



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Northeast Region
United States Custom House
200 Chestnut Street
Philadelphia, PA 19106

A.1.2.(NER-RSS)

January 29, 2016

William T. (Tom) Walker
Chief, Regulatory Branch
USACE, Norfolk District
803 Front Street
Norfolk, VA 23510

**US Army Corps of
Engineers
Norfolk District
Regulatory Office
Received by: RLS
Date: Feb 3, 2016**

Dear Mr. Walker:

Regional Director Michael Caldwell's January 26 letter to Colonel Kelly indicated the National Park Service (NPS) would be providing comments on Dominion's "Response to Comments Submitted by Consulting Parties" which was transmitted by the Corps on January 6 with no official comment deadline. This letter constitutes our comments, but addresses not only the Dominion response document but also expands on continuing problems in the analysis of effects on historic properties and other values. This letter should be read in the context of the January 26 correspondence.

We note that almost universally, Dominion's response document does not reflect any of the consulting parties' comments by incorporating changes, modifications or further analysis in the Cultural Resources Effects Assessment (CREA). It simply cites or restates analysis in the CREA as already having addressed the comments. The NPS and multiple consulting parties have spent, and continue to spend, considerable time, effort and resources to consult with the Corps on the proposed project. The spirit of Section 106 consultation is not represented by a scenario where our comments are continually dismissed. Moreover, this problem is made more difficult when we are continually unsure of the Corps response and position on the many issues raised and whether it differs from Dominion's documents or not.

This letter does not restate all comments we have provided previously, nor address each and every problem with Dominion's response to consulting party comments. Rather, this letter focuses on issues raised in several of the 8 categories of prior comments, as organized by Dominion. However, the issues outlined below are indicative of the broader pattern of problems in the CREA and Dominion's response.

Issue Category 2. Severity of Effects

We have previously criticized the lack of clear, cogent and accurate descriptions of the severity of adverse effects on historic properties. This problem persists in Dominion's response to consulting

party comments. There is one improvement, in that Dominion has introduced a hierarchy for characterizing the severity of effects, based on a NEPA methodology that evaluates an effect as Negligible to Major impact. The addition of this methodology is helpful, despite our serious disagreements with some of Dominion's severity conclusions which we will address below.

However, despite our repeated requests, the overall document as well as prior documents still fail to accurately describe what exactly the effect or impact would be on each historic property. As Dominion recognized, the Council's regulations do not require an explicit description of the effects, beyond a determination of adverse effect, but they go on to state that "the need for determining the severity and/or nature of adverse effects may exist." The NPS has repeatedly stated -- and we continue to do so -- that in this case a clear understanding of the effect is necessary in order to move on with the resolution of adverse effects step. An appropriate mitigation strategy cannot be developed without a proper understanding of how and to what extent the project would adversely affect each historic property. Failure to complete this critical step and describe the adverse effects and how they would affect the historic properties prevents the 106 process from moving on to the resolution of effects step.

Describing the effects to historic properties is the responsibility of the Corps. As this information has not been forthcoming despite repeated requests, and such iconic NPS resources are at stake, the NPS is providing a description of the adverse effects on several core properties within the APE. Similar analysis needs to be completed for additional historic properties such as Carter's Grove and Hog Island.

As outlined below, we have analyzed the agreed on adverse effects, reevaluated the intensity of the impact (using the Dominion NEPA methodology), and described the adverse effect in a manner that allows a better understanding of the effect so that the consultation might move toward the resolution of effects step, once other issues noted in this letter are also addressed.

Historic District Defined by Entire Indirect APE

Severity of Effect:

Major - the impact would result in the actual loss of a character-defining feature and would diminish the overall integrity of the resource.

Description of Effect:

As stated in the August 25, 2015 Determination of Eligibility (DOE), the Historic District constitutes "a significant cultural landscape associated with both the American Indian inhabitants of the area and the later English settlers." The DOE goes on to concisely describe the history associated with this period and its importance. It lists a series of significant historic properties associated with the district which are also independently listed on the NRHP, as well as the presence of the nationally significant, congressionally designated Captain John Smith Chesapeake National Historic Trail. The DOE recognized the Historic District as meeting all four NRHP criteria in the areas of significance of Exploration/Settlement, Ethnic Heritage and Archaeology.

