



Preserving America's Heritage

US Army Corps of  
Engineers  
Norfolk District  
Regulatory Office  
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Colonel Jason E. Kelly  
Commander  
U.S. Army Corps of Engineers, Norfolk District  
803 Front Street  
Norfolk, VA 23510-1096

Ref: Proposed Dominion Power Surry-Skiffes Ck-Wheaton Transmission Line Project  
Corps Permit Application NAO-2012-00080 / 13-V0408 (James River)  
Surry, James City, and York Counties, and Cities Of Newport News and Hampton, Virginia

Dear Colonel Kelly:

In response to the request from the Corps of Engineers, Norfolk District (Corps) to consulting parties on December 30, 2015, the Advisory Council on Historic Preservation (ACHP) is providing its comments on the draft Memorandum of Agreement (MOA) for the referenced undertaking. In conjunction with reviewing the MOA, we also have reviewed the two supporting documents developed by the project proponent, Virginia Electric and Power Company, known as Dominion Virginia Power (Dominion): (1) *Dominion Virginia Power Response To Comments Submitted By Consulting Parties Concerning The Surry-Skiffes Creek-Wheaton Project (Response Matrix)*, and (2) *Surry-Skiffes Creek-Wheaton Transmission line NOA -2012-00080/13V0408: Basis for Proposed Memorandum of Agreement to Resolve Adverse Impacts to Historic Properties (MOA Context)* (updated January 7, 2016). Our review includes general observations and comments regarding the overall status of the Corps' Section 106 consultation in compliance with Section 106 (54 U.S.C. § 306108) of the National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.) and its implementing regulations, "*Protection of Historic Properties*" (36 C.F.R. Part 800).

During the Section 106 consultation meeting held on October 15, 2015, and in subsequent written submissions, consulting parties took exception to the efforts by the Corps and Dominion to engage in consultation to resolve the adverse effects of the undertaking on historic properties. Many of the consulting parties repeatedly emphasized that the adverse effects of this undertaking on the highly significant historic properties in the Area of Potential Effects (APE) cannot be adequately resolved. Further, no consensus was reached among the consulting parties that the issuance of a Corps permit for the proposed undertaking was justified as it compromised the historical context of the James River area that is critical to Virginia's heritage tourism. In a letter dated December 11, 2015, the Director of the National Park Service (NPS), Jonathan Jarvis, clearly articulated this position. Likewise, a letter from Director of the Northeast Regional Office of the NPS, Michael A. Caldwell, dated January 26, 2016, reiterates the views of Director Jarvis, and asserts that no amount of mitigation can balance the severe effects of the proposed undertaking on irreplaceable, nationally significant resources that represent "the very beginnings of . . . our nation." Regional Director Caldwell clarifies that:

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.

We therefore urge the Corps to give serious consideration to the extraordinary significance of the historic properties that are within the APE of the Proposed Dominion Power Surry-Skiffes Ck-Whealton Transmission Line Project, and how they will be adversely affected should a permit be issued.

Although the Corps has developed a draft MOA for this undertaking, many of the consulting parties have indicated that the Corps' reliance on Dominion's analysis of alternatives as presented during the review of the project by the Commonwealth of Virginia State Corporation Commission (VA-SCC) is flawed. The ACHP and other consulting parties have repeatedly raised concerns regarding the adequacy of the analysis of alternatives during the Section 106 consultation. The National Parks Conservation Association (NPCA) recently shared with the Corps and consulting parties a study based on research carried out by Princeton Energy Resources International (PERI), entitled *Dominion's Proposed "Surry-Skiffes Creek Project" – Issues and Alternatives (NPAC/PERI Study)*, dated November 13, 2015. According to this study, peak load growth and actual military usage of energy have decreased over time in the undertaking's service area. As such, the assumptions used by Dominion to justify the purpose and need for the project appear to be based on incorrect data about projected increases in demand over time. The study also suggests that Dominion underestimated Demand Side Management (DSM) growth potential and overestimated the difficulty of using a submerged cable, and questions Dominion's assertion that the closure of Yorktown 1 and 2 would cause rolling blackouts. Included in the study is data that NPCA believes demonstrates that Yorktown 3 will be able to cover the demand adequately while the Corps, Dominion, and stakeholders further consider the feasibility of other alternatives. Despite the findings in the Corps' *White Paper on Alternatives*, as well as the *Response Matrix* prepared by Dominion, there remains a need for the Corps to evaluate the accuracy of the information provided in the NPAC/PERI Study. Although we are not engineers, we believe that concrete and detailed data about load growth, usage, and system reliability is critical for us to move forward.

