known as the Surry – Skiffes Creek – Whealton project, located in Surry, James City, and York Counties and the Cities of Newport News and Hampton, Virginia (the Project); and

WHEREAS, the Project involves construction of a new high voltage aerial electrical transmission line that consists of three components; (1) Surry – Skiffes Creek 500 kilovolt (kV) aerial transmission line, (2) Skiffes Creek 500 kV – 230 kV – 115 kV Switching Station, and (3) Skiffes Creek – Whealton 230 kV aerial transmission line. The proposed project will permanently impact 2,712 square feet (0.06 acres) of subaqueous river bottom and 281 square feet (0.01 acres) of non-tidal wetlands, and convert 0.56 acres of palustrine forested wetlands to scrub shrub non-tidal wetlands. The transmission lines will cross portions of the James River, Woods Creek, and Skiffes Creek. In addition to structures being built within the James River, structural discharges are proposed in non-tidal

wetlands. The proposed activities will require a Corps permit pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act; and

WHEREAS, the Corps, in consultation with the Department of Historic Resources (DHR), which serves as the SHPO in Virginia, has determined that this Project's Area of Potential Effects (APE) shall consist of the Direct APE and an Indirect APE; and

WHEREAS, the Direct APE is defined to include those areas where physical land disturbing activities may occur. The limits of the Direct APE consist of the limits of the Project right of way (ROW) and identified construction access areas. For construction access areas, a 25-foot width was used along the centerline of field located paths and roads outside of the Project ROW; and

WHEREAS, the Indirect APE is defined to include those areas which may experience visual effects. The Indirect APE extends approximately 10 miles upstream and 13 miles downstream from the proposed river crossing and includes a buffer of approximately 0.5-miles inland from the shoreline within this area. The Indirect APE for areas where there are existing towers, and the proposed work will not result in a change in structure height greater than 10% or 20 feet is defined by the adjacent parcel boundaries or a 0.5 mile buffer, whichever is less. The limits of the Direct and Indirect APEs are shown on Attachment A; and

WHEREAS, the SHPO, finds that the documents listed in Attachment B satisfy the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation* (48 FR 44734-37, September 29, 1983) and the SHPO's *Guidelines for Conducting Historic Resources Survey in Virginia (2011)* and the SHPO's "Assessing Visual Effects on Historical Properties;" and

WHEREAS, the Corps, in consultation with the SHPO, has determined that 57 resources as described in the attached table (Attachment C) and as depicted on the attached map (Attachment C) are listed, eligible for listing, or treated as eligible for listing in the NRHP for the purposes of Section 106 compliance and are considered historic properties for purposes of the Project. One additional resource, the Jamestown Island-Hog Island Cultural Landscape Historic District, was considered potentially eligible and also was included for consideration, and it also is listed on Attachment C; and

WHEREAS, the Corps requested a formal determination of eligibility (DOE) for the Captain John Smith Chesapeake National Historic Trail (Captain John Smith Chesapeake NHT) from the Keeper of the National Register (Keeper) on July 2, 2015; and, the Keeper issued a formal DOE to the Corps on August 14, 2015 (Attachment D) and concluded that the entire Indirect APE, excluding the inland portions, is eligible for the NRHP as a historic district under Criteria A, B, C, and D, because it contains a significant cultural landscape and that the Captain John

Smith Chesapeake NHT within the APE is a contributing element of that district; and

WHEREAS, the Corps refers to the eligible historic district identified by the Keeper in its letter of August 14, 2015 as the “Historic District (formally Jamestown Island-Hog Island Cultural Landscape) including CAJO (No VDHR#)” and for the purposes of this Memorandum of Agreement (MOA) shall refer to this property as the “Jamestown Island-Hog Island-Captain John Smith Trail Historic District” (No VDHR#)¹; and

WHEREAS, the Corps, in consultation with the SHPO, Advisory Council on Historic Preservation (ACHP), and Consulting Parties, has determined that the undertaking will have an adverse effect on archaeological site 44JC0662, the Jamestown Island-Hog Island-Captain John Smith Trail Historic District, which includes the contributing section of the Captain John Smith Chesapeake NHT within the APE, Carter’s Grove National Historic Landmark (VDHR #047-0001)², Colonial National Historical Park/Colonial Parkway Historic District (VDHR #047-0002), Hog Island Wildlife Management Area (VDHR #090-0121), Jamestown National Historic Site/Jamestown Island/Jamestown Island Historic District (VDHR #047-0009), the Battle of Yorktown (VDHR #099-5283), and Fort Crafford (VDHR #121-0027) (Attachment C); and

WHEREAS, the Corps has invited the participation of the SHPO in this consultation as a Signatory Party, as that term is further defined in Stipulation XVII.f herein, and the SHPO has elected to participate; and

WHEREAS, the Corps has invited the participation of the ACHP in this consultation as a Signatory Party, as that term is further defined in Stipulation XVII.f herein, and ACHP has elected to participate; and

WHEREAS, the Corps has invited Dominion to participate in this consultation and to sign this MOA as an Invited Signatory Party, as that term is further defined in Stipulation XVII.d herein, and Dominion has elected to participate; and

WHEREAS, the Corps has invited the following Federally Recognized Tribes: Catawba Indian Nation, the Delaware Tribe of Indians, the Delaware Nation, and the Pamunkey Indian Tribe to participate in this consultation. The Catawba

¹ In its determination of eligibility the Keeper of the National Register did not establish a formal name for this historic property, which has been referred to by the Corps as Historic District (formally Jamestown Island-Hog Island Cultural Landscape) including CAJO (No VDHR#). The SHPO has referred to this property as the Captain John Smith Trail Historic District. The Corps’ name for the historic property is used here and later simplified to Jamestown Island-Hog Island-Captain John Smith Trail Historic District for reference purposes in this MOA only.

² The Virginia Department of Historic Resources and Virginia Outdoors Foundation are the current holders of historic preservation and open space easements on the Carter’s Grove property.

Indian Nation and the Delaware Nation declined; however the Delaware Tribe of Indians and the Pamunkey Indian Tribe have elected to participate; and.

WHEREAS, the Corps has invited the following Virginia State Recognized Tribes: the Cheroenhaka (Nottoway), the Chickahominy, the Eastern Chickahominy, the Mattaponi, the Upper Mattaponi, the Nansemond Tribal Association, the Nottoway Tribe of Virginia, and the Rappahannock to participate in this consultation and only the Chickahominy have elected to participate; and

WHEREAS, the Corps has invited James City County, Surry County, the City of Newport News, York County, the City of Williamsburg, and the City of Hampton to participate in this consultation, and only James City County has elected to participate; and

WHEREAS, the Corps has invited the following Consulting Parties: The National Parks and Conservation Association, the Save the James Alliance, the Chesapeake Conservancy, United States Department of the Interior (National Park Service, Colonial National Historical Park), United States Department of the Interior (National Park Service, Northeast Region), the Colonial Williamsburg Foundation, Preservation Virginia, Scenic Virginia, The National Trust for Historic Preservation, BASF, the James River Association, the National Park Service American Battlefield Protection Program, First California Company Jamestowne Society, Margaret Fowler, citizen, and the Council of Virginia Archaeologists, to participate in this consultation and they have all elected to participate; and

WHEREAS, the Corps has invited the Kingsmill Community Services Association, the Southern Environmental Law Center and the steward of Carter's Grove National Historic Landmark, to participate in this consultation and they all have declined to participate; and

WHEREAS, the Corps has involved the public in the Section 106 process by seeking public comment at the following stages of consultation: the initiation of consultation under Section 106 (August 28, 2013), identification of historic properties (November 13, 2014), and assessment and resolution of adverse effects (May 21, 2015); and

WHEREAS, the Corps, ACHP, SHPO, Dominion, and the Consulting Parties have held five official Consulting Party meetings (September 25, 2014; December 9, 2014; June 24, 2015; October 15, 2015; and, February 2, 2016), which also were open to the public, as well as numerous informal meetings, correspondence, and conferences/teleconferences (Attachment E); and

WHEREAS, the Corps issued a separate public notice (October 1, 2015) (Attachment E), which announced that the Corps would hold a public hearing and which the Corps advertised electronically; and

WHEREAS, the Corps conducted a Public Hearing for the Project on October 30, 2015, to solicit public comments and held the Public Comment Period open until November 13, 2015 (Attachment E); and

WHEREAS, the Corps has completed its identification of historic properties and its evaluation of the Project's potential adverse effects thereon under 36 C.F.R. §§ 800.4 & 800.5, and the SHPO concurred with the Corps' conclusions; and

WHEREAS, Dominion has identified several "Initial Avoidance, Minimization, and Mitigation Measures" (Stipulation I) that it will commence and complete, as further described herein; and

WHEREAS, Dominion has also identified several properties (the Identified Properties) where it proposes to fund additional mitigation projects (e.g., land acquisition, natural and cultural resource restoration or preservation, property or landscape enhancements, etc.) that the Signatory Parties conclude will contribute to or improve the overall integrity, most notably the setting and feeling, of the Identified Property and the broader historic district; and

WHEREAS, the SHPO's guidance document titled "*Assessing Visual Effects on Historical Properties*" (SHPO Visual Effects Guidance) outlines its recommended approach to evaluating and mitigating visual effects on historic properties; and

WHEREAS, the SHPO Visual Effects Guidance advises, among other things, that mitigation should take into account the views of the property owner, community, and other interested members of the public; and

WHEREAS, the Signatory Parties find that the mitigation measures that this MOA employs—the Stipulation I "Initial Avoidance, Minimization, and Mitigation Measures" in combination with the Stipulation III "Additional Compensatory Mitigation Projects"—are sufficient to resolve the Project's adverse effects on the historic properties identified in Attachment C.

NOW THEREFORE, in order to satisfy the Corp's Section 106 responsibilities to take into account and resolve the effects of the undertaking requiring Corps permits on historic properties, the Signatory Parties here acknowledge that compliance with this MOA shall be made a condition of any permit issued by the Corps for the work described; thereby effectively incorporating all terms, provisions and stipulations of this MOA as conditions to the permit such that if any provision or stipulation herein is not fulfilled, such failure will constitute noncompliance with the permit, and the Corps may pursue enforcement and may seek all available remedies.

STIPULATIONS

I INITIAL AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES

a. TREATMENT OF ARCHEOLOGICAL SITE 44JC0662 (Switching Station)

- 1** Prior to any construction at the Skiffes Creek Switching Station, Dominion in consultation with the Corps, SHPO, ACHP, and the Participating Parties to this MOA shall develop an approved Treatment Plan for site 44JC0662. The Treatment Plan shall be consistent with the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation* (48 FR 44734-37, September 29, 1983) and the SHPO's *Guidelines for Historic Resources Survey in Virginia (2011)* and shall take into account the ACHP's publications, *Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites* (1999; updated September 30, 2010) and *Section 106 Archaeology Guidance* (April 2009). The plan shall specify at a minimum, the following:
 - A.** the property, properties, or portions of properties where site specific data recovery plans will be carried out;
 - B.** the portion(s) of the site(s) to be preserved in place, if any, as well as the measures to be taken to ensure continued preservation;
 - C.** any property, properties, or portions of properties that will be destroyed or altered without data recovery;
 - D.** the research questions to be addressed through data recovery, with an explanation of their relevance and importance;
 - E.** the methods to be used in analysis, and data management with an explanation of their relevance to the research questions;
 - F.** the proposed disposition of recovered materials and records;
 - G.** proposed methods of disseminating the results of the work to the interested public and/or organizations who have expressed an interest in the data recovery, *subject to revision based on the results of the data recovery proceeds*; and
 - H.** a schedule for the submission of progress reports to the Corps, SHPO, ACHP, and other Participating Parties.
- 2** To facilitate plan approval, Dominion will provide a draft plan to the Corps, SHPO, ACHP, and other Participating Parties to this MOA. All parties will be given thirty (30) days to review and provide comment. If

no comments are submitted, the Corps may assume the non-responding party has no comments. Dominion shall consider all comments received and submit the final Treatment Plan to the Corps for approval. The final Treatment Plan shall be accompanied with a separate document that summarizes the comments received and an explanation for how each comment was considered and/or incorporated into the development of the final Plan. The plan will be considered “approved” upon the Corps written approval.

- 3 Prior to commencing construction activities at the Switching Station Site that could affect archaeological site 44JC0662. Dominion shall ensure that the approved Treatment Plan is implemented.
- 4 Dominion shall notify the Corps in writing no later than fifteen (15) days after completion of the fieldwork portion of the Treatment Plan. Notification shall include a brief management summary. If so requested by the Corps, Dominion shall facilitate any site visit.
- 5 Project activities may proceed following this notification while the technical report is in preparation. The Corps may approve construction activities and/or construction related ground disturbing activities in the area and within the boundary of the affected archaeological site while the technical report is in preparation.
- 6 Dominion and/or its assignees shall photograph the work and artifacts, and display in an appropriate place in the Project vicinity on a temporary or permanent basis, artifacts or images, with the exception of human remains, funerary objects, or sacred items.
- 7 Within one (1) year of the notification that fieldwork has been completed, Dominion shall submit to the Corps a report (following the requirements for preparation and review of draft and final reports in stipulation V) of the results of the Treatment Plan investigations. Once the Corps has approved the final report, Dominion shall provide two (2) copies of that document, bound and on acid-free paper and one electronic copy in Adobe® Portable Document Format (.pdf) to the SHPO and one (1) copy to any other Participating Parties requesting a copy.

**b. AVOIDANCE OF UNDERWATER AND TERRESTRIAL
ARCHAEOLOGICAL SITES**

- 1 Prior to any construction that could impact archeological resources within the Direct APE Dominion in consultation with the Corps, SHPO, ACHP, and the Participating Parties to this MOA shall develop an approved Avoidance Plan for all archaeological sites listed in Attachment C. The Avoidance Plan shall include:

- A.** Project plans showing the location of the cultural anomalies and all archaeological sites identified in Attachment C located within the direct APE;
 - B.** Boundaries of the buffered anomalies and archaeological sites identified in Attachment C within the direct APE, relative to all proposed project elements including but not limited to coffer dams, tower footers, fenders, and mooring/anchoring locations, access roads, construction staging and equipment and materials storage area;
 - C.** Detailed steps and construction protocols for ensuring avoidance of buffered areas and the handling of any unanticipated project activity that may inadvertently affect the underwater anomalies or terrestrial archaeological sites during construction;
 - D.** Dominion shall fund an independent archeologist (Archaeological Monitor) who meets the professional qualifications established in Stipulation IV below and who is approved by the SHPO to observe and monitor ground disturbances associated with construction to ensure the protection of all archaeological sites identified in Attachment C. The Archaeological Monitor shall also be responsible for ensuring that the requirements of Stipulation VII for unanticipated discoveries are carried out as appropriate; and
 - E.** The Pamunkey Indian Tribe may have a member or representative present to observe and monitor ground disturbances associated with construction to ensure the protection of Native American Artifacts.
- 2** To facilitate plan approval, Dominion will provide a draft plan to the Corps, SHPO, ACHP, and other Participating Parties to this MOA. All parties will be given thirty (30) days to review and provide comment. If no comments are submitted, the Corps may assume the non-responding party has no comments. Dominion shall consider all comments received and submit the final Avoidance Plan to the Corps for approval. The final Avoidance Plan shall be accompanied with a separate document that summarizes the comments received and an explanation for how each comment was considered and/or incorporated into the development of the final Plan. The plan will be considered “approved” upon the Corps written approval.
- 3** Prior to any construction activities that could affect archeological sites identified in Attachment C, Dominion shall ensure the approved Avoidance Plan has been fully implemented

- 4 Dominion shall notify the Corps in writing no later than fifteen (15) days after plan implementation. Notification shall include a brief management summary. If so requested by the Corps, Dominion shall facilitate any site visit.

c. INTERPRETIVE SIGNAGE

- 1 Prior to “Limited Construction within the James River”, activities as defined in XVII.g, Dominion in consultation with the Corps, SHPO, ACHP, and the Participating Parties to this MOA shall develop an approved Signage Plan. In developing the Signage Plan Dominion shall:
 - A. Identify locations on publically accessible lands, including recreational and heritage tourism destinations, for a minimum of ten (10) interpretive signs,
 - B. Ensure that signs are designed to enhance visitor experience by informing visitors about the historic significance and character of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations,
 - C. Review and evaluate existing and any planned signage and other interpretive media currently serving the historic properties at issue so as to develop signage that is complementary,
 - D. Include proposed signage text, images and other materials, and
 - E. Include proposed signage locations and confirm any necessary authorizations and/or permissions to allow sign placement.
- 2 To facilitate plan development, Dominion will provide a draft Signage Plan to the Corps, SHPO, ACHP, and other Participating Parties to this MOA. All parties will be given thirty (30) days to review and provide comment. If no comments are submitted, the Corps may assume the non-responding party has no comments. Dominion shall consider all comments received and submit the final Signage Plan to the Corps for approval. The final Signage Plan shall be accompanied with a separate document that summarizes the comments received and an explanation for how each comment was considered and/or incorporated into the development of the final Plan. The plan will be considered “approved” upon the Corps written approval.
- 3 Prior to “Construction Above the James River” activities as defined in XVII.h, Dominion shall complete fabrication and installation of all signage in accordance with the approved Signage Plan.

- 4 Interpretive signage or any other mitigation under this Memorandum of Agreement (MOA) shall not contain any information about Dominion or its business.
- 5 Dominion shall pay for the fabrication and installation of all interpretive signs and notify the Signatory Parties in writing of the installation within thirty (30) days of their completion.
- 6 Dominion shall secure an agreement between corresponding landowners outlining long term maintenance responsibilities and obligations; otherwise Dominion shall be responsible for any required maintenance for the life of the MOA.

d. LANDSCAPE DOCUMENTATION OF JAMES RIVER

- 1 Prior to any construction on the Project within the James River, Dominion shall develop a Historic American Landscapes (HALS) Survey of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and all other adversely effected properties identified in Attachment C. Dominion shall comply with National Park Service (NPS) Heritage Documentation Program Standards and Guidelines. Development shall include completion of all required photography and preparation of all necessary illustrations, maps and line drawings in accordance with the most recent SHPO archival guidelines
- 2 Prior to any construction on the Project within the James River Dominion shall submit the completed HALS survey to the NPS Heritage Documentation Program for review and provide copies to the Corps, SHPO, ACHP, and the Participating Parties to this MOA.
- 3 Following acceptance of the HALS Survey by NPS, Dominion shall arrange for the submittal of the required documentation to the Library of Congress.
- 4 Consistent with National Park Service guidance, the completed HALS Survey and photo-documentation should be used to, among other things, inform the mitigation projects under this MOA, as well as to aid in educational, investigative, preservation, and interpretive activities that enhance, directly or indirectly, the relevant historic properties.

e. SURRY – SKIFFES CREEK TOWER COATINGS

- 1 Dominion shall examine all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law.

- 2 Prior to “Limited Construction Within the James River”, Dominion shall submit its analysis of potential tower coatings, finishing materials, and maintenance methods along with its recommendation to the Corps, SHPO, ACHP, and other Participating Parties to this MOA. All parties will be given thirty (30) days to review and provide comment. If no comments are submitted, the Corps may assume the non-responding party has no comments.
- 3 Considering all comments as appropriate, Dominion shall identify suitable tower finishing and coating materials that most minimize visibility of the transmission line infrastructure. Dominion shall apply the identified coating or finishing material or method to the towers as soon as conditions allow for effective application but no later than one (1) year after energization of the line.
- 4 Dominion shall ensure that all towers are maintained over their lifespan such that their visual contrast and intensity remains at levels consistent or less than when originally installed.

