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**US Army Corps of  
Engineers  
Norfolk District  
Regulatory Office  
Received by: RLS  
Date: July 2, 2015**

July 2, 2015

Lynette R. Rhodes  
Chief, Southern Virginia Regulatory Section  
US Army Corps of Engineers  
803 Front Street  
Norfolk, VA 23510-1096

***Re: Proposed Dominion Virginia Power's Surry-Skiffes Creek-Wheaton  
Transmission Line Project  
Corps Permit Application NAO-201-200080/13-V0408***

Dear Ms. Rhodes:

Representatives of Dominion Virginia Power ("DVP" or the "Company") met recently with Charlene Vaughn and John Eddins, Office of Federal Agency Programs, Advisory Council on Historic Preservation ("ACHP"), to discuss the Surry-Skiffes Creek-Wheaton Transmission Line Project (the "Project") and the Section 106 National Historic Preservation Act consultation process. At the suggestion of Ms. Vaughn and Mr. Eddins, we are providing the following information which the Corps may find useful in resolving historic preservation issues. While much of this information is in the public record for this permit application, this correspondence contains updated information on matters discussed at the June 24 consulting parties meeting.

#### **Site Visit and Consulting Parties Meeting**

As an initial matter, Ms. Vaughn and Mr. Eddins suggested a tour of the Project site for the agencies and consulting parties. As you know, on June 23, 2015, DVP participated in a boat tour, hosted by Preservation Virginia, of the James River in the vicinity of the proposed Project. A meeting of the consulting parties occurred the next day, on June 24, 2015. As the Corps communicated to the consulting parties in advance of the meeting, at that meeting the Corps intended to discuss and receive feedback on its effects determination document and mitigation measures to address and resolve the unavoidable adverse effects. DVP presented several mitigation options and the Corps solicited consulting party input or additional mitigation options for the Corps consideration. None of the consulting parties offered input on mitigation options presented or provided additional mitigation approaches for consideration.

## **Summary and Response to Public Comments**

The Corps also provided an opportunity for public comment on effects and mitigation of the Project. That public comment period ended on June 20, 2015. DVP has reviewed the public comments submitted by the June 20, 2015 deadline and provides a summary and response to the most frequent comments in Attachment 1.

## **Virginia State Corporation Commission Appeal**

The ACHP Office of Federal Agency Programs provided comments to the Corps by letter on April 17, 2015. In that letter, the ACHP acknowledges that the Virginia State Corporation Commission ("SCC") approved the Project in 2012, but offers that Project opponents suggest there are "legitimate challenges to the SCC approval." We note that on the previous day, April 16, 2015, the Virginia Supreme Court affirmed the Virginia SCC's approval of the Surry-Skiffes Creek transmission line finding it serves the public interest, including the aerial crossing component of the Project of the James River, consistent with the route in the application to the Corps. Thus, there are no "legitimate challenges" remaining to the SCC approval of the Project.

## **Consideration of Project Purpose and Alternatives**

Also, during our recent meeting, Ms. Vaughn and Mr. Eddins inquired about the Project's purpose and potential alternatives to meeting the electricity needs of North Hampton Roads. They reiterated that Section 106 requires a thorough alternatives analysis that must be well-documented in the Corps decision documents. As reflected in the application and numerous other documents in the record, the Project's purpose stems from DVP's responsibility as an electric utility. DVP's electric system, consisting of facilities for generation, transmission and distribution of electric energy, as well as associated facilities, is interconnected with the electric systems of neighboring utilities, and is a part of the interconnected network of electric systems serving the continental United States. In order to perform its legal duty to furnish adequate and reliable electric service, DVP must, when necessary, construct new transmission facilities in its system. The electric facilities proposed as part of the Project are necessary so that DVP can continue to provide reliable electric service to its customers in the North Hampton Roads Load Area ("NHRLA"), consistent with mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards for transmission facilities and the Company's planning criteria. The purpose and need for the proposed transmission facilities is to provide reliable, cost-effective bulk electric power delivery to the NHRLA to maintain compliance with NERC standards. The Project is the minimum necessary to address the immediate reliability issues directly resulting from continued load growth in the NHRLA and the loss of generation upon retirement of Yorktown Units 1 and 2 in response to the mandatory regulations issued by the US Environmental Protection Agency ("EPA") for the control of emissions from listed air pollutants.



These EPA regulations include the Mercury and Air Toxics Standards (“MATS”) rule. On June 29, 2015, the United States Supreme Court remanded the MATS rule back to the US Court of Appeals for the D.C. Circuit for further proceedings consistent with the Supreme Court opinion. The Supreme Court held that EPA must consider cost, including the cost of compliance, before deciding whether regulation is “appropriate” and “necessary”. The Supreme Court did not vacate nor stay the effective compliance date of the MATS rule. Thus, the deadlines imposed in the rule are unchanged by the Supreme Court decision. As a result, it is necessary for the Company to proceed with the Project (as well as the retirement of units 1 and 2 at Yorktown Power Station as scheduled).