The nature of a requested DOE unsupported by a full NRHP nomination means that not all aspects of the Historic District have been explicitly described. However, by the determination, the Keeper of the NRHP implicitly recognized the *integrity* of the cultural landscape and its association with a period of time in the pre-colonial and colonial periods. In doing so, the DOE also implicitly acknowledges the district retains integrity of *setting* and *feeling*.

NRHP guidelines state that setting is “the physical environment of a historic property.” Physical features that make up the setting may include elements like topographic features, vegetation and relationships between buildings and other features or open space. The guidelines note: “features and their relationships should be examined not only within the exact boundaries of the property, but also between the property and its *surroundings*. This is particularly important for districts.” The guidelines describe *feeling* as “a property's expression of the aesthetic or historic sense of a particular period of time. It results from the presence of physical features that, taken together, convey the property's historic character.”

There is one set of interconnected physical features that dominates the setting and feeling of the Historic District beyond any other. It is the same set around which the patterns of American Indian and English settler lifeways oriented. It is also the same set around which virtually all historic properties in the district are focused: Hog Island, Jamestown, the Colonial Parkway, Carter's Grove, and more. And it is the same set of features that form the core of the national historic trail. That set of features consists of the uncrossed James River and its surrounding shoreline.

Within the Historic District the James River is unblemished by any man-made physical crossing. The landscape pattern of the district and this portion of the national historic trail -- whether viewed from the water or from multiple historic properties on land -- is one of broad, open, unmarred water and sky surrounded by an extensively wooded shoreline. It is a pattern that creates, retains and conveys the *setting* and *feeling* associated with criteria and significance for which the Historic District was determined eligible, and the national significance and themes for which the trail was established.

The proposed 7.76 mile transmission corridor, with 4.1 miles crossing the river and 17 towers up to 295' tall sited in the river, plus additional towers on land, would permanently destroy the character-defining feature of the unblemished river. Further, the major structures would destroy the *setting* and *feeling* of the district resulting in a landscape that no longer reflects a 17th century character. The 17 towers and power line would cross the river directly through the center of the district. In just the near-foreground (0 to 0.5 mi), foreground (0.5 to 1.0 mi) and mid-ground (1.0 - 2.0 mi) areas, the major structures would be visible on over 14,150 acres of land and water within the district under existing vegetation conditions; and over 19,000 acres when not considering existing vegetation. They would be visible in the background and near horizon on another 26,000 acres with existing vegetation, 34,000 acres without. It would be directly visible from key viewpoints at Hog Island, Carter's Grove, the Colonial Parkway, Jamestown Island, and the national historic trail. Because of its massive height, length, location, and magnitude, it would significantly diminish the integrity of the overall Historic District and its contributing elements.

The Historic District is defined by the collection of historic resources within it and the fact that they currently are set within an area of the James that still reflects a 17th-century character. The proposed towers and power line, cutting through the center of the District will destroy that essential character-defining feature of the District, diminishing its integrity and resulting in severity determination of major impact.

Captain John Smith Chesapeake NHT

Severity of Effect:

Major - the impact would result in the actual loss of a character-defining feature and would diminish the overall integrity of the resource.

Description of Effect:

The NPS notes the Keeper's DOE finding the portion of the Captain John Smith Chesapeake NHT within the APE as a contributing element of the Historic District. The Keeper's DOE also stated the portion of the trail within the APE:

is among the most historically significant portions of the overall National Historic Trail's 3,000 plus miles of waterways. Jamestown was the starting 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.

For this reason, and due to the trail's congressional designation as being nationally significant, the NPS continues to note that the effects to the trail need to be identified separately from the effects to the larger Historic District. While Dominion has now recognized that the trail will experience an adverse effect, the Corps must now analyze and describe that effect (see comments on Issue Category 3, below).

As frequently noted in past comments, Dominion and the Corps have continued to resist providing photographs and simulations from an adequate range of viewpoints along the trail that would advance such analysis. The CREA includes no key viewpoints or photographs from the water closer than 1.75 miles distance from the proposed transmission line. This is despite the fact that areas leading up to and directly underneath where the powerline is proposed have been identified in trail planning documents as a key focal area for water-borne visitors. Dominion's response to consulting party comments asserts the lack of photographs is because they assume "100% percent visibility" in the immediate vicinity of the crossing. Yet, no adequate description of the severity of effects is ever provided.