II ADDITIONAL COMPENSATORY MITIGATION PROJECT FUNDING, REPORTING, AND STUDIES

a. Project Funding and Annual Reports:

- 1 Prior to any construction on the Project within the James River, Dominion shall provide to the Signatory Parties documentation demonstrating that Dominion has made funding available in accordance with the following:
 - A. A fund in the amount of \$27,700,000.00 to be managed by the Conservation Fund (TCF) or the appropriate entities of the Commonwealth of Virginia if Alternative Mitigation Projects are pursued, for the resolution of adverse effects. In the establishing documentation, Dominion shall ensure that the funds are used exclusively to implement the projects outlined in Stipulations III.a, III.b, and III.c of this MOA.
 - B. A fund in the amount of \$25,000,000.00 to be managed by the Virginia Department of Conservation and Recreation (DCR) for the resolution of adverse effects. In the establishing documentation, Dominion shall ensure that this fund is used exclusively to implement the projects outlined in Stipulation III.d of this MOA.
 - C. A fund in the amount of \$4,205,000.00 to be managed by the Virginia Department of Game and Inland Fisheries (DGIF) for the resolution of adverse effects. In the establishing documentation, Dominion shall ensure that this fund is used exclusively to implement the projects outlined in Section III.e of this MOA.

- D. A fund in the amount of \$15,595,000.00 to be managed by the Virginia Environmental Endowment (VEE) for the resolution of adverse effects. In the establishing documentation, Dominion shall ensure that this fund is used exclusively to implement and execute projects in accordance with Stipulation III.f of this MOA.
 - E. A fund in the amount of \$12,500,000.00 to be managed by the Virginia Land Conservation Fund (VLCF) for the resolution of adverse effects. In the establishing documentation, Dominion shall ensure that this fund is used exclusively to implement and execute projects in accordance with Stipulation III.g of this MOA.
- 2 All projects funded by the accounts created in accordance with Stipulation II.a.1 above shall comply with all applicable local, Commonwealth, and federal laws and regulations. Execution of this MOA shall not permit Dominion to proceed with any project before obtaining all necessary permits and permissions.
 - 3 Dominion shall provide an annual report due by January 30 each year summarizing disbursement of funds from the accounts created in accordance with Stipulation II.a.1 and progress for each project for the preceding year. The annual report shall also identify project changes or challenges experienced during the reporting year, as well as anticipated challenges or changes expected in the coming reporting year. Dominion will submit the annual report to the Signatories. Any disputes regarding dispensing and use of funds shall be handled in accordance with Stipulation XI below.
 - 4 All funds shall be obligated within ten (10) years of the effective date of this MOA; however, nothing herein shall require that funded projects be completed within that time frame, unless otherwise noted.
 - 5 Dominion shall use reasonable efforts to obligate 50 percent of the funds within five years; and, 100 percent of the funds within ten years of the effective date of this MOA.
 - 6 Notwithstanding Stipulations II.a.4-5, a failure to have all funds obligated within ten years after the mitigation fund is established does not constitute a breach of the terms of this MOA, but instead triggers Stipulation II.a.7.
 - 7 Any mitigation compensation funds that are not obligated or committed to a project within twelve years after the effective date of this MOA shall be transferred to a legally separate mitigation compensation fund administered by the VLCF for expenditure on projects, programs, and activities at historic properties and associated historic landscapes

within or related to the indirect APE that were adversely affected by this project.

- 8** The funds described in Stipulation II.a.1 shall be used exclusively for projects selected in accordance with Stipulation III, or in accordance with Stipulation II.a.7 in appropriate circumstances. Dominion shall separately provide necessary additional funds to complete any mitigation projects required under Stipulations I.a to I.e and to complete the Heritage Tourism and Visitor Experience Study required under Stipulation II.b.
- 9** The projects selected under Stipulation III shall be scaled, planned, designed, procured, constructed, and operated at funding levels consistent with the allocations set out in Stipulation II.a.1 respectively. If additional funds are required beyond those allocated in Stipulation II.a.1 Dominion shall promptly provide the minimum additional funding necessary to complete the specific mitigation project.
- 10** In the event the Corps revokes the permit for the project for any reason, or the permit is invalidated for any reason, all unexpended mitigation funds identified in Stipulation II(a)(1) above shall be returned to Dominion within 90 days of receipt of notice from the Corps that the project has been cancelled or terminated. Specific mitigation projects in the process of implementation at the time of notice shall be completed and documented in accordance with the terms of the MOA.

b. Heritage Tourism and Visitor Experience Study and Enhancement:

- 1** Prior to construction on the Project within the James River, Dominion, in consultation with the Signatory Parties, shall initiate a Heritage Tourism and Visitor Experience study (which includes ecotourism) for publically accessible, publically owned, and actively marketed historic properties (heritage tourism sites) and ecotourism activities located within the Indirect APE). The purpose of the study is to evaluate current heritage tourism and visitor experience within the Indirect APE in order to inform mitigation activities required by this MOA and to develop a marketing and visitation program to promote and enhance heritage tourism sites (which includes the historic properties addressed by this MOA) and visitor experiences within the Indirect APE.
- 2** Dominion shall undertake the Heritage Tourism and Visitor Experience study in collaboration with landowners of heritage tourism sites within the Indirect APE. Dominion shall take appropriate effort to seek the participation of the landowners of Jamestown Island and Historic Jamestowne, Hog Island Wildlife Management Area (WMA), Jamestown Settlement, Colonial Parkway and elements of Colonial National Historical Park, and elements of the Captain John Smith

Chesapeake NHT. Should any of the landowners elect not to participate, Dominion shall proceed with the study using otherwise available information.

- 3** Dominion shall complete the Heritage Tourism and Visitor Experience study within eight (8) months of initiation.
- 4** To the extent possible, the Heritage Tourism and Visitor Experience study should include data from shoulder and peak visitation seasons. Shoulder months include March, April, May, September, October or November. Peak months include June, July and August.
- 5** Upon completion, Dominion shall provide the draft study to the Corps, SHPO, ACHP, and other Participating Parties to this MOA. All parties will be given thirty (30) days to review and provide comment. If no comments are submitted, the Corps may assume the non-responding party has no comments. Dominion shall consider all comments received and submit the study for approval to the Signatories of the MOA. The Heritage Tourism and Visitor Experience study will be considered “final” upon the Corps written approval.
- 6** The implementation of projects in Stipulations III may proceed in advance of the final Heritage Tourism and Visitor Experience study recommendations. However, as the study progresses, Dominion shall use the study’s findings to inform its mitigation efforts.
- 7** No more than thirty (30) days after Corps approval of the final Heritage Tourism and Visitor Experience study Dominion shall initiate consultation with the Corps, SHPO, ACHP, Participating Parties and participating management entities of impacted heritage tourism sites, to develop a marketing and visitation program (Program) to promote and enhance the impacted heritage tourism sites and visitor experience within the indirect APE.
- 8** No more than one (1) year following Corps approval of the final Heritage Tourism and Visitor Experience study Dominion shall provide the draft marketing and visitation program to the Corps, SHPO, ACHP, and other Participating Parties to this MOA. All parties will be given thirty (30) days to review and provide comment. If no comments are submitted, the Corps may assume the non-responding party has no comments. Dominion shall consider all comments received and submit the final marketing and visitation program to the Signatories of the MOA. The marketing and visitation program will be considered “approved” upon the Corps written approval.
- 9** No more than thirty (30) days after approval of the marketing and visitation program Dominion shall proceed to partner with the approved

implementing organizations to implement the Program. Dominion's funding responsibilities shall be limited to the average annual budget for the preceding two years for marketing programs by the management entities of publicly accessible sites within the Indirect APE.

III ADDITIONAL COMPENSATORY MITIGATION PROJECTS - Dominion shall fulfill the following actions as mitigation for the Project's direct, indirect, and cumulative adverse effects to historic properties and the related cultural and natural landscapes contributing to their significance. Dominion shall undertake projects that will, as confirmed by Signatory Parties enhance and/or contribute to preservation of the setting and feeling of sites associated with early Colonial and Native American cultures of this area. All mitigation actions shall be designed, operated and maintained to provide these benefits for at least the life of this Memorandum of Agreement (MOA).

a. Within the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and the thematically related areas Dominion shall complete the following projects related to protecting and/or enhancing the early Colonial agricultural landscape and setting. Dominion will make all effort to complete Stipulations III.a.1 - III.a.5 below. Should Dominion be unable to obtain cooperation of the Carters Grove landowner, Dominion shall complete Stipulations III.a.6 – III.a.11.

- 1** Prior to any construction on the Project within the James River, Dominion shall:
 - A.** Submit to the Signatories of this MOA written confirmation that Dominion has requested access to property and cooperation from the Landowner of Carters Grove to identify specific landscape and viewshed enhancement, shoreline protection, and other projects that enhance the affected setting and feeling of Carter's Grove.
 - B.** Working with the landowner of Carters Grove, identify and submit to the Signatories of this MOA the location and type of shoreline stabilization activities proposed to address approximately 6,000 linear feet of shoreline.
 - C.** Working with the landowner of Carters Grove, submit to the Corps, SHPO, ACHP, and Participating Parties a draft list of projects and draft Project Narrative listing and describing projects to be carried out that will preserve and/or enhance the character or viewshed of Carter's Grove. This draft Project Narrative shall identify specific projects, list tasks necessary to execute each project, provide a timeline for accomplishment of each project and describe how each

project enhances the historic value of the resource. All parties will be given thirty (30) days to review and provide comment.

- 2** Before beginning “Limited Construction within the James River” Dominion must receive approval of the list of projects to be carried out at Carters Grove. The project list will be considered “approved” once the SHPO has confirmed that the projects will enhance the historic setting and feeling of Carters Grove and the Corps has provided written approval.
- 3** Dominion may not proceed further than “Limited Construction within the James River” until the Corps has approved the final Project Narrative for projects to be carried out at Carters Grove. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA a final Project Narrative describing projects to be carried out at Carters Grove. This final Project Narrative shall include confirmation that the Dominion and/or all appropriate parties have all access and permissions necessary to complete all identified mitigation work. This final Project Narrative will be considered “approved” once the SHPO has confirmed that the projects as proposed will enhance the affected setting and feeling of Carter’s Grove and the Corps has provided written approval.
- 4** Within one (1) year of initiating “Limited Construction within the James River” Dominion must receive approval of the final Project Narrative or must remove all structures and/or fill placed within the James River in association with the line installation as approved by this permit action and restore the area to pre-disturbed conditions.
- 5** No more than one (1) year following the initiation of “Construction Above the James River”, and annually thereafter, Dominion shall provide to the Signatories of this MOA, a report containing detailed plans for each project to be accomplished within the next year according to the timeline in the approved Project Narrative and confirmation that appropriate projects have commenced or are under contract to commence. With this annual report, Dominion may also request modification to the project list or narratives to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the SHPO has confirmed that the projects will enhance the affected setting and feeling of Carter’s Grove and the Corps has provided written approval.
- 6** In the event that the Landowner of Carters Grove fails to provide the requisite property access or cooperation as required in Stipulation III.a.1.A to complete the work required in Stipulation III.a.1-5, Dominion shall provide to the Signatory Parties, evidence that Dominion has made good faith effort to secure access and cooperation. Such

evidence may include Dominion's written request for such access and cooperation and the Landowner's denial or failure to reach a written agreement within 45 days of that written request. In the event that (i) the landowner of Carters Grove and Dominion fail to reach agreement on the requisite property access or cooperation as required in Stipulation III.a.1.A within 45 days of Dominion's written request; (ii) the Landowner of Carters Grove and Dominion fail to agree upon the list of projects required in III.a.1.B and III.a.1.C within 30 days of reaching agreement on property access and cooperation; or (iii) the Landowner of Carters Grove and Dominion fail to agree upon the Project Narratives required by III.a.1.C within 60 days of reaching agreement on property access and cooperation, Dominion may request approval to pursue Alternative Measures as defined in Stipulations III.a.7 – III.a.11.

- 7** Once the Corps has approved pursuit of Alternative Measures and prior to any construction within the James River, Dominion shall:
 - A.** Submit to the Signatories of this MOA written confirmation that Dominion is working in cooperation with the Virginia Department of Conservation and Recreation (DCR) to identify specific landscape and viewshed enhancement, shoreline protection, and other projects that enhance the affected setting and feeling of Chippokes Plantation State Park.
 - B.** Working with the SHPO, identify and submit to the Signatories of this MOA the location and type of shoreline stabilization activities proposed to address approximately 8,000 linear feet of shoreline at Chippokes State Park.
 - C.** Working with the SHPO, submit to the Corps, SHPO, ACHP, and Participating Parties a draft Project Narrative listing and describing projects to be carried out that will preserve and/or enhance the historic character or viewshed of Chippokes Plantation State Park. This draft Project Narrative shall identify specific projects related to enhancement of visitor facilities, development of 17th Century agricultural techniques and colonial life and preservation of Chippokes Mansion. This draft Project Narrative shall also list tasks necessary to execute each project, provide a timeline for accomplishment of each project and describe how each project enhances the historic value of the resource. All parties will be given thirty (30) days to review and provide comment.
- 8** Before beginning "Limited Construction within the James River" Dominion must receive approval of the list of projects to be carried out at Chippokes Plantation State Park. The project list will be considered "approved" once the SHPO has confirmed that the projects will

enhance the historic setting and feeling of Chippokes Plantation State Park and the Corps has provided written approval.

- 9 Dominion may not proceed further than “Limited Construction within the James River” until the Corps has approved the final Project Narrative for projects to be carried out at Chippokes Plantation State Park. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA a final Project Narrative describing projects to be carried out at Chippokes Plantation State Park. This final Project Narrative shall include confirmation that Dominion and/or all appropriate parties have all access and permissions necessary to complete all identified mitigation work. This final Project Narrative will be considered “approved” once the SHPO has confirmed that the projects will enhance the historic setting and feeling of Chippokes Plantation State Park and the Corps has provided written approval.
 - 10 Within one (1) year of initiating “Limited Construction within the James River” Dominion must receive approval of the final Project Narrative or must remove all structures and/or fill placed within the James River in association with the line installation as approved by this permit action and restore the area to pre-disturbed conditions.
 - 11 No more than one (1) year following the initiation of “Construction Above the James River”, and annually thereafter, Dominion shall provide to the Signatories of this MOA, a report containing detailed plans for each project to be accomplished within the next year according to the timeline in the approved Project Narrative and confirmation that appropriate projects have commenced or are under contract to commence. With this annual report, Dominion may also request modification to the project list or narratives to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the SHPO has confirmed that the projects will enhance the historic setting and feeling of Chippokes Plantation State Park and the Corps has provided written approval.
- b. Within the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and the thematically related areas Dominion shall complete the following projects related to preserving and/or enhancing the overall landscape. Dominion will make all effort to complete Stipulations III.b.1 - III.b.5 below. Should Dominion be unable to obtain cooperation of the National Park Service (NPS), Dominion shall complete Stipulations III.b.6 – III.b.11.**
- 1 Prior to any construction on the Project within the James River, Dominion shall:

- A.** Submit to the Signatories of this MOA written confirmation that Dominion has requested property access and cooperation from the NPS, Colonial National Historical Park to identify specific landscape enhancement and shoreline protection or viewshed enhancement projects that preserve the setting and feeling of the Colonial Parkway unit consistent with its design, open and forested areas, other natural elements, and interpretive areas as documented in the National Park Service's Cultural Landscape Inventory (2008).
- B.** Working with the NPS, submit to the Corps, SHPO, ACHP, and Participating Parties a draft list of projects and a Project Narrative listing and describing projects to be carried out that will preserve and/or enhance the character or viewshed of the Colonial Parkway unit. This draft Project Narrative shall identify specific projects, list tasks necessary to execute each project, provide a timeline for accomplishment of each project and describe how each project enhances the historic value of the resource. All parties will be given thirty (30) days to review and provide comment.
- 2** Before beginning "Limited Construction within the James River" Dominion must receive approval of the list of projects to be carried out at Colonial Parkway unit. The project list will be considered "approved" once the SHPO has confirmed that the projects will enhance the historic setting and feeling of Colonial Parkway unit and the Corps has provided written approval.
- 3** Dominion may not proceed further than "Limited Construction within the James River" until the Corps has approved the final Project Narrative for projects to be carried out at the Colonial Parkway unit. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA a final Project Narrative describing projects to be carried out at the Colonial Parkway unit. This final Project Narrative shall include confirmation that Dominion and/or all appropriate parties have all access and permissions necessary to complete all identified mitigation work. This final Project Narrative will be considered "approved" once the SHPO has confirmed that the projects will enhance the affected setting and feeling of the Colonial Parkway unit and the Corps has provided written approval.
- 4** Within one (1) year of initiating "Limited Construction within the James River" Dominion must receive approval of the final Project Narrative or must remove all structures and/or fill placed within the James River in association with the line installation as approved by this permit action and restore the area to pre-disturbed conditions.
- 5** No more than one (1) year following the initiation of "Construction Above the James River", and annually thereafter, Dominion shall

provide to the Signatories of this MOA, a report containing detailed plans for each project to be accomplished within the next year according to the timeline in the approved Project Narrative and confirmation that appropriate projects have commenced or are under contract to commence. With this annual report, Dominion may also request modification to the project list or narratives to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the SHPO have confirmed that the projects will enhance the affected setting and feeling of the Colonial Parkway unit and the Corps has provided written approval.

- 6** In the event that the NPS fails to provide the requisite property access or cooperation as required in Stipulation III.b.1.A to complete the work required in Stipulation III.b.1-5, Dominion shall provide to the Signatory Parties, evidence that Dominion has made good faith effort to secure property access and cooperation. Such evidence may include Dominion’s written request for such property access and cooperation and the NPS’s denial or failure to reach a written agreement on property access and cooperation within 45 days of that written request. In the event that (i) NPS and Dominion fail to reach agreement on property access or cooperation as required in Stipulation III.b.1A within 45 days of Dominion’s written request to NPS for property access and cooperation; (ii) the NPS and Dominion fail to agree upon the list of projects required in III.b.1.B within 30 days of reaching written agreement on property access and cooperation; or (iii) the NPS and Dominion fail to agree upon the Project Narratives required by III.b.1.B within 60 days of reaching written agreement on property access and cooperation, Dominion may request approval to pursue Alternative Measures as defined in Stipulations III.b.7 – III.b.11.
- 7** Once the Corps has approved pursuit of Alternative Measures and prior to any construction within the James River, Dominion shall:

 - A.** Submit to the Signatories of this MOA written confirmation that Dominion is working in cooperation with the Commonwealth of Virginia to identify specific landscape and viewshed enhancement, shoreline protection, and other projects that preserve and/or enhance the setting, feeling and/or overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas.
 - B.** Working with the Commonwealth of Virginia, submit to the Corps, SHPO, ACHP, and Participating Parties a draft Project Narrative listing and describing projects to be carried out that will support, preserve and/or enhance the historic character or viewshed of Jamestown Settlement. This draft Project Narrative shall identify specific projects related to educational exhibits and interpretive

programs at Jamestown Settlement that focus on the area's landscape and watershed, before during and after European contact, as well as on the movement of colonists and Native Americans throughout the area, including those areas covered by the Colonial Parkway and Colonial National Historic Park. This draft Project Narrative shall also identify specific projects related to development of exhibits and interpretive programs at Fort Monroe that examine the convergence of three cultures - Virginia Indians, European, and African - related to the Hampton Roads region at the time of exploration and discovery. This draft Project Narrative shall also list tasks necessary to execute each project, provide a timeline for accomplishment of each project and describe how each project enhances the historic value of the resource. All parties will be given thirty (30) days to review and provide comment.

