

From: [Christine Vaccaro - NOAA Federal](#)
To: [Steffey, Randy L NAO](#)
Cc: [David O'Brien - NOAA Federal](#); [Conrad, Christine](#); [Courtney R Fisher \(VirginiaPower - 6\)](#); [Walker, William T \(Tom\) NAO](#); [Ewing, Amy \(DGIF\)](#); [Greenlee, Bob \(DGIF\)](#)
Subject: Re: [EXTERNAL] Re: (Recoordination) NAO-2012-00080 Dominion Surry-Skiffes Ck-Whealton Transmission Line Project (UNCLASSIFIED)
Date: Tuesday, June 23, 2015 11:28:10 AM

Hi Randy,

NOAA and DGIF chatted a bit about our concerns with time of year restrictions/work phasing and the presence of Atlantic sturgeon at the project site. I wanted to let you know about these concerns because we cannot initiate consultation until we have your determination and our concurrence in line under the ESA.

We have numerous recent data sources/monitoring that demonstrate that the deep water areas where towers 21, 22, 24, 25, and 26 are proposed is fall spawning run staging habitat for Atlantic sturgeon. Our original consultation addressed some of these concerns because the tower phasing occurred in such a way that deep water areas were going to be worked on during the winter months, which made concurrence easy. Since that time, more data has become available and project plans have changed. The fish are densely aggregated in those areas from approximately April through November, at which time they move out of the river. Noise tends to propagate faster in deeper waters, so the effects of impact driving the large number of piles it will take for install these towers is a concern for us and has not been adequately addressed in the request for concurrence/analysis.

That being said, we do not foresee the constructed towers as creating any adverse effects, nor does the scheduling for pile driving in the shallow areas when sturgeon are present concern us, so we are ok with those elements of the project.

We do recommend that the Corps require the use of a vibratory hammer with bubble curtains throughout the project site to reduce the chance of impacts. If a vibratory hammer is not possible, we need supporting information to show why this BMP is not feasible at this location, specifically, as it is commonly used throughout other portions of the James River. The layer of clay is mentioned, however it is not explained in any sort of detail. Again, this area is an important habitat for these pre-spawning fish and that deep habitat is playing a critical role in their ability to make their spawning runs, and with the increase in pile driving, and the additional new data about the fish in this portion of the river (two factors that make re-initiation of consultation necessary), this may rise to the level of likely to adversely affect, which could require a formal consultation, biological opinion, and incidental take statement, and this process is much longer than the informal concurrence process we are trying to work with here.

To avoid a formal consultation and to err on the side of protecting the species, which is the requirement under the ESA, in order for us to reasonably concur with an effects analysis that demonstrates that any effects to these fish would be insignificant and/or discountable, the best available information dictates that a work window from November 16th through April 14th would work best for work in deep water. However, the spring TOYR that begins in February for other anadromous fish would reduce that window (in deep water only) to November 16th through February 14th. Again, this only applies to the deep water towers 21, 22, 24, 26 (tower 25 is proposed to be worked on in December currently and we are ok with that), with the other tower work being done at other times of the year.

Although this is likely not ideal for the in-river work, this is currently the best way we can reach a "not likely to adversely affect" concurrence with the project changes (i.e., increase in the number of piles and subsequently the duration of pile driving). The use of vibratory hammers would also be beneficial in shallow water areas, but if the work window is used for sturgeon, impact hammers could be used during winter months when the fish are not likely to be present.

Conversely, if you can demonstrate, through noise modeling or other modes, where the limits of noise effects will occur based on the new design and additional piles, as part of your analysis, we could consider that additional information. We understand that in-water work is stochastic, so it is very difficult to pinpoint exactly where work will be done at what time, so we are willing to negotiate with scheduling to some extent. For instance, if one of the deep water towers was overlapping some of the TOYR on either end, but the bulk of the work was done in the deep water during that recommended work window, we may be able to effectively reduce the risk of effects, supported by noise modeling in your analysis that demonstrates that the majority of deep water habitat in that stretch of the river is still available for the fish where they can still forage, migrate, rest, etc. without any adverse behavioral or injurious effects.