The Keeper's DOE lists the the themes and historic patterns of events for which the entire Captain John Smith Chesapeake National Historic Trail was determined nationally significant; in short, Smith's voyages: (1) accelerated the process that destroyed the Powhatan polity and disrupted native people's world throughout the region; (2) impacted exploration and settlement of North America; and

(3) impacted commerce and trade in North America. In all cases, these themes and patterns of events are associated with American Indian habitation prior to English settlement and the early period of English settlement in the Chesapeake.

The national historic trail corridor coincides with the Indirect APE and the Historic District within the area of the proposed project. Multiple contributing resources associated with the district are also contributing resources associated with the trail, among them Jamestown Island, Hog Island, and numerous archaeological sites. Moreover, the areas of significance for the district and statements of significance for the trail are clearly linked. The same rationale and conclusions drawn above for the existing *setting* and *feeling* of the district apply equally to the national historic trail.

There is one set of interconnected physical features that dominates the setting and feeling of the trail in the APE beyond any other. It is the same set around which the patterns of American Indian and English settler lifeways oriented -- the very focus of the trail's significance. It is also the same set around which virtually all historic properties associated with the trail are focused: Hog Island, Jamestown, numerous archaeological sites, and more. That set of features consists of the uncrossed James River and its surrounding shoreline.

Within the Indirect APE the James River is unblemished and unimpaired by any man-made physical crossing. The landscape pattern of this portion of the national historic trail and the Historic District -- whether viewed from the water or from multiple historic properties on land -- is one of broad, open, unmarred water and sky surrounded by an extensively wooded shoreline. It is a pattern that creates, retains and conveys the *setting* and *feeling* associated with the criteria and national significance for which the trail was established. Trail planning documents and resource analyses have documented this particular landscape as evocative of the 17th century.

The proposed 7.76 mile transmission corridor, with 4.1 miles crossing the river and 17 towers up to 295' tall sited in the river, plus additional towers on land, would permanently destroy the character-defining feature of the unblemished river. Further, the major structures would destroy the *setting* and *feeling* of the national historic trail landscape resulting in a landscape that no longer reflects a 17th century character. The 17 towers and power line would directly cross the national historic trail in a focal area location for visitor experiences identified in trail planning documents and described by the Keeper of the National Register as one of "the most historically significant portions of the overall National Historic Trail." In just the near-foreground (0 to 0.5 mi), foreground (0.5 to 1.0 mi) and mid-ground (1.0 - 2.0 mi) areas, the major structures would be visible on over 14,150 acres of water and land within the trail corridor under existing vegetation conditions; and over 19,000 acres when not considering existing vegetation. They would be visible in the background and near horizon on another 26,000 acres with existing vegetation, 34,000 acres without. It would be directly visible from multiple key viewpoints along the trail route (including in near-foreground to mid-ground distances and beyond), at Hog Island, and Jamestown Island.

Because of its massive height, length, location, and magnitude, it would significantly diminish the integrity of this core section of the national historic trail and its contributing elements. Construction of the proposed towers and power line in this location would result in the loss of a crucial

character-defining feature - the unblemished river that is still evocative of the 17th century, diminishing both the *setting* and *feeling* of the trail, resulting in a major impact to the trail.

***Colonial National Historical Park
Jamestown Island***

Severity of Effect:

Major - the impact would result in the actual loss of a character-defining feature and would diminish the overall integrity of the resource.

Description of Effect:

The historical significance of Jamestown Island is undisputed. Jamestown was listed on the National Register in 1966 and a Cultural Landscapes Inventory was completed with SHPO concurrence in 2008. Jamestown has documented significance under Criteria A, C, and D with a period of significance spanning 1607 - 1958. It was determined, with SHPO concurrence that Jamestown retained integrity of location, setting, feeling, association and workmanship. In addition, Jamestown is a contributing resource to the larger National Register listing for Colonial National Historic Park and, by Keeper determination, to the larger Historic District and is included within the boundary of the national historic trail.