- 8** Before beginning "Limited Construction within the James River" Dominion must receive approval of the list of projects described in III.b.7 above. The project list will be considered "approved" once the SHPO has confirmed that the projects will enhance and preserve the historic landscape within APE and the Corps has provided written approval.
- 9** Dominion may not proceed further than "Limited Construction within the James River" until the Corps has approved the final Project Narrative for projects as identified in Stipulation III.b.6 above. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA a final Project Narrative describing projects as identified in Stipulation III.b.6 above. This final Project Narrative shall include confirmation that Dominion and/or all appropriate parties have all access and permissions necessary to complete all identified mitigation work. This final Project Narrative will be considered "approved" once the SHPO has confirmed that the projects will support, preserve and/or enhance the historic character or watershed of Jamestown Settlement and the Corps has provided written approval.
- 10** Within one (1) year of initiating "Limited Construction within the James River" Dominion must receive approval of the final Project Narrative or must remove all structures and/or fill placed within the James River in association with the line installation as approved by this permit action and restore the area to pre-disturbed conditions.
- 11** No more than one (1) year following the initiation of "Construction Above the James River", and annually thereafter, Dominion shall provide to the Signatories of this MOA, a report containing detailed plans for each project to be accomplished within the next year according to the timeline in the approved Project Narrative and

confirmation that appropriate projects have commenced or are under contract to commence. With this annual report, Dominion may also request modification to the project list or narratives to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the SHPO has confirmed that the projects will support, preserve and/or enhance the historic character or viewshed of Jamestown Settlement and the Corps has provided written approval.

- c. Within the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and the thematically related areas Dominion shall complete the following projects that preserve and enhance Historic Jamestown and Jamestown Island and promote heritage tourism. Dominion will make all effort to complete Stipulations III.c.1 - III.c.5 below. Should Dominion be unable to obtain cooperation of the National Park Service (NPS) and/or Preservation Virginia (PV), Dominion shall complete Stipulations III.c.6 – III.c.11.**

- 1 Prior to any construction on the Project within the James River, Dominion shall:
 - A. Submit to the Signatories of this MOA written confirmation that Dominion has requested property access and cooperation from the NPS and/or PV to identify specific landscape and viewshed enhancement, shoreline protection, and other projects that preserve and enhance Historic Jamestowne and Jamestown Island’s existing setting (i.e., topography, vegetation, and other defining physical features) and feeling gained from the presence its defining physical features that help convey its historic character
 - B. Working with the NPS and/or PV, submit to the Signatories of this MOA draft plans for:
 - i. Rehabilitation or replacement of the seawall at Historic Jamestowne potentially including additional breakwaters, sills and revetments to provide protection from erosion and sea level rise.
 - ii. Restoration of Back Creek at Historic Jamestowne.
 - iii. Archaeological investigation and identification at Historic Jamestowne to support ongoing and future investigations including emergency excavation of threatened archaeological sites, excavations around Memorial Church, cooperative excavations with the National Park Service, excavation of areas east and west of the Fort site with a focus on discovering the early churches that stood on the site of the 1617 church, the site

of the nation's first representative government, as well as any other archaeological investigations associated with the early occupation and settlement of Jamestown Island, and other areas related to the early settlement.

- iv. Captain John Smith Chesapeake NHT landscape enhancement, visitor engagement, and visitor interpretation programs and projects at the National Park Service's visitor center on Jamestown Island as well as enhancement of the National Park Service's Neck-O-Land facility including the establishment of infrastructure to study and interpret climate change.
- C.** Working with appropriate curators submit to the Signatories of this MOA a draft plan for conservation, preservation, and study of artifact collections from previously excavated archaeological sites throughout the APE which shall include Jamestown, Martin's Hundred, Carter's Grove, and Kingsmill, as well as partnership projects with a focus on understanding and interpreting the colony's first settlers and their human response to the new environment and climate.
- D.** All parties will be given thirty (30) days to review and provide comment on the draft plans identified in Stipulation III.c.1.B and Stipulation III.c.1.C.
- 2** Before beginning "Limited Construction within the James River" Dominion must allow for the conclusion of the 30-day comment period specified in Stipulation III.c.1.D.
- 3** Dominion may not proceed further than "Limited Construction within the James River" until the Corps has approved the final Plans for all activities described in Stipulation III.c.1.B and Stipulation III.c.1.C. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA final Plans that describe specific activities to be carried out and provide a timeline for accomplishment of each. The final Plans shall include confirmation that the Dominion and/or all appropriate parties have all access and permissions necessary to complete all identified mitigation work. The final Plans will be considered "approved" once the SHPO has confirmed that the projects will preserve and enhance Historic Jamestowne and Jamestown Island resources and the Corps has provided written approval.
- 4** Within one (1) year of initiating "Limited Construction within the James River" Dominion must receive approval of the final Plans or must remove all structures and/or fill placed within the James River in

association with the line installation as approved by this permit action and restore the area to pre-disturbed conditions.

- 5** No more than one (1) year following the initiation of “Construction Above the James River”, and annually thereafter, Dominion shall provide to the Signatories of this MOA, a report containing detailed activities to be accomplished within the next year according to the timeline in the approved Plans and confirmation that appropriate projects have commenced or are under contract to commence. With this annual report, Dominion may also request modification to the final plans to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the SHPO has confirmed that the projects will preserve and enhance Historic Jamestowne and Jamestown Island resources and the Corps has provided written approval.
- 6** In the event that the NPS and/or PV fails to provide property access or cooperation as required in Stipulation III.c.1.A to complete the work required in Stipulation III.c.1-5, Dominion shall provide to the Signatory Parties, evidence that Dominion has made good faith effort to secure property access and cooperation. Such evidence may include Dominion’s written request for such property access and cooperation and the NPS’s and/or PV’s denial or failure to reach written agreement on property access and cooperation within 45 days of that written request. In the event that (i) NPS and/or PV and Dominion fail to reach written agreement on property access or cooperation as required in Stipulation III.c.1.A within 45 days of Dominion’s written request to NPS and/or PV for property access and cooperation; (ii) the NPS and/or PV and Dominion fail to agree upon the Draft Plans required by III.c.1.B within 60 days of reaching written agreement on property access and cooperation, Dominion may request approval to pursue Alternative Measures as defined in Stipulations III.c.7 – III.c.11.
- 7** Once the Corps has approved pursuit of Alternative Measures and Prior to any construction within the James River, Dominion shall:

 - A.** Submit to the Signatories of this MOA written confirmation that Dominion is working in cooperation with the Commonwealth of Virginia to identify specific landscape and viewshed enhancement, shoreline protection, and other projects that preserve and/or enhance the setting, feeling and/or overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas.
 - B.** Working with the Commonwealth of Virginia, submit to the Signatories of this MOA draft plans for:

- i. Development of a public boat launch and kayak launch areas with associated interpretive trails and educational exhibits related to the Captain John Smith Chesapeake NHT at Fort Monroe and/or Chippokes State Park; and
 - ii. Erosion and sea level rise protection projects at Fort Monroe and/or Chippokes State Park.
 - iii. Archaeological excavations at Fort Algernon including artifact conservation and exhibit development; and
 - iv. Archaeological excavations at Chippokes State Park including artifact conservation and exhibit development.
- C. All parties will be given thirty (30) days to review and provide comment on the draft plans identified in Stipulation III.c.7.B.
- 8 Before beginning “Limited Construction within the James River” Dominion must allow for the conclusion of the 30-day comment period specified in Stipulation III.c.7.C.
- 9 Dominion may not proceed further than “Limited Construction within the James River” until the Corps has approved the final Plans for all activities described in Stipulation III.c.7.B. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA final Plans that describe specific activities to be carried out and provide a timeline for accomplishment of each. The final Plans shall include confirmation that Dominion and/or all appropriate parties have all access and permissions necessary to complete all identified mitigation work. The final Plans will be considered “approved” once the SHPO has confirmed that the projects will preserve and/or enhance the setting, feeling and/or overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas and the Corps has provided written approval.
- 10 Within one (1) year of initiating “Limited Construction within the James River” Dominion must receive approval of the final Plans or must remove all structures and/or fill placed within the James River in association with the line installation as approved by this permit action and restore the area to pre-disturbed conditions.
- 11 No more than one (1) year following the initiation of “Construction Above the James River”, and annually thereafter, Dominion shall provide to the Signatories of this MOA, a report containing detailed activities to be accomplished within the next year according to the timeline in the approved Plans and confirmation that appropriate projects have commenced or are under contract to commence. With

this annual report, Dominion may also request modification to the final plans to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the SHPO has confirmed that the projects will preserve and/or enhance the setting, feeling and/or overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas and the Corps has provided written approval.

d. Within the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and the thematically related areas Dominion shall complete the following projects related to enhancement of the visitor experience and the setting and feeling of sites along the Captain John Smith Chesapeake National Historic Trail. These measures will present the natural and cultural values on the York River in the area of Werowocomoco to provide the visitor with an undisturbed landscape and vista that evokes the setting and feeling of the rivers during the period of Captain John Smith’s exploration.

- 1 Prior to any construction on the Project within the James River, Dominion shall:
 - A. Submit to the Signatories of this MOA written confirmation that Dominion is working in cooperation with the Commonwealth of Virginia and the Pamunkey Indian Tribe to identify specific projects that enhance the visitor experience and the setting and feeling of sites along the Captain John Smith Chesapeake National Historic Trail.
 - B. Working with the Commonwealth of Virginia and the Pamunkey Indian Tribe, submit to the Signatories of this MOA draft plans for:
 - i. Land acquisition, visitor interpretation facilities, archeological investigation and preservation associated with Werowocomoco; and
 - ii. Land acquisition and preservation of sites and expanded facilities at York River State Park which shall serve as a visitors’ gateway to understanding the Virginia Indian cultures at Werowocomoco.
 - C. All parties will be given thirty (30) days to review and provide comment on the draft plans identified in Stipulation III.d.1.B.
- 2 Before beginning “Limited Construction within the James River” Dominion must allow for the conclusion of the 30-day comment period specified in Stipulation III.d.1.C.

- 3 Dominion may not proceed further than “Limited Construction within the James River” until the Corps has approved the final Plans for all activities described in Stipulation III.d.1.B. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA final Plans that describe specific activities to be carried out and provide a timeline for accomplishment of each. The final Plans shall include confirmation that Dominion and/or all appropriate parties have all access and permissions necessary to complete all identified mitigation work. The final Plans will be considered “approved” once the SHPO has confirmed that the projects will enhance the visitor experience and the setting and feeling of sites along the Captain John Smith Chesapeake National Historic Trail and the Corps has provided written approval.
 - 4 Within one (1) year of initiating “Limited Construction within the James River” Dominion must receive approval of the final Plans or must remove all structures and/or fill placed within the James River in association with the line installation as approved by this permit action and restore the area to pre-disturbed conditions.
 - 5 No more than one (1) year following the initiation of “Construction Above the James River”, and annually thereafter, Dominion shall provide to the Signatories of this MOA, a report containing detailed activities to be accomplished within the next year according to the timeline in the approved Plans and confirmation that appropriate projects have commenced or are under contract to commence. With this annual report, Dominion may also request modification to the final plans to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the SHPO has confirmed that the projects will enhance the visitor experience and the setting and feeling of sites along the Captain John Smith Chesapeake National Historic Trail and the Corps has provided written approval.
- e. Within the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and the thematically related areas Dominion shall complete the following projects related to natural resource enhancement and cultural resource identification and interpretation at Hog Island WMA.**
- 1 Prior to any construction on the Project within the James River, Dominion shall:
 - A. Submit to the Signatories of this MOA written confirmation that Dominion is working in cooperation with the Virginia Department of Game and Inland Fisheries (VDGIF) and the Pamunkey Indian Tribe to identify specific projects that preserve and/or enhance the

setting, feeling and/or overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas.

B. Working with the Commonwealth of Virginia and the Pamunkey Indian Tribe, submit to the Corps, SHPO, ACHP, and Participating Parties draft plans for:

- i.** Enhancement of 1,100 acres of palustrine emergent marsh at Hog Island WMA;
- ii.** Living shoreline and shoreline restoration in Surry County, with priority given to projects within the APE or projects outside the APE that would benefit natural and cultural resource enhancement within the APE;
- iii.** Acquisition of 400 acres of upland/emergent marsh adjacent to the Chickahominy Wildlife Management Area located in, Charles City County, Virginia to improve water quality within the APE, subject to the approval by the Board of Game and Inland Fisheries;
- iv.** History and remote viewing and interpretation facility at Hog Island WMA that recognizes Hog Island's connection and contributions to the Jamestown Island-Hog Island-John Smith Trail Historic District, and the individual significance to the Captain John Smith Chesapeake NHT; and
- v.** Comprehensive archaeological identification survey of Hog Island WMA.

C. All parties will be given thirty (30) days to review and provide comment on the draft plans identified in Stipulation III.e.1.B.

- 2** Before beginning "Limited Construction within the James River" Dominion must allow for the conclusion of the 30-day comment period specified in Stipulation III.e.1.C.
- 3** Dominion may not proceed further than "Limited Construction within the James River" until the Corps has approved the final Plans for all activities described in Stipulation III.e.1.B. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA final Plans that describe specific activities to be carried out and provide a timeline for accomplishment of each. The final Plans shall include confirmation that the Dominion and/or all appropriate parties have all access and permissions necessary to complete all identified mitigation work. The final Plans will be considered "approved" once the SHPO has confirmed that the projects will

preserve and/or enhance the setting, feeling and/or overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas and the Corps has provided written approval.

- 4 Within one (1) year of initiating “Limited Construction within the James River” Dominion must receive approval of the final Plans or must remove all structures and/or fill placed within the James River in association with the line installation as approved by this permit action and restore the area to pre-disturbed conditions.
 - 5 No more than one (1) year following the initiation of “Construction Above the James River”, and annually thereafter, Dominion shall provide to the Signatories of this MOA, a report containing detailed activities to be accomplished within the next year according to the timeline in the approved Plans and confirmation that appropriate projects have commenced or are under contract to commence. With this annual report, Dominion may also request modification to the final plans to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the SHPO has confirmed that the projects will preserve and/or enhance the setting, feeling and/or overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas and the Corps has provided written approval.
- f. Dominion shall complete the following related to water quality improvements. Such projects will maintain and improve the setting and feeling of the river as a key component of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District, as well as the other character-defining features of the historic district.**
- 1 Dominion shall work with the Commonwealth of Virginia and the Virginia Environmental Endowment (VEE) to develop and submit to the Corps, SHPO, ACHP, and Participating Parties a draft list of criteria to guide the selection of water quality improvement projects. Efforts should focus on riparian buffer creation, replacement or enhancement and erosion and sediment control, and the projects shall provide water quality improvements benefitting the James River watershed with consideration given to projects located within the indirect APE.
 - 2 All parties will be given thirty (30) days to review and provide comment on the draft list of criteria identified in Stipulation III.f.1.
 - 3 No construction on the Project shall take place within the James River until the Corps has approved the final list of criteria to be used in project selection. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA a final list of

criteria that includes an anticipated schedule for requesting, reviewing and approving (funding) proposals. This final criteria will be considered “approved” once Corps has provided written approval.

- 4 No more than one (1) year following the initiation of “Construction Above the James River”, and annually thereafter, Dominion shall provide to the Signatories of this MOA, a report containing detailed activities to be accomplished within the next year according to the approved criteria and anticipated schedule for making grant awards to demonstrate annual progress on the implementation of the water quality improvement mitigation. With this annual report, Dominion may also request modification to the approved criteria to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the Corps has confirmed that the adjusted criteria includes water quality improvement grant criteria benefitting the James River watershed with consideration given to projects located within the indirect APE and the Corps has provided written approval.

g. Within the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and the thematically related areas, Dominion shall complete the following projects related to Landscape and Battlefield Conservation.

- 1 Dominion shall work with the Commonwealth of Virginia and the Virginia Land Conservation Fund (VLCF) to develop and submit to the Corps, SHPO, ACHP, and Participating Parties a draft list of criteria to guide the selection of land conservation and open space easement projects that are focused on:
 - A. The enhancement and/or preservation of the setting and feeling for the Battle of Yorktown and Fort Crafford or Development of public interpretive programs, signage, and exhibits focusing on the Peninsula Campaign including the Battle of Hampton Roads, the Battle of Yorktown, the Battle of Williamsburg, and the strategic importance of Fort Monroe in each, and development of a 3D Laser Scan of Fort Crafford and an earthwork preservation plan to include a landscape management plan.
 - B. Landscape preservation with an emphasis on projects within the James River watershed benefitting the historic properties and district.
 - C. Landscape scale conservation that may lead to permanently protecting lands necessary to preclude future river crossings and non-compatible shoreline development within the APE, to the greatest extent possible.

- D. All parties will be given thirty (30) days to review and provide comment on the draft framework identified in Stipulation III.g.1.
- 2 No construction on the Project shall take place within the James River until the Corps has approved the final framework to be used in the selection of projects as identified in III.g.1. To facilitate this approval, Dominion shall consider all comments and submit to the Signatories of this MOA a final framework that includes a schedule for requesting, reviewing and approving (funding) proposals. This final framework will be considered “approved” once the SHPO has confirmed that the framework will promote landscape and battlefield conservation and the Corps has provided written approval.
 - 3 No more than one (1) year following the initiation of “Construction Above the James River”, and annually thereafter, Dominion shall provide to the Signatories of this MOA, a report containing detailed activities to be accomplished within the next year according to the timeline in the approved framework and confirmation that appropriate projects have commenced or are under contract to commence. With this annual report, Dominion may also request modification to the final framework to address changes in circumstances over the previous year. A requested modification will be considered “approved” once the Corps has confirmed that the adjusted framework promotes landscape and battlefield conservation projects and the Corps has provided written approval.
- h. Dominion shall complete and fund the following initiatives that will preserve and enhance the Pamunkey Indian Tribe’s cultural values and way of life.**
1. Prior to any construction on the Project within the James River, Dominion shall submit to the Signatory Parties of this MOA, written confirmation that Dominion has made a one-time donation of \$4,500,000.00 to the Pamunkey Indian Tribe for three initiatives:
 - i. expansion and operation of the Pamunkey Cultural Center;
 - ii. establishment of a Tribal Historic Preservation Office; and
 - iii. expansion and operation of the Pamunkey Indian Tribe’s shad hatchery facility.
 2. Prior to any construction on the Project within the James River, Dominion shall provide all Signatory Parties of this MOA proof of appropriate assurance, obtained from the Tribe, acknowledging their agreement that funding will be allocated among the three initiatives at the discretion of the Tribe, with no less than \$100,000.00 being given to any single initiative.

3. Assuming there is a willing seller, Dominion shall initiate immediate action to acquire the parcel of land containing Uttamusack (44KW0072).
 - i. Dominion shall pay as much as 125% of the fair market value if required, to acquire the parcel.
 - ii. Dominion shall also fund acquisition a permanent easement for an access road from the public right-of-way (Route 30) to the parcel of land containing Uttamusack (44KW0072).
 - iii. Following acquisition of the property containing Uttamusack (44KW0072), Dominion shall donate the parcel and easement free and clear of any encumbrances to the Pamunkey Indian Tribe along with a one-time donation of \$500,000.00 for the tribe's use to protect, maintain, and interpret the site.
 - iv. Dominion shall also provide funding up to \$400,000.00 for the construction of an access road up to but not crossing the railroad on the parcel of land containing Uttamusack (44KW0072).