Because this area has been discovered to be such an important piece in their life cycle, it is imperative that we accurately address effects to this species to ensure that any effects are indeed, insignificant (so small they cannot be detected) or discountable (extremely unlikely to occur), which are the thresholds for a letter of concurrence. If we cannot reasonably do this, then the Corps will need to consider the possibility that adverse effects may occur and a biological opinion and incidental take statement may be necessary (e.g., if work can absolutely not be done in deep water habitat during the TOY work window of November 16-February 14).

This is a lot of information, and Bob, Amy, and Dave, please feel free to express any additional concerns or information that may help with resolving this process. If, after review and discussions with the applicants, a conference call is necessary, we are certainly amenable to setting one up.

Cheers,
Chris

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Reply to
Attention of

DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
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JUNE 10, 2015

Southern Virginia Regulatory Section
NAO-2012-00080 / 13-V0408 (James River)

Ms. Christine Vaccaro
Protected Resources Division
National Marine Fisheries Service / Northeast Regional Office
55 Great Republic Drive
Gloucester, Massachusetts 01930-2276

Dear Ms. Vaccaro:

This letter shall serve to reinstate informal Endangered Species Act (ESA) section 7 consultation to evaluate potential impacts from modified construction activities associated with Dominion Virginia Power's proposed Surry-Skiffes Creek-Wheaton 500 kV aerial transmission line project on the James River near Hog Island Wildlife Management Area. Previous coordination efforts received your concurrence of a "not likely to adversely affect" on April 16, 2014 (attached) followed by clarification on July 11, 2014 that NOAA's issued concurrence remained valid absent of any timelines for project phasing.

Dominion has developed "final design" specifications on the seventeen transmission towers and four fender protection systems proposed within the James River, which in turn has modified the proposed action and corresponding impacts. For clarification, the proposed transmission alignment and structure locations remain the same; however this "final design" will now result in 2712 square feet of subaqueous river bottom impacts caused by the installation of (416) 24-inch steel piles with 26-inch fiberglass sleeves for tower foundations and (240) 30-inch fiber piles for fender systems.

Fender Protection Systems:

Each of the four fender protection systems will continue to use 30-inch diameter fiber piles. Each fender segment has been lengthened by 72 linear feet for a total increase of 288 linear feet. This modification requires 28 additional 30-inch fiber piles to be installed. All other design specifications remain unchanged.

Tower Foundations:

"Final design" specifications propose the use of three different types of tower structure support systems (PP4's, PP8's, & PP10's) which will utilize 24-inch diameter piles. The difference between each support system is simply the number of piles per leg. Overall 76 additional piles have been added to the

previous total, all of which have increased from 18 to 24-inches in diameter. All other design specifications remain unchanged.

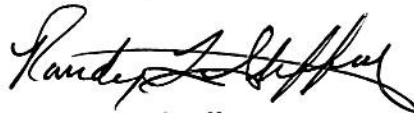
Avoidance Measures:

Dominion has incorporated several new construction techniques to help further avoid and minimize effects during construction. Bubble curtains will be used at each location during all pile driving activities. Ramp up methods will be used for all pile driving activities which will gradually increase impact hammer intensity over the course of single pile install. All pile driving associated with Towers 21 thru 26, located in deep water habitat, will be avoided during the traditional time of year restriction from February 15 through June 15 of any given year. All other construction techniques remain unchanged.

Despite structure modifications, the newly incorporated avoidance measures will provide added species protection that was otherwise not proposed during previous coordination. Effects on the Atlantic Sturgeon caused by impacts to acoustics, water quality, habitat, and vessel interaction will remain at levels equal to or lower than those used to reach a not likely to adverse effect concurrence in April 2014. For this reason we are requesting your updated concurrence within 15-days from the date of this letter.

Should you have any questions or require further information on this submittal, please do not hesitate to contact me at (757) 201-7579 or via email at randy.l.steffey@usace.army.mil . Thank you for your assistance.

Sincerely,



Randy L. Steffey
Project Manager, Southern Virginia
Regulatory Section

cc: Dave O'Brien; NOAA