The integrity of Jamestown, as is the case with the Colonial Parkway, the national historic trail, and the larger Historic District, depends heavily of its association with and setting along the shores of the James River. As described previously within this letter, the character of the James within the APE does retain integrity and continues to be evocative of the 17th century. One of the character-defining features of Jamestown's eligibility for the National Register is its relationship to the James River and its setting on the River in an area that is still evocative of the 17th century. While Jamestown has numerous character-defining features, of particular relevance are the identification of the following (as concurred by SHPO, 2008): the James River as a natural feature and the multiple identified views and vistas from Black Point to the James River and its shoreline. These views have been maintained virtually unmarred for over 400 years and are essential to defining the setting and feeling of Jamestown. The introduction and massive intrusion of the towers and power line within the James will result in the loss of a critical character-defining feature of Jamestown, changing its setting from evocative of the 17th century to a views of a major industrial intrusion within the river.

While Dominion's analysis has focused solely on the visibility of the towers from Black Point, consideration must be given to how the existence of these towers would impact future restoration work on Jamestown Island. Like the Colonial Parkway, planning and opportunities for future resource management at Jamestown would be severely restricted by the existence of the towers within the river. Landscape rehabilitation and restoration plans for Jamestown that might include Black Point or the settlement itself would now be limited from recapturing the more expansive views of the river.

A landscape that contains massive, modern features such as the towers and power line is no longer evocative of the 17th century, resulting in a loss of that character-defining feature, diminished integrity to Jamestown and a determination of a major impact.

For some time there has been active consideration underway for Jamestown and related resources to be nominated as a UNESCO World Heritage Site. Among other things, such designation could produce substantial benefits to tourism. The major impacts on the landscape as described here could well preclude such designation and its resulting benefits.

Jamestown's iconic significance and relationship to other historic properties create a broader context that must also be recognized. Diminished integrity to Jamestown's setting has a cascading effect as Jamestown is also contained within and contributing to the National Register listing and eligibility of Colonial National Historical Park, the Colonial Parkway, the Historic District and the national historic trail.

***Colonial National Historical Park
Colonial Parkway***

Severity of Effect:

Major - the impact would result in the actual loss of a character-defining feature and would diminish the overall integrity of the resource.

Description of Effect:

The Colonial Parkway was created to connect visitors between Jamestown, Williamsburg, and Yorktown, but less as a roadway than as an experience that would engage the visitor in the feeling and spirit of the Colonial period. The experience was achieved through a design that capitalized on existing landscape features combined with the development of carefully designed corridor using a specific palette of materials and a series of smaller spatial events. The result left visitors with the feeling that they were travelling through a Colonial era landscape. Along that route specific existing landscape features of the Colonial period were emphasized, such as views of the York and James Rivers. The views and vistas of these two rivers were integral to the Colonial feeling and to connecting the visitors to the Jamestown setting. In particular the carefully designed views of the James from the roadway and from the parking overlooks were character-defining features of the Parkway.

The Parkway is listed on the National Register under Criterion C for its design in the area of Landscape Architecture as an unusually intact example of 1930s parkway design and also meets Criterion C in the area of Architecture as an innovative and somewhat unusual application of the Colonial Revival style of architecture, with the design of its drainage structures and bridges that were influenced by the concurrent Williamsburg reconstruction. The existing National Register documentation clearly describes its historical significance and confirms its high level of historical integrity. The combination of the 2001 National Register documentation and the 2008 Cultural Landscapes Inventory (SHPO concurrence, 2008) confirm the high level of historical integrity and

also specifically identify the character-defining features. Because it retains high integrity for six of seven aspects, and because so many of its character-defining features are still extant, the overall integrity of Colonial Parkway can be judged to be high. Not only is Colonial Parkway a special place and a carefully designed landscape, but it is substantially intact and fully able to convey its historic significance as an outstanding example of American Parkway design.

While the Parkway has numerous character-defining features, of particular relevance here are the identification of the following (as concurred by SHPO, 2008): the James River as a natural feature, the spatial organization and views and vistas of the Parkway Pull-offs, and the views and vistas along the Parkway to the James River. The Colonial-era character of these features has been maintained since their construction. The introduction and massive intrusion of the towers and power line within the view of these features will eliminate their ability to convey the Colonial character and they will no longer have their character-defining effect. View of the towers will change the character of more than 4 miles of the Parkway near Jamestown, essentially removing the ability of that critical section of the Parkway to convey its Colonial-era character.

This major intrusion to the Parkway's Colonial-era character will drastically diminish the overall integrity of the Parkway. While the Parkway will still retain its eligibility for the National Register it will lose several of its character-defining features. By Dominion's severity standards this will result in a major impact.