IV AVOIDANCE AND MINIMIZATION OF POTENTIAL FUTURE AND CUMULATIVE EFFECTS WITHIN THE DIRECT AND INDIRECT APE OF THE RIVER CROSSING

- 1 From the date construction is completed until the towers are dismantled, Dominion shall coordinate all project maintenance and repair operations that have the potential to cause or result in ground or underwater disturbance within the project's direct APE, with the SHPO and other regulatory agencies, consistent with the terms of the avoidance plan. Such coordination shall not prohibit the repair of the project required in response to emergency events; however, Dominion shall advise the SHPO and other regulatory agencies, as appropriate, of the completed emergency repair work as soon as practicable.
- 2 From the date construction is completed until the towers are dismantled, Dominion shall not construct or place any new or additional transmission line infrastructure, or increase the height or otherwise scale of the existing tower infrastructure within the project's defined indirect APE for the river crossing. Nothing in this commitment, however, shall preclude or otherwise prevent Dominion from adding additional lines or replacing lines to the existing tower infrastructure.
- 3 From the date construction is completed, Dominion shall examine the ongoing need for the river crossing at ten (10) year increments, taking into account the most current PJM Interconnection load forecast data.

- 4 If, at any time prior to the conclusion of the project's life span of fifty (50) years from energizing, Dominion determines that the river crossing is no longer needed, Dominion shall remove all river crossing and associated terrestrial based infrastructure and return the land-side area within the indirect APE of the river crossing to its pre-project condition.
- 5 If, at the conclusion of the project's life span of fifty (50) years from energizing, Dominion determines that the project is still needed, Dominion shall examine the viability and feasibility of a submerged river crossing. If, at that time, industry accepted technology is available and required regulatory approvals are received, Dominion will replace the overhead river crossing with a submerged crossing.

V REPORTING REQUIREMENTS

Upon the completion of each requirement to this MOA, Dominion shall provide the Corps, SHPO, ACHP, and the Participating Parties to this MOA with a signed memorandum documenting that Dominion has fulfilled such requirement. At the completion of all of the requirements, Dominion shall notify such parties that it has satisfied all its responsibilities under this MOA.

VI PROFESSIONAL QUALIFICATIONS

All archaeological and/or architectural work carried out pursuant to this MOA shall be conducted by or under the direct supervision of an individual or individuals who meet the Secretary of the Interior's *Professional Qualifications Standards* (48 FR 44738-9, September 29, 1983) in the appropriate discipline.

VII PREPARATION AND REVIEW OF DOCUMENTS

- 1 Except as otherwise stated elsewhere in the stipulations, Dominion shall submit a draft of all technical reports, treatment plans and other required documentation to the Corps (one (1) copy), ACHP (one (1) copy), SHPO (two (2) hard copies and one electronic copy in Adobe® Portable Document Format (.pdf)) and to Participating Parties (one (1) Copy) for 30-day review and comment. Dominion shall consider all comments received within thirty (30) days of confirmed receipt in the revised technical report/documentation. Following written approval by the Corps, Dominion shall provide two (2) copies of all final reports, bound and on acid-free paper, and one electronic copy in Adobe® Portable Document Format (.pdf) to the SHPO, and one (1) copy (.pdf or hardcopy) to both the Corps and ACHP, and any other Participating Party to the MOA which requests a copy.

- 2 All technical reports prepared by Dominion pursuant to this MOA will be consistent with the federal standards entitled *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44716-44742, September 29, 1983) and the SHPO's *Guidelines for Conducting Historic Resources Survey in Virginia* (2011), or any subsequent revisions or replacements of these documents.
- 3 All architectural and landscape studies resulting from this MOA shall be consistent with pertinent standards and guidelines of the Secretary of the Interior, including as applicable the Secretary's *Standards and Guidelines for Historical Documentation* (48 FR 44728-30) and for *Architectural and Engineering Documentation* (48 FR 44730-34).
- 4 The Corps, SHPO, ACHP, and other Participating Parties of the MOA agree to respond and provide comments on all technical reports, treatment plans, and other documentation arising from this MOA within thirty (30) calendar days of receipt. If no comments are received within the thirty (30) day review period, Dominion may assume the non-responding party has no comments. If the Corps is unable to respond or provide approvals as appropriate within the thirty (30) day review period, the Corps shall notify Dominion of the delay and provide an anticipated comment or approval date.

VIII CURATION

Within thirty (30) days of the Corps' approval of the final technical report, Dominion shall deposit all archaeological materials and appropriate field and research notes, maps, drawings and photographic records collected as a result of archeological investigations arising from this MOA (with the exception of human skeletal remains and associated funerary objects) for permanent curation with the DHR, which meets the requirements in 36 CFR 79, *Curation of Federally Owned and Administered Archeological Collections*. Dominion shall be responsible for all DHR curation fees associated with materials recovered during the project. Dominion shall provide the Corps with a copy of the curation agreement as evidence of its compliance with this stipulation. All such items shall be made available to educational institutions and individual scholars for appropriate exhibit and/or research under the operating policies of DHR.

IX POST-REVIEW DISCOVERIES

- 1 Dominion shall ensure that the following provision is included in all construction contracts: "If previously unidentified historic properties or unanticipated adverse effects to historic properties are discovered

during construction, the construction contractor shall immediately halt all activity within a one hundred (100) foot radius of the discovery, notify Dominion Virginia Power of the discovery and implement interim measures to protect the discovery from looting and vandalism.”

- 2** Immediately upon receipt of the notification required in Stipulation IX.1 above, Dominion shall:

 - A.** Inspect the construction site to determine the extent of the discovery and ensure that construction activities have halted;
 - B.** Mark clearly the area of the discovery;
 - C.** Implement additional measures, as appropriate, to protect the discovery from looting and vandalism;
 - D.** Engage a professional archeologist to inspect the construction site to determine the extent of the discovery and provide recommendations regarding its NRHP eligibility and treatment; and
 - E.** Notify the Corps and the SHPO of the discovery describing the measures that have been implemented to comply with this stipulation.
 - F.** Notify the Pamunkey Indian Tribe of any materials resembling Native American Artifacts including burials, human skeleton remains, and funerary artifacts.
- 3** Upon receipt of the information required in the above stipulation, the Corps shall provide Dominion and the SHPO with its assessment of the NRHP eligibility of the discovery and the measures proposed to resolve adverse effects. In making its evaluation, the Corps, in consultation with the SHPO, may assume the discovery to be NRHP eligible for the purposes of Section 106 pursuant to 36 CFR § 800.13(c). Dominion, the SHPO and other Consulting Parties shall respond to the Corps’ assessment within forty-eight (48) hours of receipt.
- 4** The Corps will take into account the SHPO recommendations on eligibility and treatment of the discovery and will notify Dominion of any appropriate required actions. Dominion must comply with the required actions and provide the Corps and SHPO with a report on the actions when implemented. Any actions that the Corps deems appropriate for Dominion to take with regard to such discovery will automatically become additional stipulations to this MOA and thereby will be incorporated in the permit and become conditions to the permit. If Dominion fails to comply with such actions, such failure will constitute a breach of this MOA and noncompliance with the permit.

- 5 Construction may proceed in the area of the discovery when the Corps has determined that implementation of the actions undertaken to address the discovery pursuant to this stipulation are complete.

X HUMAN REMAINS

- 1 Dominion shall make all reasonable efforts to avoid disturbing gravesites, including those containing Native American human remains and associated funerary artifacts. Dominion shall treat all human remains in a manner consistent with applicable federal and state law [and to the extent such laws do not apply, the ACHP's *Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects* (February 23, 2007; <http://www.achp.gov/docs/hrpolicy0207.pdf>)].
- 2 Dominion shall ensure that human skeletal remains and associated funerary objects encountered during the course of actions taken as a result of this MOA shall be treated in accordance with the Regulations Governing Permits for the Archaeological Removal of Human Remains (Virginia Register 390-01-02) found in the *Code of Virginia* (10.1-2305, et seq., Virginia Antiquities Act). If removal is proposed, Dominion shall apply for a permit from the SHPO for the removal of human remains in accordance with the regulations stated above.
- 3 Dominion shall make a good faith effort to ensure that the general public is excluded from viewing any Native American burial site or associated funerary artifacts. The Consulting Parties to this MOA shall make no photographs of any Native American burial site or associated funerary artifacts. The Corps shall notify the Delaware Tribe of Indians, the Pamunkey Indian Tribe, and other appropriate federally-recognized Tribe(s) when Native American burials, human skeletal remains, or funerary artifacts are encountered on the Project, prior to any analysis or recovery of remains or associated artifacts, and implement appropriate measures based on these consultations. Dominion shall deliver any Native American human skeletal remains and associated funerary artifacts recovered pursuant to this MOA to the appropriate tribe to be reinterred. The disposition of any other human skeletal remains and associated funerary artifacts shall be governed as specified in any permit issued by the SHPO or any order of the local court authorizing their removal. Dominion will be responsible for all reasonable costs associated with treatment of human remains and associated funerary objects.

XI DISPUTE RESOLUTION

- 1 Should any Signatory Party to this MOA object in writing to the Corps regarding any action carried out or proposed with respect to any

undertakings covered by this MOA or to implementation of this MOA, the Corps shall consult with the objecting party to resolve the objection.

- 2** If after initiating such consultation, the Corps determines that the objection cannot be resolved through consultation, the Corps shall forward all documentation relevant to the objection to the ACHP, including the proposed response to the objection.
- 3** Within thirty (30) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:
 - A.** Advise the Corps that the ACHP concurs with the Corps' proposed response to the objection, whereupon the Corps will respond to the objection accordingly; or
 - B.** Provide the Corps with recommendations, which the Corps shall take into account in reaching a final decision regarding its response to the objection; or
 - C.** Notify the Corps that the objection will be referred for comment pursuant to 36 CFR 800.7(a)(4), and proceed to refer the objection and comment. The Corps shall take the resulting comment into account in accordance with 36 CFR 800.7(c)(4) and Section 110(l) of the NHPA.
- 4** Should the ACHP not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, the Corps may assume the ACHP's concurrence in its proposed response to the objection.
- 5** The Corps shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the Corps' responsibility to carry out all the actions under this MOA that are not the subjects of the objections shall remain unchanged.
- 6** At any time during implementation of the measures stipulated in this MOA, should an objection pertaining to this MOA be raised by a member of the public, the Corps shall notify the parties to this MOA and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this MOA to resolve the objection.

XII AMENDMENTS AND TERMINATION

- 1** Any Signatory Party to this MOA may propose to the Corps that the MOA be amended, whereupon the Corps will consult with the other parties to this MOA to consider such an amendment. All Signatory

Parties to the MOA must agree to the proposed amendment in accordance with 800.6(c)(7).

- 2 If Dominion decides it will not proceed with the undertaking, it shall so notify the Corps, SHPO, ACHP, and the Consulting Parties and this MOA shall become null and void.
- 3 If Dominion determines that it cannot implement the terms of this MOA, or if the Corps, ACHP, or SHPO determines that the MOA is not being properly implemented, Dominion, the Corps, ACHP, or the SHPO may propose to the other parties to this MOA that it be amended or terminated.
- 4 This MOA may be terminated by any Signatory Party to the MOA in accordance with the procedures described in 800.6(c)(8). Termination shall include the submission of a technical report or other documentation by Dominion on any work done up to and including the date of termination. If the Corps is unable to execute another MOA following termination, the Corps may choose to modify, suspend, or revoke the Department of the Army permit as provided by 33 CFR 325.7.
- 5 Consideration of amendments shall not interrupt or delay any actions taken pursuant to the existing MOA.

XIII ANNUAL REPORTING AND MEETING

- 1 Dominion shall provide an annual status report within twelve (12) months of the execution of this MOA, and every twelve (12) months thereafter, the Corps, SHPO, ACHP, and Participating Parties until the Dominion's obligations under this MOA are complete.
- 2 Dominion shall conduct an annual meeting with the Corps, SHPO, ACHP, and Participating Parties within twelve (12) months of the execution of this Agreement and every twelve (12) months thereafter until Dominion's obligations under this Agreement are complete. The purpose of the annual meeting is to review implementation and achieved outcomes of the terms of this MOA and to determine whether amendments are needed.

XIV COORDINATION WITH OTHER FEDERAL REVIEWS

In the event that Dominion or other agency applies for additional federal funding or approvals for the Project and the undertaking remains unchanged, such funding or approving agency may comply with Section 106 by agreeing in writing to the terms of this MOA and notifying and consulting with SHPO and ACHP. Any necessary

modifications will be considered in accordance with Stipulation X, Amendments and Termination.

XV DURATION OF MOA

This MOA will continue in full force and effect until fifty (50) years after the effective date of the MOA. Dominion shall fulfill the requirements of this MOA prior to and in conjunction with the work authorized by the Corps permit. All obligations under this MOA must be complete before expiration of this MOA. If any obligation is not complete, the party responsible for such obligation is in violation of this MOA; such violation may also constitute a violation of the Corps permit. Failure of the Corps to pursue such violation is NOT a waiver. At any time in the six-month period prior to such date, the Corps may request the Signatory Parties to consider an extension or modification of this MOA. No extension or modification will be effective unless all parties to the MOA have agreed with it in writing.

XVI ANTI-DEFICIENCY ACT

The Corps' obligations under this MOA are subject to the availability of appropriated funds, and the stipulations of this MOA are subject to the provisions of the Anti-Deficiency Act. The Corps shall make reasonable and good faith efforts to secure the necessary funds to implement this MOA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs the Corps' ability to implement the stipulations of this MOA, the Corps shall consult in accordance with the amendment and termination procedures found at Stipulation XII of this MOA.

XVII DEFINITIONS

- a. The term "Concurring Parties" means each Consulting Party signing the Memorandum of Agreement.
- b. The term "Consulting Parties" means the following organizations: The National Parks and Conservation Association; The Save the James Alliance; The Chesapeake Conservancy; United States Department of Interior (National Park Service, Colonial National Historic Park); United States Department of Interior (National Park Service, Northeast Region); James City County; The Colonial Williamsburg Foundation; Preservation Virginia; Scenic Virginia; The National Trust for Historic Preservation; Christian & Barton, LLP (on behalf of BASF Corp); James River Association; United States Department of Interior (National Park Service, American Battlefield Protection Program); First California Company Jamestowne Society; Delaware Tribe of Indians; Chickahominy Tribe;

Council of Virginia Archaeologists; Margaret Nelson Fowler; and the Pamunkey Indian Tribe.

- c. The term “enhancement” shall mean an increase or improvement in quality, value, or extent.
- d. The term “Invited Signatory Party” shall mean Dominion.
- e. The term “Participating Party” shall mean Concurring Parties and each Consulting Party, whether or not such party executes the MOA as a Concurring Party, that requests to remain involved, by providing input to the Corps at the times identified herein and at such times as the Corps in its discretion requests Participating Party input, with implementation of this MOA.
- f. The term “Signatory Parties” shall mean the Corps, SHPO, and ACHP.
- g. The phrase “Limited Construction Within the James River” shall only mean construction activities within the James River associated with tower foundations and fender protection systems, This term does not include the construction of any steel lattice transmission towers atop the foundations.
- h. The phrase “Construction Above the James River” shall mean any remaining construction activities atop the foundations within the James River described above in Stipulation XVII.g.
- i. The term “Project Narrative” shall mean a document that identifies specific projects, lists tasks necessary to execute each project, provides a timeline for accomplishment of each project and describes how each project enhances the historic value of the resource. A Project Narrative is not a detailed engineering plan and need not include drawings or other technical information.

XVIII ENFORCEMENT AND CONTRACT RIGHTS

The terms of this MOA may only be enforced by the Corps, ACHP, and SHPO. The Concurring Parties, Participating Parties, and cooperative management entities referenced in this MOA are third-parties and are not Signatory Parties as set forth in 36 C.F.R. § 800.6(c)(1), and are not an Invited Signatory Party under 36 C.F.R. § 800.6(c)(2), and instead are parties whose input has been invited as part of the administration of this MOA, as well as invited to concur in the MOA. These third parties have not been provided, and do not have, any rights hereunder, including the right to enforce the agreement. Signatory and Invited Signatory Parties otherwise have the rights afforded to them under 36 C.F.R. part 800.

XIX EXECUTION OF MOA

- 1** This MOA may be executed in counterparts, with a separate page for each Signatory Party and shall be effective from the date of the issuance of the Department of the Army Standard permit for the Project. The Corps will ensure that each party is provided with a copy of the fully executed MOA.

- 2** Execution of this MOA by the Corps, the ACHP, and the SHPO, shall, pursuant to 36 CFR 800.6(c), be considered to be an agreement pursuant to the regulations issued by the ACHP for the purposes of Section 110(l) of the NHPA. Execution and submission of this MOA, and implementation of its terms, evidence that the Corps has afforded the ACHP an opportunity to comment on the proposed undertaking and its effect on historic properties, and that the Corps has taken into account the effect of the undertaking on historic properties.