The criticism of Dominion's justification for the preferred alternative, as provided in the NPAC/PERI Study, reinforces the requests by consulting parties and other stakeholders that the Corps develop an Environmental Impact Statement (EIS) instead of relying on an Environmental Assessment (EA) in reviewing the project under the National Environmental Policy Act (NEPA). Development of an EIS requires a more comprehensive analysis, and requires that the federal agency engage more fully with the public, stakeholders, and consulting parties. It is our opinion that the challenge to the purpose and need of the undertaking articulated in the NPAC/PERI Study, as well as the nature of the adverse effect from the preferred alternative on the significant historic properties in the APE, are sufficient justification for the Corps to engage in the process to develop an EIS.

The assessment of effects analysis carried out by Dominion has continued to raise questions from the preservation community. The analysis fails to link multiple properties to the landscape or clarify the importance of this context to the significance of those properties as exemplified by the Captain John Smith Water Trail (CAJO). The recent letters from Director Jarvis and Regional Director Caldwell, and those from other consulting parties, stress the importance of setting, feeling, and association as characteristics that contribute to the National Register eligibility of many of the historic properties located within the APE. These characteristics are central to the visitor experience of these properties and the historic significance of the area. In the *Response Matrix*, Dominion suggested that the visitor experience and recreation are outside the scope of the Section 106 process. The ACHP disagrees with this assertion. To the extent that the visitor experience is related to the ability of historic properties to convey their significance to visitors who ascribe significance to them, visitor experience is central to the assessment of effects of this undertaking, and the resolution of adverse effect.

We believe that the draft MOA submitted by Dominion and the Corps is premature given the issues that still need to be addressed. Although we advised Dominion and the Corps previously that this was the ACHP's position, based on one-on-one meetings with individual consulting parties, you concluded that the development

of a draft MOA was the appropriate next step. The draft PA attempts to provide a framework from which consulting parties can discuss with Dominion and the Corps how they may be able to mitigate adverse effects on the Jamestown region, even though historic properties may be irreparably altered. Dominion proposes to fund a mitigation program that appears to acknowledge the importance of the unique landscape and the historic context and setting of individual historic properties and the historic district that they comprise within the APE. Funding has been proposed for a range of project categories that address preservation and enhancement of historic properties and also components of the landscape. Further, the draft MOA provides funding to enhance the public experience and educate them about historic properties in the APE. However, until a draft MOA can be developed that is endorsed by NPS, the SHPO, the National Trust, and local preservationists, it would be challenging for the ACHP to endorse Dominion's financial package as appropriate or sufficient. The draft MOA must focus on the actions that could be taken to resolve the adverse effects, and address the issues raised by consulting parties and other stakeholders.

In conclusion, we reiterate that the Corps should not merely defer to the decision of the VA-SCC review process that approved Dominion's preferred alternative to conclude the Section 106 review. As indicated by NPCA/PERI research, the SCC decision, the purpose and need for the undertaking, the justification for the preferred alternative, and the timing constraints that are pressuring the Corps' permit review were all potentially based on flawed or outmoded research. Accordingly, we recommend that the Corps seriously consider the information provided by the NPAC/PERI report, and undertake further analysis to more effectively balance historic preservation issues and energy supply concerns in the broader public interest. In order for the Corps to be able to reach consensus regarding the resolution of the adverse effects of the undertaking, the ACHP and consulting parties must agree that the direct, indirect, long term, and cumulative effects of the undertaking can be mitigated in a holistic manner that considers the extraordinary importance of many of the affected historic properties in the James River area.

If you have any questions, please contact me at 202-517-0207 ([cvaughn@achp.gov](mailto:cvaughn@achp.gov)) or Dr. John Eddins at 202-517-0211 ([jeddins@achp.gov](mailto:jeddins@achp.gov)).

Sincerely,

A handwritten signature in cursive script that reads "Charlene Dwin Vaughn".

Charlene Dwin Vaughn, AICP  
Assistant Director  
Federal Permitting, Licensing, and Assistance Section  
Office of Federal Agency Programs