As described above in regards to Jamestown, Dominion's analysis has focused solely on the visibility of the towers from just a few locations along the Parkway. Consideration must also be given to the fact that the NPS has expended great effort and funding to not only maintain the Parkway's historic character through maintenance and repair but in acquiring easements and buffer zones to protect the character. In addition, the existence of these towers would negatively impact future restoration work along the Parkway. As described in the National Register documentation (2001) "Although, there are a number of significant intended vistas that have become enclosed due to the growth of vegetation particularly at the Jamestown end, many of these small views and wide vistas can easily be re-established by selective clearing or vegetation management along more sensitive areas, such as shorelines." Future resource management of the Parkway would be severely restricted by the existence of the towers within the river. Rehabilitation and restoration plans for the Parkway that might include restoration of views from the Parkway or the pull-offs would be inhibited and likely no longer be possible as they would expose an even broader view of the towers.

The National Park Service Organic Act (16 U.S.C. 123, and 4) requires the NPS to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. We believe the impacts to Jamestown Island and the Colonial Parkway and thereby to Colonial National Historical Park are clearly significant and may constitute impairment under the Organic Act. Therefore, the NPS reiterates its position that an EIS needs to be completed.

Issue Category 3. Treatment of CAJO

As mentioned above, the NPS has consistently called for the effects on the Captain John Smith Chesapeake NHT to be assessed separately from and in addition to those on the Historic District. Dominion's response to consulting parties' comments continues the pattern of refusing to assess impacts on a national historic trail determined to be nationally significant and established by an act of Congress. Several consulting parties have asked for the effects to the national historic trail to be evaluated independent of the larger Historic District.

We have described in the section above our assessment of the severity of effects on the defining characteristics, integrity, setting and feeling of the trail in the project area. A full assessment of the severity of effects on values associated with the trail must go even further, incorporating -- as we have called for repeatedly and as is required in the context a comprehensive review through both Section 106 and NEPA -- effects on visitor experience, tourism and other factors.

We again remind the Corps that: (1) the trail was determined to be nationally significant by the National Park System Advisory Board under criteria established in the Historic Sites Act of 1935 (40 Stat. 666; 16 U.S.C. 461); (2) the trail was established by independent act of Congress and signed into law by the President of the United States; and (3) the Keeper of the NRHP determined that "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."

Issue Category 5. Tourism

The NPS has consistently called for an assessment of the effects of the proposed transmission line on visitor experiences associated with NPS areas and other historic properties as well as on heritage tourism in the area. Again, no such analysis has been forthcoming.

Dominion's response to consulting parties' comments does not attempt to respond to the consulting parties but instead points out the benefits of additional power and describes Dominion's rather than the NPS' description of how the resources in the District are experienced and interpreted.

The Dominion response first attempts to place the blame on consulting parties themselves for the lack of information on tourism effects, saying that they provide "nothing but speculation on this point." We note that under both section 106 and NEPA it is clearly *not* the responsibility of consulting parties to carry out the analysis of effects. Placing blame and then not providing analysis is disingenuous at best.

Dominion's response then outlines this ill-informed rationale:

"Common experience regarding the tourists' experience at the historic properties in question, for example Jamestown and Carter's Grove, informs us that there would be little to no impact to tourism. This is because these properties and attractions focus the tourists' interests landward toward the physical manifestations, or replications and explanations thereof, of the

historic activities that occurred there, and not the river views that historic inhabitants may have had.”

First, common experience does not constitute analysis or assessment. Second, the assumption that visitor experiences at historic properties are focused “landward” demonstrates a remarkable lack of understanding of these historic properties themselves and their interpretation. As noted above in the severity of effects discussion, the unimpaired river landscape and views of it are central to understanding each of the properties in question. Moreover, they are central to the intentional design of the Colonial Parkway and Carter’s Grove. And they are at the very core of the national historic trail experience. Dominion’s response does not recognize the reality that there are designed visitor viewpoints of the unimpaired river at historic properties, visitor wayside exhibits at riverside locations, and of course, visitors who actually experience the area from the water.