INVITED SIGNATORY PARTIES:

DOMINION

By: _____ Date: _____
Robert M. Blue
President, Dominion Virginia Power

SIGNATORY PARTIES:

NORFOLK DISTRICT, U. S. ARMY CORPS OF ENGINEERS

By: _____ Date: _____
William T. Walker
Chief, Regulatory Branch

VIRGINIA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Julie V. Langan
Director, Virginia Department of Historic Resources

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
John M. Fowler
Executive Director, Advisory Council on Historic Preservation

CONCURRING PARTY:

NATIONAL PARKS CONSERVATION ASSOCIATION

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

SAVE THE JAMES ALLIANCE

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

CHESAPEAKE CONSERVANCY

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

UNITED STATES DEPARTMENT OF INTERIOR (NATIONAL PARK SERVICE,
COLONIAL NATIONAL HISTORIC PARK)

By:_____ Date:_____

CONCURRING PARTY:

UNITED STATES DEPARTMENT OF INTERIOR (NATIONAL PARK SERVICE,
NORTHEAST REGION)

By:_____ Date:_____

March 17, 2017

CONCURRING PARTY:

JAMES CITY COUNTY

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

THE COLONIAL WILLIAMSBURG FOUNDATION

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

PRESERVATION VIRGINIA

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

SCENIC VIRGINIA

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

NATIONAL TRUST FOR HISTORIC PRESERVATION

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

CHRISTIAN & BARTON, LLP (ON BEHALF OF BASF CORP)

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

JAMES RIVER ASSOCIATION

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

UNITED STATES DEPARTMENT OF INTERIOR (NATIONAL PARK SERVICE,
AMERICAN BATTLEFIELD PROTECTION PROGRAM)

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

FIRST CALIFORNIA COMPANY JAMESTOWNE SOCIETY

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

DELAWARE TRIBE OF INDIANS

By: _____ Date: _____

March 17, 2017

CONCURRING PARTY:

CHICKAHOMINY TRIBE

By: _____ Date: _____

CONCURRING PARTY:

COUNCIL OF VIRGINIA ARCHAEOLOGISTS

By:_____ Date:_____

CONCURRING PARTY:

MARGARET NELSON FOWLER

By: _____ Date: _____

CONCURRING PARTY:

PAMUNKEY INDIAN TRIBE

By: _____ Date: _____

ATTACHMENT A: DIRECT AND INDIRECT PROJECT APE MAPS

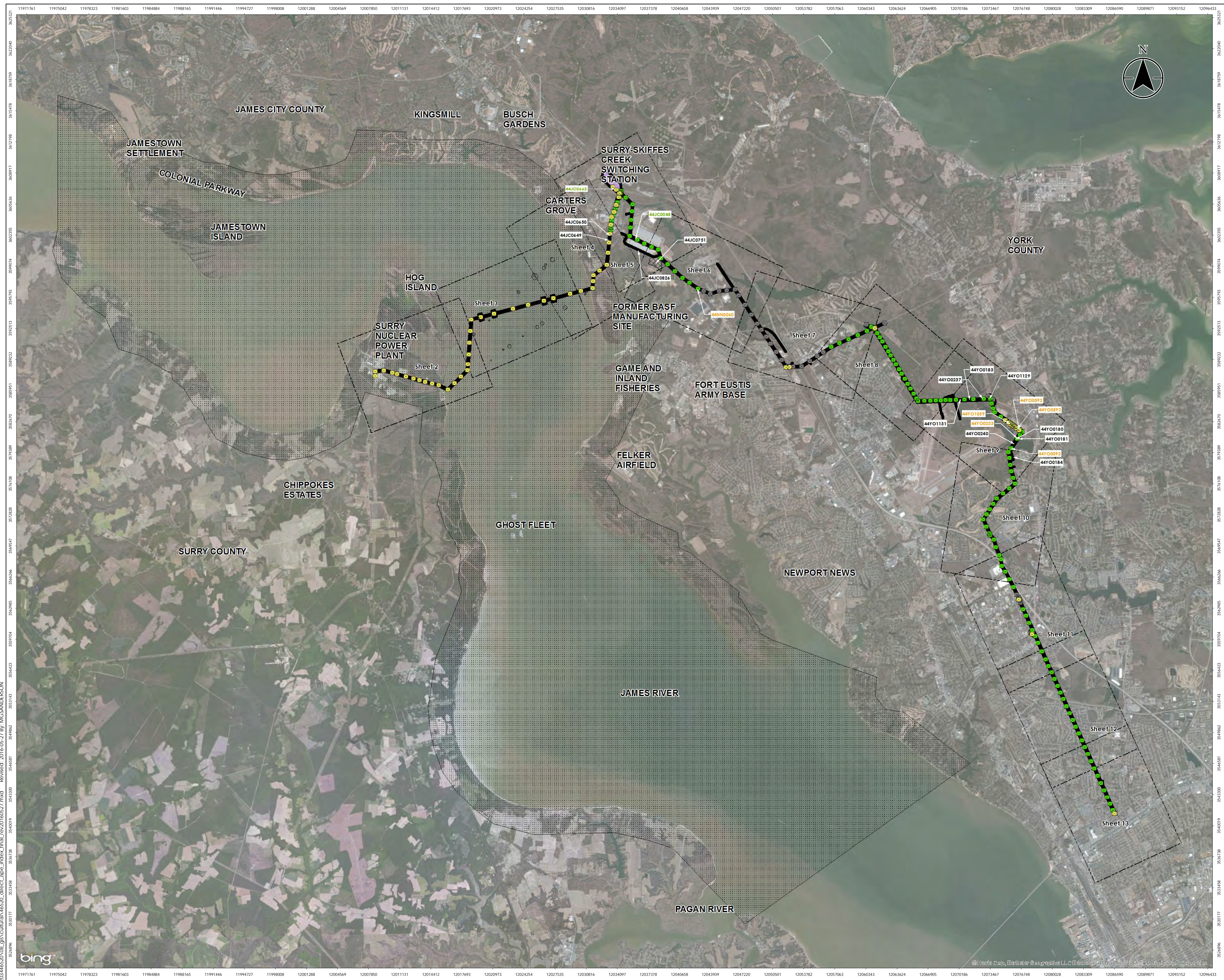
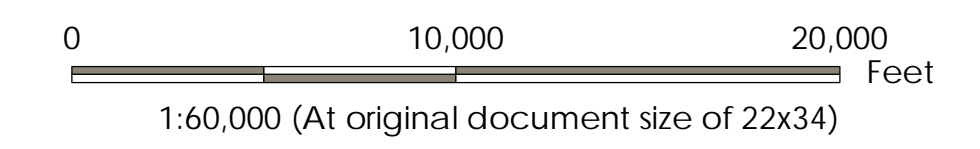


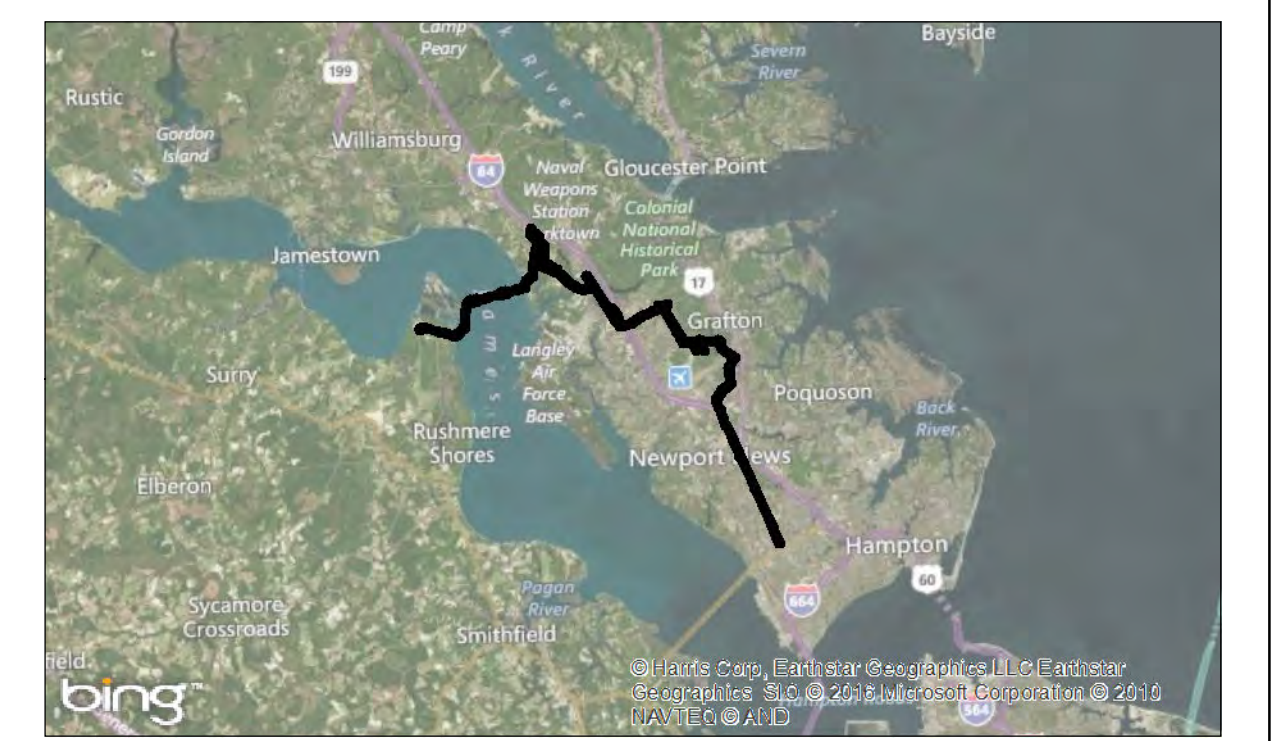
Figure No. 1
 Title: Direct APE Map- Archaeological Resources
 Submitted: 2014-09-08
 Revised: 2015-05-21
 Revised: 2015-07-24
 Revised: 2015-09-10
 Revised: 2016-05-27

Client/Project: Dominion Virginia Power
 Surry-Skiffes Creek-Wheaton
 Proposed 500/230 kV Line
 Project Location: James City County, Surry County, York County, City of Newport News, and City of Hampton, Virginia
 Prepared by MGS on 2015-05-19
 Technical Review by CPG on 2015-05-19
 Independent Review by CFC on 2015-05-19



- Direct APE
- Sheet Index
- Archaeological Resources**
 - Resource to be Managed as Unevaluated for Listing on NRHP
 - Resource Potentially Eligible for Listing on NRHP
 - Resource Eligible for Listing on NRHP
 - Underwater Buffer of Anomalies to be Managed as Unevaluated for Listing on NRHP
 - Eligible Historic District
- Structure Activity**
 - Proposed New Structure
 - Reconstructing Existing Structure
 - Remove and Replace Existing Structure

US Army Corps of Engineers
 Norfolk District Regulatory Office
 Received by: RLS
 Date: June 28, 2016



- Notes
1. Coordinate System: NAD 1983 StatePlane Virginia South FIPS 4502 Feet
 2. Tower Locations and Project Limits provided by Dominion Virginia Power
 3. Orthoimagery © Bing Maps
 4. Only historic properties under the authority of Section 106 are shown. National Register of Historic Places eligibility status provided by the Corps with DHR concurrence on May 1, 2015 and the Keeper of the National Register on August 14, 2015.
 5. Microsoft product screen shot(s) reprinted with permission from Microsoft Corporation

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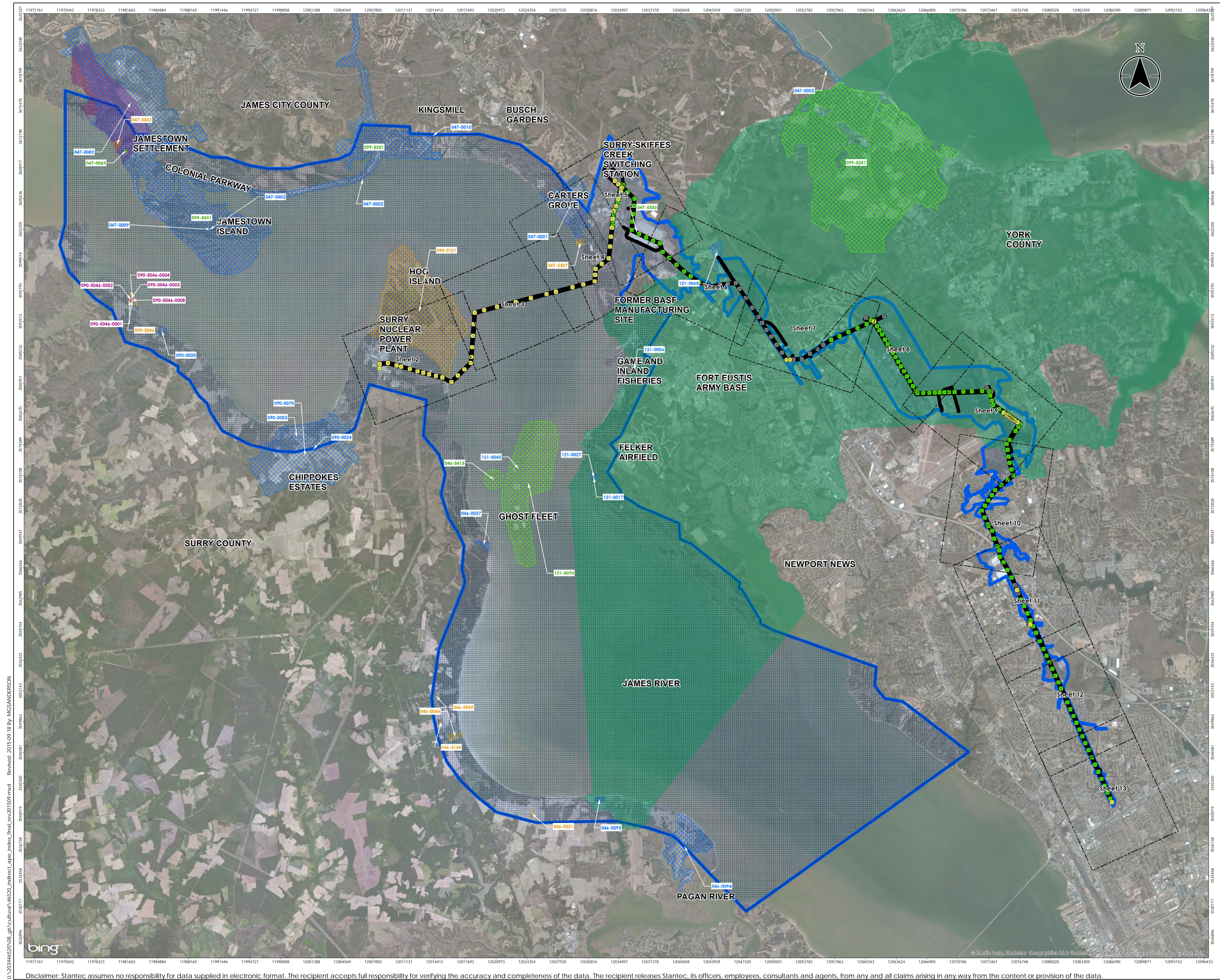
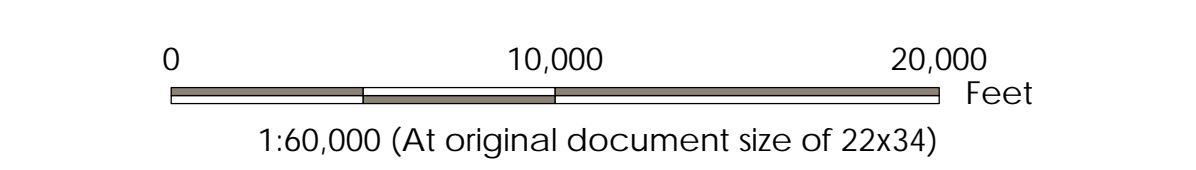


Figure No. 1
 Title: Indirect APE Map - Architectural Resources

Client/Project: Dominion Virginia Power, Surry-Skiffes Creek-Wheaton Proposed 500/230 kV Line
 Project Location: James City County, Surry County, York County, City of Newport News, and City of Hampton, Virginia
 Submitted: 2014-09-08
 Revised: 2015-05-19
 Revised: 2015-07-24
 Revised: 2015-09-10



- Legend:**
- ☐ Direct APE
 - ☐ Indirect APE
 - ☐ Sheet Index
 - Architectural Resources**
 - ▨ Resource Listed on NRHP
 - ▨ Resource Not Individually Eligible, Contributing to Scotland Wharf Historic District
 - ▨ Resource Potentially Eligible for Listing on NRHP
 - ▨ Resource Eligible for Listing on NRHP
 - ▨ Eligible Historic District
 - ▨ Battle of Green Spring
 - ▨ Battle of Yorktown
 - Structure Activity**
 - Proposed New Structure
 - Reconductoring Existing Structure
 - Remove and Replace Existing Structure

**US Army Corps of Engineers
 Norfolk District Regulatory Office
 Received by: RLS
 Date: Sept 18, 2015**



- Notes**
1. Coordinate System: NAD 1983 StatePlane Virginia South FIPS 4502 Feet
 2. Tower Locations and Project Limits provided by Dominion Virginia Power
 3. Orthomimagery © Bing Maps
 4. Only historic properties under the authority of Section 106 are shown. National Register of Historic Places eligibility status provided by the Corps with DHR concurrence on May 1, 2015 and May 11, 2015 and the Keeper of the National Register on August 14, 2015.
 5. Microsoft product screen shot(s) reprinted with permission from Microsoft Corporation



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ATTACHMENT B: LIST OF DOCUMENTS SUBMITTED BY DOMINION IN SUPPORT OF CONSULTATION

- 1) *Phase II Evaluation Site 44JC0662 for the Dominion Virginia Power Skiffes Switching Station, James City County, Virginia (CRI, May 2012).*
- 2) *Phase I Cultural Resources Survey of the Proposed Approximately 20.2-mile Dominion Virginia Power Skiffes Creek to Whealton 230kV Transmission Line in James City and York Counties, and the Cities of Newport News and Hampton, Virginia, Volumes I and II (CRI, July 2012).*
- 3) *Phase I Cultural Resources Survey of the Proposed Dominion Virginia Power Skiffes Creek to Surry 500 kV Transmission Line Alternatives in James City and Surry Counties, Virginia, Volumes I and II, (Stantec, July 2013, Revised April 2014).*
- 4) *Memoranda Titled: Phase IA Walkover and Phase I Archaeological Survey - BASF Corridor Realignment – Surry to Skiffes Creek 500 kV Transmission Line Project (Stantec, July 2014).*
- 5) *Addendum to the Phase I Cultural Resources Survey of the Proposed Dominion Virginia Power Skiffes Creek to Surry 500 kV Transmission Line in James City, Isle of Wight and Surry Counties, Virginia (Stantec, October 2014). (Additional information regarding three properties {i.e. 047-5307; Artillery Site at Trebell's Landing, 090-0121; Hog Island, and 099-5282; Battle of Williamsburg} per VDHR's request was provided in Stantec's letter dated February 2, 2015.)*
- 6) *Addendum to A Phase I Cultural Resources Survey to the Proposed Approximately 20.2-mile Dominion Virginia Power Skiffes Creek to Whealton 230 kV Transmission Line in James City and York Counties, and the Cities of Newport News and Hampton, Virginia, Volumes I: Technical Report (Stantec, July 2015).*
- 7) *Visual Effects Assessment for the Proposed Dominion Virginia Power Surry to Skiffes Creek 500kV Transmission Line Project and Skiffes Creek 500-230-115 kV Switching Station James City, Isle of Wight, and Surry Counties (Stantec, March 2014).*
- 8) *Addendum to the Visual Effects Assessment for the Proposed Dominion Virginia Power Surry to Skiffes Creek 500 kV Transmission Line Project James City, Isle of Wight, and Surry Counties (Stantec, October 2014).*

- 9) *Addendum to the Visual Effects Assessment for the Proposed Dominion Virginia Power Surry to Skiffes Creek 500 kV Transmission Line Green Spring Battlefield (Stantec, November 2014).*
- 10) *Interactive Simulations Surry-Skiffes Creek 500 kV Transmission Line James River Crossing (Dominion/TRUESCAPE, March 2015).*
- 11) *Cultural Resource Affects Assessment, Surry-Skiffes Creek-Wheaton Transmission Line Project, Surry, James City, and York Counties, Cities of Newport News and Hampton, Virginia (Stantec, September 2015).*
- 12) *Photo Simulation Overview Surry-Skiffes Creek-Wheaton Transmission Line Project, Surry, James City and York Counties, Cities of Newport News and Hampton, Virginia. (Dominion/TRUESCAPE, Revised August 2016).*

