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10. A. (RSS-RDO)

United States Department of the Interior

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United States Custom House
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JAN 26 2016

**US Army Corps of
Engineers
Norfolk District
Regulatory Office
Received by: RLS
Date: Jan 26, 2016**

Colonel Jason E. Kelly, Commander
U.S. Army Corps of Engineers, Norfolk District
803 Front Street
Norfolk, VA 23510

Dear Colonel Kelly:

National Park Service Director Jonathan Jarvis' December 11, 2015, letter to Lieutenant General Bostick clearly articulated that the proposal to construct the Surry-Skiffes Creek-Wheaton Transmission Line (the Project) as an overhead line across the James River "would forever degrade, damage, and destroy the historic setting" of irreplaceable, nationally significant resources that represent "the very beginnings of and military defense of our nation." The National Park Service (NPS) once again urges the U.S. Army Corps of Engineers (Corps) to deny the permit for the proposed towers and transmission line and have Dominion Virginia Power (Dominion) develop another option. The NPS believes that alternative solutions to meet the region's power needs do exist and must be pursued so that the historic landscape of Jamestown and the many other nationally significant resources are not forever marred.

The NPS received Dominion's draft Memorandum of Agreement (MOA) and Context Document on December 30, 2015, and the Corps invitation to comment. The NPS reiterates that the Corps has not sufficiently completed the "assessment of effects" step of the process under Section 106 of the National Historic Preservation Act ("Section 106"). It is difficult to understand how the draft MOA would actually ameliorate the effects of the Project on historic resources until the step to assess the adverse effects of the Project on historic resources is completed.

The draft MOA is fundamentally flawed even as a compensatory mitigation approach. It fails to articulate a landscape-scale response comparable to the national significance of the resources and magnitude of the impact. It does not address the impact/repercussions to a multi-state trail, nor does it address the impact/repercussions to the broader James. It does not address impacts over the full life-time of the project.

To reiterate, a mitigation strategy for the Dominion proposal must emerge from a complete and accurate assessment of effects on and be based on a landscape-scale approach.

The NPS also wants to take this opportunity to remind the Corps of the Advisory Council on Historic Preservation's (Council) December 10, 2015, letter that clearly spelled out steps the Corps would need to take to complete the Section 106 process. The Council was clear that many issues needed to be addressed before mitigation proposals could be developed. The NPS believes that most of Council's recommendations or requirements have not been addressed, such as:

- assess visual effects in a manner that is sensitive to the ways in which the undertaking may modify characteristics that contribute to the eligibility of many of the most significant historic properties in the Area of Potential Effect (APE).
- provide consulting parties with the required background documentation including a Corps response to consulting party comments on the Cultural Resources Effects Assessment (CREA) before focusing on avoidance, minimization and mitigation proposals
- further explore the potential for indirect and cumulative effects
- further explore and clarify the true nature of the time constraints related to the MATS ruling including cooperation between the *Corps* and EPA on time frames
- consider ways to ensure the Corps consideration of alternatives takes into account the effects to highly significant properties and acknowledge the potential costs for resolution of effects that may be difficult to appropriately mitigate

As you know, the NPS and other consulting parties expressed serious concerns with the CREA. The NPS outlined its concerns in its November 12, 2015, letter to the Corps. In that letter, the NPS identified a series of inadequacies with the CREA's overall methodology, visual effects analysis, characterization of the James River, and cumulative effects analysis. These issues led to disagreement on many assessments of effect, as well as the inconsistencies in the description and severity of the effects. Without a clear understanding of each adverse effect, including the severity of the effect and relation to the significance of the resource, it is impossible to adequately move to the resolution of adverse effects step.

In addition, we requested an assessment of effects specific to the Captain John Smith Chesapeake National Historic Trail (CAJO) itself rather than the assessment of impacts to CAJO simply being subsumed into the assessment of the larger historic district. The NPS requests its comments and concerns related to the CREA to be addressed before the Corps determines that the assessment of effects is complete.

While the Corps provided a Dominion-prepared response to our CREA comments on January 6, 2016, the responses simply restated previously provided information. NPS believes that the numerous concerns over the CREA merit consideration and inclusion in the CREA analysis. To that end, the NPS would like an official Corps response to our CREA comments as well as consultation to resolve concerns and finalize the assessment of effects step.

To facilitate the Corps analysis of the CREA comments, the NPS is preparing a response to the Corps/Dominion's January 6, 2016, submission to identify the most critical outstanding issues of the assessment of effects that still need to be addressed. The NPS will forward that letter under separate cover prior to the Corps January 29, 2016 deadline for comments. Adequate revision and completion of the assessment of effects within the CREA is essential to consult about appropriate mitigation strategies. The NPS is committed to working closely with the Corps and other consulting parties to complete this extremely important step of the Section 106 process. We propose that the Corps make use of the February consulting party meeting to focus on completing the assessment of effects step.

The NPS would also like to note concern regarding the Corps' Section 106 process for this project.

- 1) As you know, the Section 106 process has a distinct, step-by-step process outlined in the Advisory Council's regulations (36 CFR 800). The NPS and the other consulting parties have had difficulty with the manner in which these steps have been blended or overlapped. Sufficient consultation has not taken place in a manner that would allow for one step of the process to be completed before the

next is initiated. For example, assessment of effects products were shared before any resolution was reached on the identification of historic properties. Mitigation proposals have been shared

before concluding the assessment of effects step. This makes it extremely difficult for consulting parties to participate constructively and in good faith in the process and provide quality input to the Corps in its deliberations.

- 2) It is unclear whether or not the Corps supports or sanctions any of the Section 106 products being produced by Dominion or its contractors. Some of the Dominion products are posted publicly by the Corps, leading us to believe the Corps considers them to be official documents representing the Corps' views and the official Section 106 process. On the other hand, we have no indication that the draft MOA or its Context Document represent products of the Corps Section 106 process. We recommend that future submissions to the consulting parties, and the public, originate from the Corps and are accompanied by a cover memo that clearly articulates whether the material is considered official Corps documents and for what purpose they are being shared.

Jamestown is at the heart of the nation's beginning – and is central to why the Congress recognized the James as “America's Founding River.” The significance of the area has led to a more than century-long conservation effort. It has led to huge investments on a landscape scale throughout the region in land conservation, tourism, resource documentation, archaeology, cultural landscape designations, numerous National Register of Historic Places listings, the establishment of three historical units in the National Park system, and the pursuit of a World Heritage Site designation for Jamestown.

The project proposal would slice at the heart of this landscape, cutting away a piece of the significance of the whole watershed and the multi-state historic trails. While we understand the need for improvements to the power infrastructure in the region we believe other alternatives can and should be pursued. The NPS firmly believes that adherence to the Section 106 process can and will demonstrate that no amount of mitigation can balance the severe effects the current proposal will have on the region's incredible historic resources. The resources that will be forever damaged by the overhead line proposal are far too important to this nation and their protection is paramount.

Respectfully,



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Regional Director
Northeast Region

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