We recognize that effects on visitor experience and tourism are not typically assessed in Section 106 reviews, but they most certainly are a factor under NEPA. Further, these historic properties so clearly illustrate the inextricable connection between: (a) historic properties and their significance, (b) the visitor experience of those properties, and (c) the heritage tourism economy associated with providing those experiences. As noted below in the section on “need for an EIS” there is ample federal guidance on why Section 106 and NEPA compliance should be coordinated. Only through such coordination can the full effects of an undertaking be understood, as effects are truly interconnected, not siloed. The nexus between historic properties, historic setting, visitor experience, heritage tourism, and the economy is undeniable.

Issue Category 6. Adequacy of Cumulative Effects Analysis

Inadequate analysis of cumulative effects has been the subject of extensive critiques by consulting parties for some time, including in great detail in consulting parties’ comments on the CREA. See for example, the detailed analysis and citations of federal guidance and policy on applying cumulative effects analysis provided in the National Trust for Historic Preservation’s letter of November 12.

Dominion’s responses to consulting parties’ comments rather than addressing the comments simply assert why and how everything done in preparing the CREA cumulative effects section was entirely correct and proper. The shortcomings remain, among them:

- complete lack of consideration of cumulative effects related to factors such as visitor experiences, heritage tourism and economic activity -- topics entirely called for under NEPA guidance; see our comments on tourism above and EIS below, which apply equally to cumulative effects;
- as noted in Issue Category 2, for some time there has been active consideration underway for Jamestown and related resources to be nominated as a UNESCO World Heritage Site; the adverse impacts on the landscape as described previously could well preclude such designation and its resulting benefits;
- insufficient timeframes for considering cumulative effects, particularly when the lifetime of the project is 45-50 years;

- a lack of any quantitative analysis of growth that may be facilitated by the provision of increased power supply; while Dominion notes existing land conservation as constraining impacts we see no evidence of quantitative analysis of the portion of the APE that is permanently protected versus what is developable and within view of the Historic District;
- a lack of recognition that the permitting of such a project in such a historically significant location is precedent setting in two ways; it would either lead to: (a) siting of other river crossing structures within the same corridor, or (b) facilitation of other river crossing structures or industrial infrastructure in other historically significant unobstructed sections of the James and other rivers. Either would be cumulative effects.

We strongly urge that the Corps has an affirmative obligation to comply with the letter and intent of federal cumulative effects guidance.

Issue Category 7. Need for an EIS and Formal Consultation

The Advisory Council on Historic Preservation's Section 106 regulations (36 CFR 800) and the Council on Environmental Quality regulations (40 CFR 1500 - 1508) both encourage agencies to coordinate compliance with Section 106 and NEPA, undertaking the two processes alongside each other, rather than completing one process before the other. Coordinating the two processes is further delineated in the jointly developed guidance *NEPA and NHPA: A Handbook for Integrating NEPA and Section 106* as the coordination provides efficiencies, improves public understanding, and leads to more informed decisions.

Surely on a complex undertaking such as the Dominion project, coordination of the two processes would be beneficial and allow for a better understanding of all of the impacts of the proposal. The Corps' approach to completing Section 106 before NEPA is allowing for the effects to historic properties to be taken out of context of the effects of the larger project, piecemealing the impact analysis and presumably attempting to dismiss the impacts to historic properties before NEPA has even been initiated. As illustrated in the section on tourism above, this approach is inappropriate and leads to an inadequate and disconnected understanding of effects. While the Corps has stated many times they plan to complete an EA, the NEPA process should have been initiated simultaneously and publicly with the Section 106 process.

Dominion's response to the 17 consulting party requests for the Corps to complete an EIS dismisses the points raised by the consulting parties. The NPS is well aware of the Corps NEPA policy to complete an EA for a permit application. Completing an EA as a NEPA step towards an eventual EIS is understandable as a policy. Our point, and that of the other consulting parties, is that it is already quite apparent that this project will result in significant impacts to the human environment. Attempts to mitigate adverse effects to historic properties prior to initiating NEPA will not remove the obligation to address those impacts during the NEPA process. Impacts to cultural resources is a standard NEPA impact topic and must still be included in any NEPA analysis. Further, and again as illustrated by our comments on tourism above, impacts to cultural resources cannot be divorced from other related aspects of the human environment.