**ATTACHMENT C: LIST OF EFFECTED HISTORIC PROPERTIES UNDER
CONSIDERATION**

| DHR ID# | Resource Name/Address | VLR/NRHP Status | Distance | COE Effect Determination | Proposed Mitigation and Project Oversight |
|----------|---|---|----------|--------------------------|---|
| 046-0031 | Bourne-Turner House at Smith's Beach | Potentially Eligible – Criterion C | 8.75 | No Adverse Effect | |
| 046-0037 | Fort Huger | NRHP-Listed – Criterion D | 3.21 | No Adverse Effect | |
| 046-0044 | Bay Cliff Manor on Burwell's Bay/James C. Sprigg, Jr. House | Potentially Eligible Under Criterion C | 7.11 | No Adverse Effect | |
| 046-0094 | Basses Choice (Days Point Archeological District, Route 673) | NRHP-Listed; Archeological Sites 44IW0003- 44IW0237 – Criterion D | 9.85 | No Adverse Effect | |
| 046-0095 | Fort Boykin Archaeological Site/Herbert T. Greer House and Gardens, ... | NRHP-Listed – Criterion D | 8.84 | No Adverse Effect | |
| 046-5045 | Barlow-Nelson House, 5374 Old Stage Highway | Potentially Eligible Under Criterion C | 6.33 | No Adverse Effect | |
| 046-5138 | Bay View School, 6114 Old Stage Hwy | Potentially Eligible Under Criteria A and C | 6.84 | No Adverse Effect | |
| 046-5415 | USS Sturgis (MH - 1A Sturgis, Nuclear Barge, James River Reserve Fleet) | Eligible | 1.92 | No Adverse Effect | |
| 047-0001 | Carter's Grove | NHL; NRHP-Listed – Criterion C | 0.43 | Adverse Effect | <p>1) Landscape enhancement and protection of 6,000 linear feet of shoreline at Carters Grove. [Stipulation III.a.1.A]. Administered through The Conservation Fund. An alternative mitigation project is identifying specific landscape and viewshed enhancement, shoreline protection, and other projects that enhance the affected setting and feeling of Chippokes Plantation State Park.</p> <p>2) The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE. [Stipulation I.c].</p> <p>3) The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties. [Stipulation I.d].</p> <p>4) Examination of all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the</p> |

| DHR ID# | Resource Name/Address | VLR/NRHP Status | Distance | COE Effect Determination | Proposed Mitigation and Project Oversight |
|----------|--|--------------------------------|----------|--------------------------|--|
| | | | | | transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law. [Stipulation I.e]. |
| 047-0002 | Colonial National Historic Park; Colonial Parkway Historic District | NRHP-Listed – Criteria A and C | 3.16 | Adverse Effect | <p>1) Landscape enhancement and shoreline protection to preserve the setting and feeling of the Colonial Parkway unit at the Colonial National Historical Park consistent with the National Park Service's Cultural Landscape Inventory (2008) [Stipulation III.b.1.A]. Administered by the Conservation Fund.</p> <p>2) Visitor interpretation and visitor engagement opportunities at Colonial National Historical Park [Stipulation III.c.1.A.]. Administered through The Conservation Fund.</p> <p>3) An alternative mitigation project is identifying specific landscape and viewshed enhancement, shoreline protection, and other projects that enhance the affected setting, feeling and overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas including Jamestown Settlement and Fort Monroe in Stipulation III.b.7.-11..</p> <p>4) The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE. [Stipulation I.c].</p> <p>5) The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties. [Stipulation I.d].</p> <p>6) Examination of all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law. [Stipulation I.e].</p> |
| 004-0009 | Jamestown National Historic Site / Jamestown Island / Jamestown Island Historic District | NRHP-Listed – Criteria A and D | 3.26 | Adverse Effect | <p>1) Seawall rehabilitation or replacement at Historic Jamestown to provide protections from erosion and sea level rise and to execute a project that provides further protections through a series of breakwaters, sills and revetments greater than those provided in the 2004 and restoration of Back Creek at Historic Jamestown [Stipulation III.c.1.B.i]. Administered through The Conservation Fund.</p> <p>2) Archaeological investigation and identification at Historic Jamestown to support ongoing investigations including excavations around Memorial Church with a focus on discovering the early churches that stood on the site of the 1617 church, the site of the nation's first representative government [Stipulation III.c.1.B.iii]. Administered through The Conservation Fundh3) Visitor interpretation and visitor engagement opportunities at Historic Jamestown [Stipulation III.c.1.B.iv]. Administered through the Conservation Fund.</p> <p>4) An alternative mitigation fallback project to Stipulations III.c.1.B.i, to.iv is identifying specific landscape and viewshed enhancement, shoreline protection, and</p> |

| DHR ID# | Resource Name/Address | VLR/NRHP Status | Distance | COE Effect Determination | Proposed Mitigation and Project Oversight |
|----------|---|--|----------|--------------------------|---|
| | | | | | <p>other projects that enhance the affected setting, feeling and overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas.</p> <p>5) Conservation, preservation, and study of collections from previously excavated archaeological sites throughout the APE, including, but not limited to, at Martin's Hundred, Carter's Grove, and Kingsmill, as well as newly located archaeological sites as a result of this project [Stipulation III.c.1.C].</p> <p>6) The enhancement and preservation of Werowocomoco with associated supporting facilities at York River State Park will allow visitors there to see the landscape as it existed in pre-colonial days [Stipulation III.d.1.B.].</p> <p>7) The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE. [Stipulation I.c].</p> <p>8) The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties. [Stipulation I.d].</p> <p>9) Examination of all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law. [Stipulation I.e].</p> |
| 047-0010 | Kingsmill Plantation | NRHP-Listed – Criteria A and D | 3.16 | No Adverse Effect | |
| 047-0043 | Amblers (Amblers-on-the-James) | Eligible (Recently NRHP- Listed) – Criterion C | 6.64 | No Adverse Effect | |
| 047-0082 | Governor's Land Archaeological District | NRHP-Listed – Criteria A and D | 5.7 | No Adverse Effect | |
| 047-5307 | Artillery Landing Site at Trebell's Landing | Potentially Eligible – Criterion D | 0.52 | No Adverse Effect | |
| 047-5333 | Martin's Hundred Graveyard (Cemetery) | Eligible – Criteria A and D | 0 | No Adverse Effect | |
| 047-5432 | 4H Camp, 4H Club Road | Potentially Eligible – Criteria A and C | 9.2 | No Adverse Effect | |
| 090-0020 | Pleasant Point (Crouches Creek Plantation) | NRHP-Listed – Criteria A and C | 4.32 | No Adverse Effect | |

| DHR ID# | Resource Name/Address | VLR/NRHP Status | Distance | COE Effect Determination | Proposed Mitigation and Project Oversight |
|-----------------------|---|---|----------|--------------------------|--|
| 090-0024 | New Chippokes (Jones-Stewart Mansion) | NRHP-Listed; associated with Chippokes Plantation Historic District – Criterion C | 2.07 | No Adverse Effect | |
| 090-0070/ 090-0003 | Chippokes Plantation Historic District (Chippokes State Park) | NRHP-Listed – Criteria A, C, and D | 1.26 | No Adverse Effect | |
| 090-0121 | Hog Island Wildlife Management Area | Potentially Eligible – Criteria A and D for purposes of 106 review | 0 | Adverse Effect | <p>1) Enhancement of 1,100 acres of palustrine emergent marsh at Hog Island [Stipulation III.e.1.B.i]. Administered through DGIF.</p> <p>2) Living shoreline and shoreline restoration in Surry County [Stipulation III.e.1.B.ii]. Administered through DGIF.</p> <p>3) History and remote viewing and interpretation facility at Hog Island that recognizes Hog Island's connection and contributions to the Jamestown Island-Hog Island-John Smith Trail Historic District, and the individual significance to the Captain John Smith NHT [Stipulation III.e.1.B.iv]. Administered through DGIF.</p> <p>4) Comprehensive archaeological identification survey of Hog Island [Stipulation III.e.1.B.v]. Administered through DGIF.</p> <p>5) The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE. [Stipulation I.c].</p> <p>6) The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties. [Stipulation I.d].</p> <p>7) Examination of all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law. [Stipulation I.e].</p> |
| 090-5046 | Scotland Wharf Historic District | Potentially Eligible – Criteria A and C | 5.03 | No Adverse Effect | |
| 90-5046-0001 | House, 16177 Rolfe Hwy (Rt 31) | Not Individually Eligible; Contributing to Scotland Wharf Historic District | 5.16 | No Adverse Effect | |
| 90-5046-0002 | House, 16223 Rolfe Hwy (Rt 31) | Not Individually Eligible; Contributing to Scotland Wharf Historic District | 5.16 | No Adverse Effect | |
| 090-5046-0003 | House, 16239 Rolfe Hwy | Not Individually Eligible; Contributing to Scotland | 5.16 | No Adverse Effect | |

| DHR ID# | Resource Name/Address | VLR/NRHP Status | Distance | COE Effect Determination | Proposed Mitigation and Project Oversight |
|---------------|---|--|----------|--------------------------|--|
| | (Rt 31) | Wharf Historic District | | | |
| 090-5046-0004 | House, 16271 Rolfe Hwy (Rt 31) | Not Individually Eligible; Contributing to Scotland Wharf Historic District | 5.14 | No Adverse Effect | |
| 090-5046-0008 | House, 16206 Rolfe Hwy (Rt 31) | Not Individually Eligible; Contributing to Scotland Wharf Historic District | 5.12 | No Adverse Effect | |
| 099-5241 | Yorktown and Yorktown Battlefield (Colonial National Monument/Historic al Park) | Listed (as part of Colonial National Historical Park) – Criteria A, C, and D | 1.37 | No Adverse Effect | |
| 099-5283 | Battle-of Yorktown (Civil War) | Eligible – Criteria A and D | 0 | Adverse Effect | <p>1) Battlefield land conservation on local government or private lands associated with the Battle of Yorktown and Fort Crafford [Stipulations III.g.1.A, III.g.1.B and III.g.1.C]. Administered through the Virginia Land Conservation Foundation.</p> <p>2) Development of public interpretive programs, signage, and exhibits focusing on the Peninsula Campaign including the Battle of Hampton Roads, the Battle of Yorktown, the Battle of Williamsburg, and the strategic importance of Fort Monroe in each. [Stipulation III.g.1.A].</p> <p>3) The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE. [Stipulation I.c].</p> <p>4) The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties. [Stipulation I.d].</p> <p>5) Examination of all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law. [Stipulation I.e].</p> |
| 121-0006 | Matthew Jones House | Listed – Criterion C | 1.93 | No Adverse Effect | |
| 121-0017 | Crafford House Site/ Earthworks (Fort Eustis) | Listed (as part of 121-0027) – Criteria A and D | 3.38 | No Adverse Effect | |
| 121-0027 | Fort Crafford | Listed – Criteria A and D | 3.28 | Adverse Effect | <p>1) Battlefield land conservation on local government or private lands associated with the Battle of Yorktown and Fort Crafford [Stipulation III.g.1.A, III.g.1.B and III.g.1.C]. Administered through the Virginia Land Conservation Foundation.</p> <p>2) The development of a 3D Laser Scan of Fort Crafford and an earthwork preservation</p> |

| DHR ID# | Resource Name/Address | VLR/NRHP Status | Distance | COE Effect Determination | Proposed Mitigation and Project Oversight |
|----------|--|--|----------|--------------------------|--|
| | | | | | <p>plan to include a landscape management plan</p> <p>3) The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE. [Stipulation I.c].</p> <p>4) The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties. [Stipulation I.d].</p> <p>5) Examination of all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law. [Stipulation I.e].</p> |
| 121-0045 | S.S. John W. Brown | Listed – Criterion A | 2.18 | No Adverse Effect | |
| 121-5068 | Village of Lee Hall Historic District | Eligible – Criteria A and C (Public Notice notes that Lee Hall NRHP- Listed – Criterion C) | 0.25 | No Adverse Effect | |
| 121-5070 | Ghost Fleet (James River Reserve Fleet/ Maritime Admin. Non- Retention Ships) | Eligible – Criterion A | 1.64 | No Adverse Effect | |
| N/A | Battle of Green Springs | Eligible – Criterion A | 5.7 | No Adverse Effect | |
| N/A | Historic District (formally Jamestown Island-Hog Island Cultural Landscape) including CAJO | Eligible – Criteria A, B, C, and D | 0 | Adverse Effect | <p>1) Captain John Smith Chesapeake NHT enhanced experiences, land acquisition, visitor interpretation and facilities, archeological investigation and preservation of Werowocomoco, Gloucester County, Virginia (principal residence of Powhatan, paramount chief of Indian Tribes in Virginia's coastal region at the time English colonists arrived in 1607, and located along the Captain John Smith Chesapeake National Historic Trail on the York River); and natural and cultural values on the James River and the north and south sides of the York River in the area of Werowocomoco that will preserve and provide the visitor with an undisturbed landscape and vista that evokes the setting and feeling of the river during the period of Captain John Smith's exploration [Stipulation III.d.1.B]. Administered through The Conservation Fund.</p> <p>2) Historic resource identification and documentation for the Jamestown Island-Hog Island-Captain John Smith Trail Historic District, including the contributing section of the Captain John Smith Chesapeake National Historic Trail within the APE including Historic American Landscape documentation of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District Cultural Landscape in accordance with NPS Heritage Documentation Program Standards and Guidelines [Stipulation III.c.1.B.iii]. Administered through The Conservation Fund.</p> |

| DHR ID# | Resource Name/Address | VLR/NRHP Status | Distance | COE Effect Determination | Proposed Mitigation and Project Oversight |
|----------|---|------------------------------------|----------|--------------------------|---|
| | | | | | <p>3) Captain John Smith NHT visitor engagement and visitor interpretation programs and projects at the National Park Service's visitor center on Jamestown Island [Stipulation III.c.1.B.iv]. Administered through the Conservation Fund.</p> <p>4) Acquisition of 400 acres of upland/emergent marsh adjacent to the Chickahominy Wildlife Management Area, Charles City County, Virginia to improve water quality within the APE, subject to the approval of the Board of Game and Inland Fisheries [Stipulation III.e.iii]. Administered through DGIF.</p> <p>5) Riparian buffer creation and replacement projects and erosion and sediment control projects within the James River watershed [Stipulation III.f.1]. Administered by Virginia Environmental Endowment.</p> <p>6) Landscape preservation to include land and easement acquisition with an emphasis on projects within the Indirect APA [StipulationIII.f.1].</p> <p>7) The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE. [Stipulation I.c].</p> <p>8) The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties. [Stipulation I.d].</p> <p>9) Examination of all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law. [Stipulation I.e].</p> |
| 44JC0048 | 17th Century Cemetery Martin's Hundred | Eligible – Criteria A and D | 0 | No Adverse Effect | |
| 44JC0649 | Indet. Historic | manage as unevaluated | 0 | No Adverse Effect | |
| 44JC0650 | Indet. 18th Cent | manage as unevaluated | 0 | No Adverse Effect | |
| 44JC0662 | 18th to 19th Cent Dwelling | Eligible – Criterion D | 0 | Adverse Effect | Archaeological Data Recovery [Stipulation I.a]. Administered through Dominion. |
| 44JC0751 | Prehistoric Camp, 18th to 19th Century Dwelling | Manage as Unevaluated | 0 | No Adverse Effect | |
| 44JC0826 | 19th Century Farmstead | Manage as Unevaluated | 0 | No Adverse Effect | |
| 44NN0060 | Indeter. Woodland | Potentially Eligible – Criterion D | 0 | No Adverse Effect | |

| DHR ID# | Resource Name/Address | VLR/NRHP Status | Distance | COE Effect Determination | Proposed Mitigation and Project Oversight |
|----------------|--|---|-----------------|---------------------------------|--|
| 44YO0092 | Civil War Earthworks | Potentially Eligible – Criterion D | 0 | No Adverse Effect | |
| 44YO0180 | Prehistoric Camp | Manage as Unevaluated | 0 | No Adverse Effect | |
| 44YO0181 | Indet. Late Archaic | Manage as Unevaluated | 0 | No Adverse Effect | |
| 44YO0183 | 18th Century Domestic | Manage as Unevaluated | 0 | No Adverse Effect | |
| 44YO0184 | Indet. 19th to 20th Century | Manage as Unevaluated | 0 | No Adverse Effect | |
| 44YO0233 | Civil War Military base | Potentially Eligible – Criterion D | 0 | No Adverse Effect | |
| 44YO0237 | Archaic & Woodland Camp | Manage as Unevaluated | 0 | No Adverse Effect | |
| 44YO0240 | Historic Bridge & Road | Manage as Unevaluated | 0 | No Adverse Effect | |
| 44YO0592 | Mid 18th to 19th Century Military Camp | Potentially Eligible – Criterion D | 0 | No Adverse Effect | |
| 44YO1059 | Prehistoric Camp, Early to Mid-18th Century Dwelling | Potentially Eligible – Criterion D | 0 | No Adverse Effect | |
| 44YO1129 | Historic Dwelling | Manage as Unevaluated | 0 | No Adverse Effect | |
| 44YO1131 | 19th Century Dwelling | Manage as Unevaluated | 0 | No Adverse Effect | |
| N/A | 76 submerged anomalies, managed in 23 buffer areas | Potentially Eligible – Criteria A and D | 0 | No Adverse Effect | |

ATTACHMENT D: KEEPER'S DOE LETTER AND MAP



United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, DC 20240

AUG 14 2015

H32(2280)

Mr. William T. Walker
Chief, Regulatory Branch
Department of the Army
U.S. Army Corps of Engineers
Norfolk District
Fort Norfolk
803 Front Street
Norfolk, VA 23510-1011

Dear Mr. Walker:

We have received your letter dated July 2, 2015 (arrived at the National Register of Historic Places on July 6, 2015), requesting a determination of eligibility for the National Register for properties located within the vicinity of the Dominion Virginia Power-proposed Surrey-Skiffes Creek-Wheaton aerial transmission line project. The proposed project calls for construction of 7.4 miles of overhead transmission lines from Surry, Virginia, to a proposed switching station in James City County, Virginia. The proposal calls for the transmission line to cross the James River, thus requiring a permit from the U.S. Army Corps of Engineers, which would constitute a Federal undertaking subject to Section 106 of the National Historic Preservation Act.

You have requested that the National Register provide a determination of eligibility for properties located within the project's "Indirect Area of Potential Effect" (Indirect APE) which the Corps of Engineers defines as having both inland land-based and water-based components. The water-based section of the APE extends from just west of Jamestown Island to include portions of the James River downstream to the Pagan River near Smithfield, VA, and its boundary is drawn to include adjacent lands extending several thousand feet from the river's shoreline. The Indirect APE is defined in U.S. Army Corps of Engineers report *Dominion Virginia Power Surry-Skiffes Creek-Wheaton Proposed 500/230kV Line, NAO-2012-00080/13-V0408*, May 7, 2015, p. 1, (hereafter referred to as *Corps of Engineers report*) and is shown as a blue line drawn on the map titled "Indirect APE Map, Surry-Skiffes Creek-Wheaton Proposed 500/230kVline" included as Enclosure 1 with the Determination of Eligibility request.

This request for a determination of eligibility does not extend to the inland, land-based portion of the Indirect APE, which is comprised primarily of an existing overhead utility right-of-way that extends generally from Skiffes Creek south to Hampton, VA (*Corps of Engineers Report*, p. 1).

All further references in this letter to the Indirect APE should be understood to exclude the inland land-based portion referenced above. You have specifically requested a determination of eligibility for the portion of the Captain John Smith Chesapeake National Historic Trail (CAJO) and the Washington-Rochambeau Revolutionary Route National Historic Trail that are located within the Indirect APE.

The Captain John Smith Chesapeake National Historic Trail (CAJO) was established by Congress in 2006, following a feasibility study by the National Park Service and a determination by the National Park System Advisory Board that the trail was nationally significant. The initial trail route extended approximately 3,000 miles along the Chesapeake Bay and the tributaries of the Chesapeake Bay in the States of Virginia, Maryland, and Delaware, and the District of Columbia; it traced the 1607-1609 voyages of Captain John Smith to chart the land and waterways of the Chesapeake Bay. The trail was extended by order of the Secretary of the Interior in 2012 through designation of four rivers as historic components of CAJO. This action extended the trail by 841 miles to include: the Susquehanna River Component Connecting Trail (a 552-mile system of water trails along the main-stem and West Branch of the Susquehanna River in Maryland, Pennsylvania and New York); the Chester River Component Connecting Trail (a 46-mile system of the Chester River and its major tributaries); the Upper Nanticoke River Component Connecting Trail (23-miles of the Nanticoke River, Broad Creek and Deep Creek); and the Upper James River Component Trail (a 220-mile water trail of the James River in Virginia). CAJO, the first designated national historic trail that is composed primarily of a water trail route, now extends along waterways from Cooperstown, New York, to Norfolk, Virginia.

The Washington-Rochambeau Revolutionary Route National Historic Trail (designated in June 2007) includes over 680 miles of land and water trails that follow the route taken by General George Washington and the Continental Army and French General Jean-Baptiste de Rochambeau and the Expédition Particulière to and from the siege of Yorktown, a pivotal event in the American Revolution. The Washington-Rochambeau Revolutionary Route National Historic Trail passes through Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Washington, D.C., and Virginia.

After considering all documentation submitted, we have determined that the entire area encompassed by the Indirect APE is eligible for the National Register of Historic Places as a historic district under National Register Criteria A, B, C, and D, in the areas of significance of Exploration/Settlement, Ethnic Heritage, and Archeology. This historic district forms a significant cultural landscape associated with both the American Indian inhabitants of the area and the later English settlers.

The English colonization of North America was an extraordinary undertaking which had a profound impact on the Old World and the New and much of what was to come had its origins here along the James River: the establishment and growth of the first permanent English settlement in the New World; some of the earliest and most sustained interactions (both cooperative and antagonistic) between the original inhabitants of the area - the American Indians - and the Europeans; the initial English voyages of discovery which took them throughout the Chesapeake Bay and into the interiors following the numerous rivers and led to expanding

contact with the American Indians and the spread of English settlement; the foundation and development of the tobacco economy which would dominate the Chesapeake Bay world; the introduction and firm establishment of chattel slavery; the architectural evolution of buildings in the James River area from the first crude huts built by the English to the flowering of the dominant Georgian architectural style; and the growth of the unique political and social institutions which would lead to the development of representative democracy and the growing impulse of the colonists to gain independence and self-rule from the corporate founders of the colony and later their royal master the King.

The Indirect APE includes numerous significant historic properties already listed in the National Register of Historic Places including all or parts of: Colonial National Historical Park; Jamestown National Historic Site; Colonial Parkway; Yorktown Battlefield; Kingsmill Plantation (which includes a series of important archeological sites); Carter's Grove National Historic Landmark, one of colonial America's most impressive examples of Georgian architecture (built 1750-1755) noted for its exquisite brickwork and finely crafted, fully-paneled interior; the archeological site of Martin's Hundred located at Carter's Grove (established in 1619 as one of the earliest English settlements outside of Jamestown Island, it was destroyed in the American Indian uprising of 1622); and a number of other archeological sites. A significant contributing feature of the district is Hog Island, which was fortified in 1609 to help defend Jamestown Island. In a letter dated March 11, 2015, to the Corps of Engineers, the Virginia State Historic Preservation Office notes that three 17th century archeological sites have been identified on Hog Island and that in their opinion the island is individually eligible for the National Register. In addition to the properties enumerated above, the Virginia State Historic Preservation Office, in letters dated June 12, 2014, and June 19, 2015, to the Corps of Engineers, identify an additional twelve properties within the Indirect APE which are either listed in the National Register or they are considered to be potentially eligible (including the James River National Defense Reserve Fleet, also known as the Ghost Fleet).

The Indirect APE encompasses a portion of the Captain John Smith Chesapeake National Historic Trail (CAJO). The boundary of CAJO extends from shore to shore of the James River. Jamestown Island and Hog Island (an isthmus) are located within the James River and are thus within the boundary of CAJO.

The National Park System Advisory Board in March, 2006, found that the trail was nationally significant for its association with the following historic patterns of events:

- Captain John Smith's Chesapeake Bay voyages are nationally significant because they accelerated the process that destroyed the Powhatan polity and disrupted the native people's world throughout the region.

The Water Trail is significant as:

- a) the route that John Smith followed in his voyages to American Indian towns and territories;
- b) a symbol of the independence of the English colonists from Powhatan's control;
- c) a symbol of the impact on and eventual collapse of the Powhatan polity

and the native peoples' world of the Chesapeake Bay and beyond.

- Captain John Smith's Chesapeake Bay voyages are nationally significant because of their impact on the exploration and settlement of North America.

The Water Trail is significant as:

- a) the route that John Smith followed in his program of exploration and discovery in the Chesapeake Bay and its tributaries;
- b) a symbol of the spirit of adventure and wonder that were important components of Smith's voyages and the English exploration;
- c) the route by which Smith gathered information vital to the survival and growth of the English settlements in North America.

- Captain John Smith's Chesapeake Bay voyages are nationally significant because of their impact on the commerce and trade of North America.

The Water Trail is significant as:

- a) the route by which John Smith surveyed the Bay and explored for gold, silver, copper, and the Northwest Passage, for the benefit of the commerce and trade of the colony and England;
- b) the route by which Smith made contact with American Indian tribes, established trade agreements with them, and increased the chances that the English colony would survive;
- c) a symbol of England's trading power, soon to be increased by the production of tobacco for export from the colony;
- d) a symbol of the long-term impact on the cultural contact between the native peoples and European colonists.

This segment of CAJO is among the most historically significant portions of the overall National Historic Trail's 3,000 plus miles of waterways. Jamestown was the starting and ending point for all of Smith's voyages and was Smith's base of operations and center of political power over the new colony. Properties within and along this segment of the trail are directly associated with the historic patterns of events for which the trail was found to be nationally significant and thus this section of the trail itself is eligible for the National Register of Historic Places as a contributing element in the larger historic district defined by the Indirect APE boundary.

We note that the Virginia State Historic Preservation Office, in a letter to the Corps of Engineers dated May 11, 2015, advised that, in their opinion, what they describe as an eligible cultural landscape within the APE may extend further upstream beyond the boundary of the Indirect APE. We do not have sufficient information to evaluate properties upstream from the district at this time.

As to the Washington-Rochambeau Revolutionary Route National Historic Trail, no information has been provided with this determination of eligibility request regarding the trail section located within the APE, thus we cannot provide a determination of the trail's eligibility.

Please let us know if you have any questions concerning this determination of eligibility.

Sincerely,



Stephanie S. Toothman, Ph.D.
Associate Director, Cultural Resources, Partnerships,
and Science
Keeper, The National Register of Historic Places

Enclosure

IDENTICAL LETTER SENT TO:

Cc: Ms. Julie Langan
State Historic Preservation Officer
Department of Historic Resources
2801 Kensington Avenue
Richmond, VA 23221

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Acting Associate Regional Director, Stewardship
United States Department of the Interior
National Park Service
Northeast Region
United States Custom House
200 Chestnut Street
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Mr. Edward A. Chappell
Shirley and Richard Roberts Director
of Architecture and Archaeological Research
The Colonial Williamsburg Foundation
P.O. Box 1776
Williamsburg, VA 23187-1776

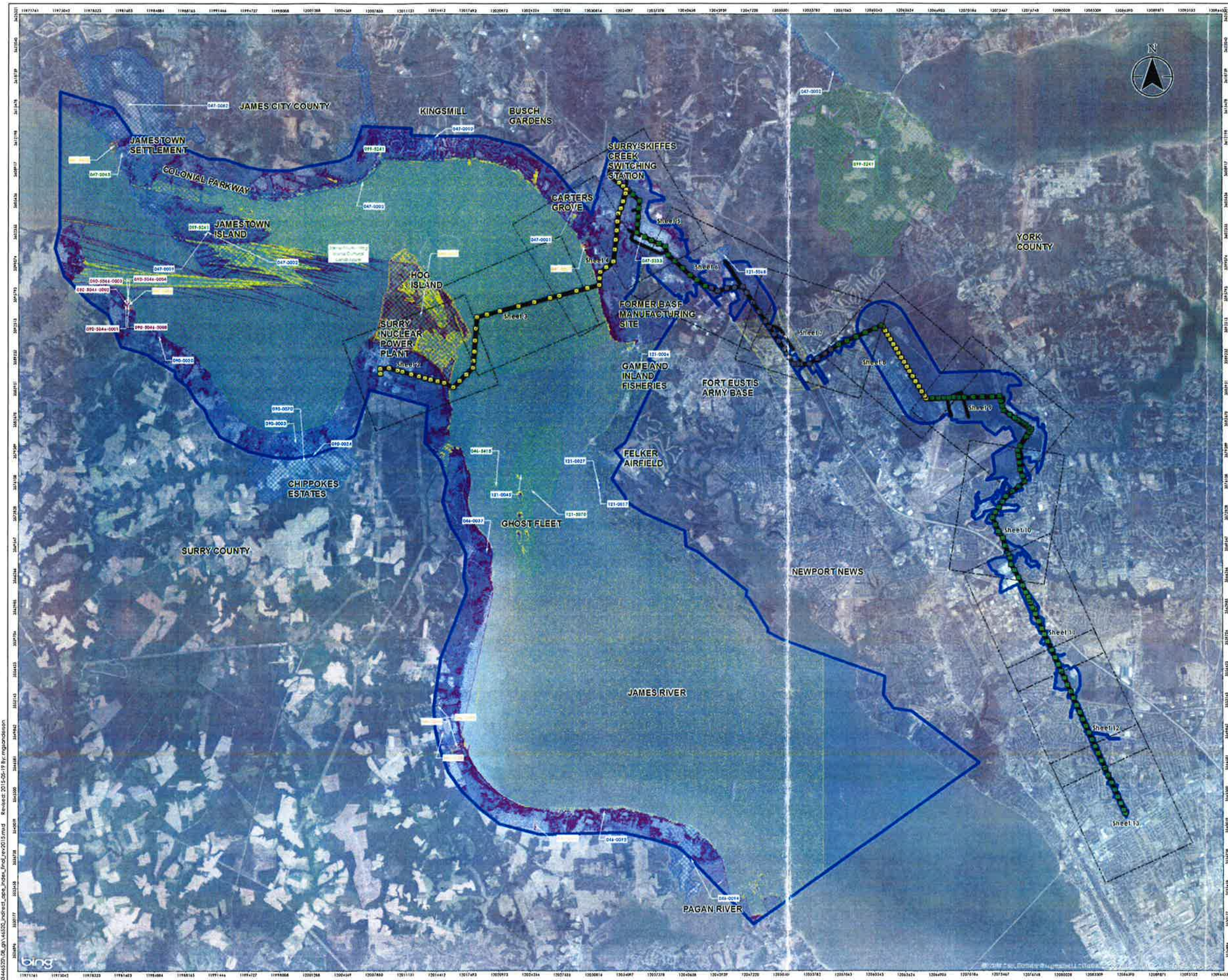
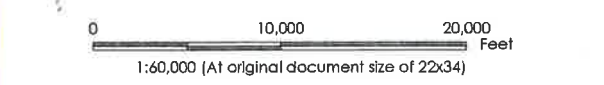


Figure No. 1
 Title: Indirect APE Map - Architectural Resources
 Submitted: 2014-09-08
 Revised: 2015-05-19

Client/Project: Dominion Virginia Power
 Surry-Skiffes Creek-Wheaton
 Proposed 500/230 kV Line
 Project Location: James City County, Surry County, York County, City of Newport News, and City of Hampton, Virginia
 Prepared by MGS on 2015-05-19
 Technical Review by CPG on 2015-05-19
 Independent Review by CFC on 2015-05-19



- Direct APE
- Indirect APE
- JRV1 Viewshed Analysis - Not Visible
- JRV1 Viewshed Analysis - Visible
- Sheet Index
- Architectural Resources**
- Resource Listed on NRHP
- Resource Not Individually Eligible, Contributing to Scotland Wharf Historic District
- Resource Potentially Eligible for Listing on NRHP
- Resource Eligible for Listing on NRHP
- Structure Activity**
- Replacement with ≤ 10% or 20 Feet Change in Height
- Re conductor Existing Structure
- New Structure or Replacement with > 10% or 20 Feet Change in Height

US Army Corps of Engineers
 Norfolk District Regulatory Office
 Received by: RLS
 Date: May 20, 2015



- Notes**
1. Coordinate System: NAD 1983 StatePlane Virginia South FIPS 4502 Feet
 2. Tower Locations and Project Limits provided by Dominion Virginia Power
 3. Orthoimagery © Bing Maps
 4. Only historic properties under the authority of Section 106 are shown. National Register of Historic Places eligibility status provided by the Corps with DHR concurrence on May 1, 2015 and May 11, 2015.
 5. Microsoft product screen shot(s) reprinted with permission from Microsoft Corporation



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Encl 1

Disclaimer: Stantec assumes no responsibility for data supplied in electronic format. The recipient accepts full responsibility for verifying the accuracy and completeness of the data. The recipient releases Stantec, its officers, employees, consultants and agents, from any and all claims arising in any way from the content or provision of the data.

ATTACHMENT E: CORPS' SECTION 106 CONSULTATION AND PUBLIC INVOLVEMENT PLAN

Section 106 Consultation and Public Involvement Plan
Dominion Virginia Power's Surry - Skiffes Creek - Whealton Project
NAO-2012-00080 / 13-V0408

Introduction

Dominion proposes to construct a new high voltage aerial electrical transmission line, known as the Surry-Skiffes Creek -Whealton project. The proposed project consists of three components; (1) Surry – Skiffes Creek 500 kilovolt (kV) aerial transmission line, (2) Skiffes Creek 500 kV – 230 kV – 115 kV Switching Station, and (3) Skiffes Creek – Whealton 230 kV aerial transmission line. In total, the proposed project will permanently impact 2,712 square feet (0.06 acres) of subaqueous river bottom and 281 square feet (0.01 acres) of non-tidal wetlands, and convert 0.56 acres of palustrine forested wetlands to scrub shrub non-tidal wetlands. (See *Exhibit 1*)

Dominion indicates the proposed project is necessary to ensure continued reliable electric services, consistent with North American Electric Reliability Corporation (NERC) Reliability Standards, are provided to its customers in the North Hampton Road Load Area. The NHRLA consist of over 285,000 customers, including Newport News Shipbuilding, Joint Base Langley-Eustis, Yorktown Naval Weapons Station, NASA, Cannon, and Thomas Jefferson National Accelerator Facility.

A permit is required from the Norfolk District Corps of Engineers under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899, and constitutes a Federal undertaking, subject to Section 106 of the National Historic Preservation Act (NHPA). Section 106 of the NHPA requires Federal agencies to take into account the effects of their actions, including permitted actions, on historic properties.

In accordance with Section 106 of the National Historic Preservation Act (36 Code of Federal Regulations [CFR] 800.2), USACE will provide opportunities for consulting parties and the general public to provide comments concerning project effects on properties and districts listed or eligible for listing in the National Register of Historic Places (NRHP).

Key elements of the Section 106 process include USACE's plan to integrate Section 106 with other environmental reviews, in accordance with 36 CFR 800.3(b), and the plan for conducting consultation and public involvement per the requirements of 36 CFR 800.3 (e) and (f). This document provides further detail about how USACE will integrate reviews and conduct consultation and public involvement.

Approach

In accordance with the requirements of National Environmental Policy Act (NEPA) and Section 106, USACE solicited public comments on the undertaking via public notice on August 28, 2013. These comments helped facilitate the initial steps of Section 106

review process and will be considered when preparing an Environmental Assessment (EA) for NEPA compliance. The public notice also provided interested members of the public with an opportunity to comment on the identification of historic properties and potential effects. The Corps intends to use the studies and information generated during the Virginia State Corporation Commission's review of Dominion's proposed project to inform, not to replace, the Section 106 consultation process. USACE will continue to coordinate with agencies and organizations that have demonstrated an interest in cultural resource impacts resulting from the undertaking.

USACE will continue to provide the public with information about the undertaking and its effects on historic properties, and seek their comment and input at various steps of the process. Members of the public may provide views on their own initiative for USACE officials to consider during the decision-making process.

Public Involvement

Opportunities for public comment regarding historic resource identification and potential effects have previously been provided through USACE's August 28, 2013, November 13, 2014, and May 21, 2015 public notices. Requests for a public hearing due to concerns regarding historic resources, in addition to other issues, were acknowledged by USACE. After careful consideration, USACE conducted a hearing on October 30, 2015. During the 106 process, general information has been, and continues to be, available for review at <http://www.nao.usace.army.mil/Missions/Regulatory/SkiffesCreekPowerLine.aspx>. Our website also contains links to the applicant's and consulting party websites, which contain additional project information and perspectives on the project.

Consulting Parties

As a result of the August 2013 Public Notice and the State Corporation Commission review process, USACE, in coordination with the SHPO, identified organizations that have a demonstrated interest in the treatment of historic properties associated with this undertaking. In addition to those requests received in response to the public notice, Kings Mill Community Services Association and Southern Environmental Law Center were also invited to participate as consulting parties in a letter dated March 5, 2014. On June 20, 2014, USACE notified local governments within the limits of the project (Surry County, City of Williamsburg, York County, City of Newport News, and City of Hampton) by mail, inviting their participation as consulting parties. To date, these parties have not responded positively to their participation invitation. A separate invite included First California Company Jamestowne Society who has accepted the invite to participate. On November 25, 2014, written correspondence was received from the new steward of Carter Grove Plantation indicating an inability to participate at this time. Any organization invited to be a consulting party may elect to participate in current and future steps of the process (but not previous steps) at any time.

At the initial stages of the project, when consulting parties were invited (summer, 2014), the Commonwealth of Virginia had no federally recognized tribes within its state

boundaries. However, based on coordination through other projects, the Delaware Tribe of Indians, the Delaware Nation, and the Catawba Indian Nation had expressed an interest in Virginia. In an effort to consider tribal interest, USACE consulted on August 25, 2014 with the aforementioned federally recognized Tribes on a government to government basis. In addition, USACE coordinated with the following state recognized tribes to determine their interest in participating as consulting parties: Cheroenhaka, Chickahominy, Eastern Chickahominy, Mattaponi, Upper Mattaponi, Nansemond, Nottoway, and Rappahannock Tribes. The Pamunkey Tribe, which became federally recognized on January 28, 2016, was consulted on August 25, 2014 when the tribe was state-recognized. Dominion's consultants developed a summary of the historic properties, with an emphasis on those with prehistoric Native American components, which was provided with the August 25, 2014 coordination letters USACE provided to the tribes. On October 5, 2016, Chief Gray with the Pamunkey Indian Tribe reached out to USACE requesting to participate. USACE immediately acknowledged and accepted the Tribes request.

On March 16, 2017, written correspondence was received from Kingsmill Resort requesting participation. USACE has accepted the request and will engage the Resort in any future actions specific to the "Resolution of Adverse Effects".

Throughout the process, USACE has maintained a complete list of active "Consulting Parties" (See *Attachment A*). Consulting parties have been afforded an opportunity to comment on identification of historic properties, effect recommendations, proposed measures to avoid or minimize effects and suggested mitigation options for historic properties that would be adversely affected.

Meetings

On September 25, 2014, December 9, 2014, June 24, 2015, October 15, 2015, and February 2, 2016 USACE, SHPO, ACHP, and consulting parties have held Section 106/110 National Historic Preservation Act Meeting at Legacy Hall, 4301 New Town Avenue, Williamsburg, VA 23188. General meeting objectives:

September 25th:

- Status of permit evaluation
- Corps jurisdiction
- Project Overview, Purpose & Need, Alternatives, Construction Methods
- Historic Property Identification Efforts
- Potential Effects on historic properties

December 9th:

- General Item Updates
- Historic Property Identification
- Historic Property Eligibility
- Potential Effects
- Potential Mitigation

June 24th:

- General Updates
- Resolution of Adverse Effects
 - Avoidance, Minimization, Mitigation Considerations/Measures
 - Feedback/Ideas

October 15th:

- General Updates
- NPS Visual Effects Analysis
- Stantec Consolidated Effects Report
- Resolution of Adverse Effects

February 2nd:

- General Updates
- Resolution of Adverse Effects

Numerous additional meetings have been held between various consulting parties at various stages in the process.