The lengthy description of the regulatory scope of the Corps' NEPA review and citing court cases attempting to compare this project with others is misleading at best. The argument made regarding the scope of the Corps' NEPA review (essentially the river crossing) does not relieve the Corps of the need for an EIS. The significant impacts that will result from this project will be a result of the portion of the project that crosses the river. The case law quoted, while interesting, is not comparable to this project. The National Marine Services Barge fleet facility project discusses "an unfortunate eyesore" and "marring one of the remaining spots of unspoiled beauty on the Mississippi." While valid concerns for that project, they do not come close to the significant impacts the Dominion project will cause to the iconic historic landscape of the Jamestown district, all of the nationally significant resources within it, or the multitude of other impacts (beyond Section 106) such as natural resources, tourism, etc. The National Marine project was not crossing through the center of a National Register District that includes such important resources as Jamestown, the Colonial Parkway and the national historic trail.

An assumption that if the effects are mitigated, they will no longer be significant in NEPA terms is false. Only avoiding or minimizing effects reduces them. Mitigating an adverse effect does not remove or lessen that effect. Even if compensatory mitigation were to occur, a significant impact remains a significant impact under NEPA.

As we outline above, a proper determination of the severity of the impacts (using Dominion's NEPA impact methodology) for the adverse effects to the Historic District and the NPS resources clearly leads to major impacts on highly significant historic resources. These impacts cut at the core of why these resources retain such remarkable integrity; they adversely affect the very setting and feeling that gives the Historic District its cohesiveness--the unblemished river that is still evocative of the 17th century. This dictate the necessity of an EIS under the law.

Issue Category 8. Alternatives

We continue to advocate analyzing and pursuing alternatives to the proposed transmission crossing. A number of alternatives identified by Dominion were dismissed long ago in whole or in part due to their inability to meeting timing constraints, ensuring construction by 2017. Impending deadlines now faced by Dominion should not limit the exploration of appropriate alternatives. Dominion's planning schedule so close to the 2017 deadline has forced the project's planning schedule into a compressed timeline. Nationally significant historic resources should not suffer for this reason. So, it is time to reopen consideration of alternatives previously dismissed based on timing constraints is past time to reopen consideration of alternatives based on timing constraints.

We are aware that recent independent analysis of power demand needs and projections call into question the very assumptions that Dominion has based the purpose and need for this project around. As we have stated in the past, we would expect to see further clear and unbiased analysis and discussion of this issue and how it should affect alternatives.

Dominion has stated that both the degree of projected impacts and of costs of various alternatives influenced their selection of their preferred alternative before the State Corporation Commission.

Yet, Section 106 review, which has occurred entirely after selection of a preferred alternative, has turned up multiple additional major impacts not considered in the state process. Given this sequence, Dominion's selection of a preferred alternative was made with an assumption that there would be no adverse impacts on Jamestown Island, no adverse impacts on the Colonial Parkway, no adverse impacts on a Historic District they did not even know existed, and no adverse impacts on a national historic trail that was not even recognized. Identification of additional effects that may be discerned through analysis under NEPA has not even yet occurred. Not only were these impacts not available to be factored into Dominion's preferred alternative decision, the value of the impacts and the costs for avoiding, minimizing or mitigating them were also not factored into the decision. Given this, the entire basis Dominion used for determining a preferred alternative relative to cost and impact is unsound and invalid.

Conclusion

The NPS has written many letters regarding this project to the Corps over the past several years. We have participated in four consulting parties meetings. During this entire time, we have been consistent in our requests. Historic properties must be adequately identified. Effects on historic properties must be adequately assessed. The full range of impacts must be evaluated in the context of coordinated 106 and NEPA review. Alternatives that avoid or minimize impacts must be fully evaluated through an EIS. It is unfortunate that in January 2016 so many of these requests remain unfulfilled. Moreover, as we have noted previously, it is equally unfortunate and wasteful that so much time is expended in writing letters such as this in large part because the requests have been unmet and the Corps position on so many matters of such import remains unclear.

So it should be evident why we are now more insistent. As NPS Director Jarvis wrote in his December 11 letter to General Bostick, this project would "forever degrade, damage and destroy the historic setting of these iconic resources. This is not acceptable for resources designated by Congress to ensure their permanent protection." The permit for the overhead transmission line should be denied.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frank K. Hays". The signature is fluid and cursive, with the first name "Frank" being more prominent and the last name "Hays" written in a similar style.

Frank Hays

Associate Regional Director, Resource Stewardship and Science
Northeast Region