Resolution of Adverse Effects

MOA development process has included requests for written comments from all consulting parties on draft MOA's that were circulated December 30, 2015, June 13, 2016, and December 7, 2016, including discussions of resolution of adverse effects at several consulting party meetings.

The December 7, 2016 coordination, is believed to be the final opportunity for consulting parties to inform a decision on whether Dominion's proposed mitigation plan adequately avoids, minimizes, and/or mitigates adverse effects to historic properties. A teleconference was held January 19, 2017 with Dominion, SHPO, ACHP, and Consulting Parties to discuss MOA comments and path forward. The Corps will use these coordination opportunities and the input received to inform a decision on whether to fulfill responsibilities under Section 106 of the NHPA through either an executable MOA or termination of consultation.

At this time, it is anticipated that the MOA signatories (including invited signatories) would include USACE, SHPO, ACHP and Dominion. It is also expected that all other consulting parties would be afforded the opportunity to sign as concurring parties to an MOA.

Milestones and Tracking

A list of major milestones in the Section 106 review of the undertaking is provided as an attachment to this document (*See Attachment B*). The milestones table will be updated throughout the review process and distributed to the SHPO, ACHP, Consulting Parties, and Dominion as deemed necessary by USACE.

USACE's Section 106 consultants will receive, track, and organize the responses received in conjunction to various steps throughout the process.

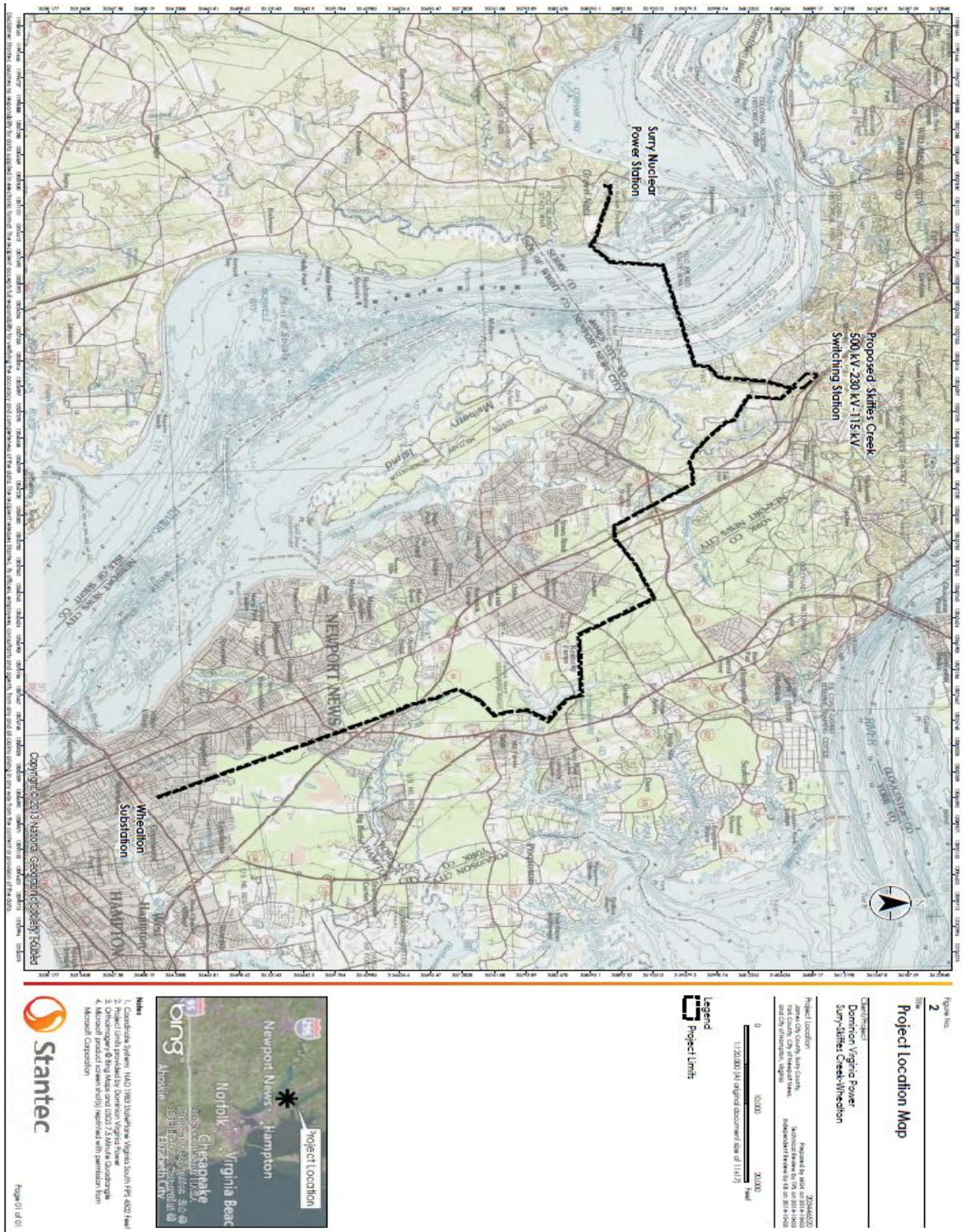


Exhibit 1: Project Location

Attachment A: Section 106 List of POC's (updated as of March 23, 2017)

- USACE; Randy Steffey (Project Manager) – randy.l.steffey@usace.army.mil
- Applicant/Agents;
 1. Dominion (applicant); Courtney Fisher – courtney.r.fisher@dom.com
 2. Stantec (agent); Corey Gray – corey.gray@stantec.com , Dave Ramsey – dave.ramsey@stantec.com , and Ellen Brady – ellen.brady@stantec.com
- VDHR (SHPO); Roger Kirchen – roger.kirchen@dhr.virginia.gov and Andrea Kampinen – andrea.kampinen@dhr.virginia.gov
- ACHP; John Eddins – jeddins@achp.gov
- Other Consulting Parties
 1. National Parks Conservation Association; Pamela E. Goddard & Joy Oakes – pgoddard@npca.org and joakes@npca.org
 2. Save The James Alliance; Wayne Williamson & James Zinn – taskforce@savethejames.com
 3. Chesapeake Conservancy; Joel Dunn – jdunn@chesapeakeconservancy.org
 4. United States Department of the Interior (National Park Service, Colonial National Historic Park); Elaine Leslie – Elaine_leslie@nps.gov
Rebecca Eggleston – becky_eggleston@nps.gov
Jonathan Connolly – jonathan_connolly@nps.gov
Dorothy Geyer – Dorothy_geyer@nps.gov
Kym A. Hall – kym_hall@nps.gov
 5. United States Department of the Interior (National Park Service, North East Region); Mike Caldwell – mike_caldwell@nps.gov - c/o: mary_morrison@nps.gov
Others – Captain Johns Smith National Historic Trail: Charles_hunt@nps.gov
Washington-Rochambeau Revolutionary Route: joe_dibello@nps.gov
Carters Grove National Historic Land Mark: bonnie_halda@nps.gov and NPS_NHL_NEReview@nps.gov
 6. James City County; Bryan J. Hill, County Administrator – c/o: Max Hlavin & Liz Young – Maxwell.Hlavin@jamescitycountyva.gov and Liz.Young@jamescitycountyva.gov
 7. The Colonial Williamsburg Foundation; Hazel Wong – hwong@cwf.org
 8. Preservation Virginia; Elizabeth S. Kostelny – ekostelny@preservationvirginia.org
 9. Scenic Virginia; Leighton Powell – leighton.powell@scenicvirginia.org
 10. National Trust for Historic Preservation; Robert Nieweg – rnieweg@savingplaces.org
 11. Christian & Barton, LLP on behalf of BASF Corp; Michael J. Quinan – mquinan@cblaw.com
 12. James River Association; Jamie Brunkow – jbrunkow@jrava.org
 13. American Battlefield Protection Program (National Park Service); Kristen McMasters – kristen_mcmasters@nps.gov
 14. First California Company Jamestowne Society; James McCall – jhmccall1@gmail.com
 15. Delaware Tribe Historic Preservation Representatives; Susan Bachor – temple@delawaretribe.org
 16. Chickahominy Tribe; Chief Stephen Adkins – stephenradkins@aol.com
 17. Council of Virginia Archaeologist (COVA); Jack Gary – jack@poplarforest.org
 18. Margaret Nelson Fowler (Former POC under STJA) – onthepond1@gmail.com
 19. Pamunkey Indian Tribe; Chief Robert Gray – Rgray58@hughes.net
 20. Kingsmill Resort; John Hilker – John.Hilker@kingsmill.com

=====

Attachment B: Section 106 Milestones

| Milestone | Initiation Date | Description | Completion Date |
|--------------------------------------|-----------------|--|---|
| Initial Public Notice (800.3) | August 28, 2013 | <ul style="list-style-type: none"> - Established Undertaking - Identified SHPO (VDHR) - Requested Public Comment - Identified Cultural Resources of Concern | <ul style="list-style-type: none"> • Comment period closed September 28, 2013 |
| Identify Consulting Parties (800.3) | August 28, 2013 | <ul style="list-style-type: none"> - August 28, 2013 Public Notice Issued - Dec 3, 2013 Compiled list based on PN & coordinated w/ SHPO for any add'l parties - Mar 3, 2014 notified all requesting parties of their acceptance - Mar 5, 2015 Add'l Party Invites were sent based on SHPO recommendations - June 20, 2014 sent invites to Local Governments to participate - August 25, 2014 invited Tribes to Participate - November 21, 2014 invited Mr. Menco, new owner of Carters Grove Plantation, to participate. - October 6, 2016 Pamunkey Indian Tribe joined as a Consulting Party. - March 23, 2017 Kingsmill Resort joined as a Consulting Party. | <ul style="list-style-type: none"> • Process will remain open until the conclusion of the Section 106 process; however any new parties will only be afforded the opportunity to join the process at its present stage moving forward. |
| Identify Historic Properties (800.4) | August 28, 2013 | <ul style="list-style-type: none"> - August 28, 2013 Public Notice - Established APE w/ SHPO <ul style="list-style-type: none"> ➢ Initial APE concurrence Jan 28, 2014 ➢ Refined APE into Direct & Indirect boundaries; rec'd concurrence (verbal) Sept 2014, written Jan 15, 2015 ➢ Minor modification to Direct APE; concurrence Oct 5, 2015 (5 tower locations) ➢ Direct APE Exhibits were refined to accurately depict boundary around proposed fender protection systems; June 28, 2016 - Consulted surveys/data used in part for the VA State Corporation Commission process - May 8, 2014 coordinated w/ SHPO, ACHP, & Consulting Parties on Historic Property Identification, Surveys, and potential effects. - Re-coordinated June 20, 2014 with SHPO, ACHP, & Consulting Parties to finalize Historic Property Identification - Sept 25th & Dec 9th Consulting Party Meetings - November 13, 2014 Public Notice - Comments rec'd were considered in part from the multiple coordination opportunities. - May 1st & May 11, 2015 SHPO provided completion of 800.4. - Sept 4, 2015 SHPO concurrence with Addendum to Phase I Cultural Resources Report for five (5) tower locations not included in previous studies. | <ul style="list-style-type: none"> • Initially completed May 11, 2015 • Updated Oct 5, 2015 to reflect minor APE expansions due to project modifications • Updated June 28, 2016 to capture Direct APE expansion and additional underwater survey work within the James River. |

| | | | |
|---|--------------------|--|---|
| | | <ul style="list-style-type: none"> - June 24, 2016 SHPO concurrence with Revised Phase I Remote Sensing Underwater Archaeological Survey & Phase II assessment for buffer and cluster anomalies located within 200 feet of any construction activities. | |
| 1 st Agency & Consulting Party Meeting (800.4) | September 25, 2014 | <ul style="list-style-type: none"> - Status of permit evaluation - Corps jurisdiction - Project Overview, Purpose & Need, Alternatives, Construction Methods - Historic Property Identification Efforts - Potential Effects on historic properties | <ul style="list-style-type: none"> • September 25, 2014 |
| 2 nd Public Notice (800.4) | November 13, 2014 | <ul style="list-style-type: none"> - Requested Public Comment on Historic Property Identification and Alternatives | <ul style="list-style-type: none"> • Comment Period Closed December 6, 2014 |
| 2 nd Agency & Consulting Party Meeting (800.4) | December 9, 2014 | <ul style="list-style-type: none"> - General Item Updates - Historic Property Identification - Historic Property Eligibility - Potential Effects - Potential Mitigation ➤ Requested written comments on identification, alternatives, effects, and potential mitigation from meeting participants. | <ul style="list-style-type: none"> • Comment Period closed January 15, 2015 |
| Evaluate Historic Significance (800.4) | May 8, 2014 | <ul style="list-style-type: none"> - Several Historic Properties previously Listed on the National Register or determined Eligible. - June 12, 2014 SHPO provided recommendations of eligibility for certain properties and requested additional information on others. - September 2014- February 2015: Stantec conducted additional cultural resource surveys, submitted reports and other documentation. - May 11, 2015 SHPO provided final concurrence pertaining to individual eligibility for all identified historic resources. - July 2, 2015 Consulted with Keeper of the National Register on eligibility status of Captain John Smith Trail <ul style="list-style-type: none"> ➤ Aug 14, 2015 decision rendered by Keeper. - June 24, 2016 SHPO provided concurrence with additional Underwater Archaeological Survey work; including a Not Eligible determination based on the results of Phase II assessment for buffer and cluster anomalies located within 200 feet of any construction activities. <p>Note: Oct 22, 2015 Letter from NPS indicated satisfaction with USACE that CFR 800.4 was completed.</p> | <ul style="list-style-type: none"> • Initially Completed May 11, 2015 • Updated Aug 14, 2015 upon receipt of Keeper of the NPS Eligibility Determination • Updated June 24, 2016 upon receipt of SHPO Eligibility Concurrence with Phase II Underwater Archaeological Assessments. |
| Assessment of Adverse Effects (800.5) | May 11, 2015 | <ul style="list-style-type: none"> - Applied Criteria of Adverse Effects in consultation with SHPO, considering views of consulting parties and public <ul style="list-style-type: none"> ➤ Dominion's Effects Reports; which included visual assessments (Mar 2014, Oct 29, 2014, & Nov 10, 2014) ➤ Consulting Party Effects Analyses - May 21, 2015 Public Notice determined undertaking will have an Overall Adverse Effect <p>Note: Nov 13, 2015 SHPO concurred with USACE that undertaking will have</p> | <ul style="list-style-type: none"> • Completed May 21, 2015 |

| | | | |
|---|--|---|---|
| | | an Adverse Effect confirming the process is at 800.6 "resolution of adverse effect" | |
| 3 rd Public Notice (800.6) | May 21, 2015 | - Request Public Comments on effects to final list of historic properties and in preparation to moving to resolution of adverse effects. | • Comment Period Closed June 20, 2015 |
| 3 rd Agency & Consulting Party Meeting (800.6) | June 24, 2015 | - General Updates - Effects to individual historic properties - Resolution of Adverse Effects | • June 24, 2015 |
| 4 th Public Notice (800.6) | October 1, 2015 | - October 1, 2015 Announced Public Hearing seeking input on views, opinions, and information on the proposed project. - November 5, 2015 Extension of PN comment period | • Comment Period Closed November 13, 2015 |
| Resolve Adverse Effects (800.6) | May 21, 2015; Restated Oct 13, 2015 | - May 21, 2015 Public Notice requested comments on Resolution of Adverse Effects. - May 29, 2015 consulted with the Director NPS in accordance with 36 CFR 800.6 and 800.10 re: Carters Grove NHL and adverse effects. (No Response To date) - June 24, 2015 Consulting Party Meeting - October 1, 2015 provided Consulting Parties with Dominion Consolidated Effects Report (CER) dated September 15, 2015 and stamped rec'd by USACE Sept 29, 2015. ➤ CER was developed to address comments from VDHR and Consulting Parties. - October 15, 2015 Consulting Party Meeting - December 30, 2015 consulted with SHPO, ACHP, & Consulting Parties to seek input on Dominion's Draft MOA with Mitigation Stipulations and Context Document - January 6, 2016 Dominion's response to comments regarding the December 30 th MOA coordination were provided to SHPO, ACHP, and Consulting Parties by email. - Feb 2, 2016 Consulting Party Meeting - Feb 17, 2016 SHPO gave their concurrence with the Jan 29 th tables forwarded ahead of Feb 2 nd Consulting Party Meeting that show effect determinations for individual historic properties. - June 13, 2016 consulted with SHPO, ACHP, and Consulting Parties to seek input on Dominion's Draft MOA and Context Document. - July 27, 2016 SHPO confirms the MOA and its mitigation measures sets forth an acceptable framework to resolve adverse effects. - December 7, 2016 consulted with SHPO, ACHP, and Consulting Parties to seek input on Dominion's Draft MOA. - December 12, 2016 Dominion's response to MOA comments regarding the June 13 th coordination were provided by email, along with revised Context document and MOA attachments, to SHPO, ACHP, and Consulting Parties. - January 19, 2017 SHPO, ACHP, and Consulting Party Teleconference | • Ongoing |

| | | | |
|---|------------------|--|---|
| | | <ul style="list-style-type: none"> - January 27, 2017 facilitated meeting between the Pamunkey Indian Tribe and Dominion. - February 12, 2017 Chief Gray with the Pamunkey Indian Tribe confirmed mitigation measures are agreeable to the Tribe. - March 21, 2017 Chairman of ACHP Site Tour of Colonial Parkway and Jamestown Island. - | |
| 4 th Agency & Consulting Party Meeting (800.6) | October 15, 2015 | <ul style="list-style-type: none"> - General Updates - NPS Visual Effects Analysis - Stantec Consolidated Effects Report - Resolution of Adverse Effects <ul style="list-style-type: none"> ➤ Requested written comments on adverse effects from meeting participants. | <ul style="list-style-type: none"> • Comment Period Closed November 12, 2015 |
| Public Hearing (800.6) | October 30, 2015 | <ul style="list-style-type: none"> - Hearing held for the purpose of seeking input on views, opinions, and information on the proposed project. | <ul style="list-style-type: none"> • Comment Period Closed November 13, 2015 |
| 5 th Consulting Party Meeting (800.6) | February 2, 2016 | <ul style="list-style-type: none"> - General Updates - Resolution of Adverse Effects <p>TOPICS:</p> <ul style="list-style-type: none"> ➤ Cumulative Effects ➤ Architectural Viewshed &. Cultural Landscape ➤ Socioeconomic Impacts ➤ Visitor Experience ➤ Tourism Economy Impacts ➤ CAJO Evaluated on its Own Merit ➤ Submerged Cultural Resources ➤ Washington Rochambeau Revolutionary Trail | <ul style="list-style-type: none"> • February 2, 2016 |
| Consulting Party Teleconference (800.6) | January 19, 2017 | <ul style="list-style-type: none"> - Opening Remarks - Discussion Topic <ul style="list-style-type: none"> ➤ Refine MOA & Identify Measures that may more effectively Resolve Adverse Effects ➤ Gather information to inform whether further consultation in the development of an MOA is warranted. | January 19, 2017 |