Regarding the available alternatives to comply with the Project goals, numerous alternatives to the Project were offered and evaluated for the Corps’ consideration as part of the submitted Joint Permit Application (submitted August 2013), the Alternatives Analysis (received by the Corps November 7, 2014 and additional materials provided December 19, 2014 and January 8, 2015) and materials referenced therein. The alternatives included in these documents included the No Action alternative, offsite alternatives and onsite alternatives. Additional details regarding each of these alternatives are included in the SCC Hearing documents, which were incorporated into the permit application by reference. A summary of the alternatives is provided below:

#### **No Action Alternative**

Under the National Environmental Protection Act (“NEPA”), the No Action alternative should be considered for each proposed project. The No Action alternative in this case consists of continued operation of existing facilities upon the retirement of Yorktown Units 1 and 2. This would result in NERC violations and interruption of service to critical defense installations, industries, businesses and residents. The SCC responded to this scenario with great concern over the widespread nature of the projected NERC reliability violations that are supported by the record of the SCC case. The load flow modeling evidence, which was verified independently by SCC staff, establishes a clear need for significant new electric infrastructure to address fast-approaching reliability violations projected for Dominion’s transmission system (SCC Final Order, November 26, 2013, p. 22). The No Action alternative is clearly not viable due to the extreme and far-reaching social and economic effects that would result.

#### **Offsite Alternatives**

Dominion evaluated a number of offsite alternatives, including:

- Retrofitting existing generation units
- Repowering existing generation units with alternative fuel sources

- Retiring generation units
- Multiple combinations of retrofitting, repowering and retirement of existing generation combined with transmission construction, including several configurations of 230 kV lines, both overhead and underground, combined with retention of generation at Yorktown
- New generation
- Alternative generation (e.g., wind and solar)
- Demand Side Management
- Line 214/263 230 kV Line Rebuild (existing James River Bridge Crossing)
- Chuckatuck – Newport News 230 kV Line (presented at the SCC Hearing on behalf of James City County, crossing at a new location in the vicinity of the James River Bridge)
- Surry – Whealton 500 kV Line (crossing adjacent to existing James River Bridge crossing)
- Chickahominy – Lanexa 500 kV Line
- Chickahominy – Skiffes Creek 500 kV Line

The alternatives analysis is documented thoroughly in the SCC Hearing Record, and has been summarized in the Joint Permit Application and additional information provided to the Corps. Through the SCC process and independent verification, it was determined that none of the 230 kV transmission alternatives, by themselves, satisfy the immediate NERC reliability requirements upon implementation of the MATS Rule. In addition, the offsite alternatives listed above were found not to meet the purpose and need of the project due to the inability to meet NERC reliability criteria, significant cost constraints, inability to acquire necessary right-of-way, and/or significant constraints on the ability to construct the alternatives in time to comply with the MATS Rule. The project resolves all immediate NERC reliability violations and was ultimately supported by PJM, the SCC and verified by independent reviewers leading the SCC to issue a final order of approval.

### **Onsite Alternatives**

Several other onsite alternatives were considered:

- Surry – Skiffes Creek Underground 230 kV Line (single and double circuit)
- Combination of single circuit 230 kV Line with Chuckatuck – Newport News 230 kV alternative
- Single circuit 230 kV Line in combination with transformer upgrades at the Great Bridge Substation (proposed by independent developer, ultimately withdrawn)
- Underground or overhead 230 kV Surry – Skiffes Creek with Phase Angle Regulating (PAR) transformer (proposed by independent developer)
- Surry – Skiffes Creek 500 kV Underground (AC)



- Surry – Skiffes Creek 500 kV Underground (HVDC)

These onsite alternatives were determined not to meet the project purpose and need or not to be viable alternatives due to failure to satisfy immediate NERC reliability criteria, serious routing and siting constraints, direct adverse impacts to wetlands and river bottom and significant cost constraints. The extensive and exhaustive alternatives analysis has led to the identification of the proposed Surry – Skiffes Creek – Whealton Line as the Project. This determination was upheld by the SCC, PJM and the Virginia State Supreme Court.

It remains critical that DVP receive authorization from the Corps by August 1, 2015 so that work can be completed by June, 2017. DVP requested, and the Virginia Department of Environmental Quality granted, a one-year extension to comply with the MATS Rule, as authorized by EPA's regulations, until April 2016. Due to the permitting delays beyond the control of DVP, the Project cannot be completed when the MATS compliance extension ends on April 15, 2016. As a result, DVP plans to request an Administrative Order ("AO") from U.S. EPA to allow for the continued operation of the two coal-fired units at Yorktown Power Station for an additional year until April 15, 2017, which would extend the deadline for completion of the Project to June 1, 2017. At this time, we do not know if the AO will be granted. Further, neither the Clean Air Act nor the MATS Rule provides a mechanism for subsequent extensions of the deadline. Thus, state and federal delays in beginning construction of the Project have removed any flexibility in the Project timing.

The only practicable alternative available for compliance with the EPA regulations and NERC Reliability Standards is the aerial crossing alternative approved by the SCC, affirmed by the Virginia Supreme Court, and presented in our application to the Corps for approval.

### **Visual Effects**

The ACHP noted that the consulting parties were not satisfied with the computer-generated view shed representations provided by DVP. They described the comments from these parties, which appear to request the creation of a "virtual reality," where one could see a simulation of the proposed Project from any vantage point. While commenters might desire such a visual representation, it is not required or suggested by the Virginia Department of Historic Resource's (2008) *Guidelines for Assessing Impacts of Proposed Electric Transmission Lines and Associated Facilities on Historic Resources in the Commonwealth of Virginia*. We believe the submitted computer-generated view shed representations from vantages points of concern, including Carter's Grove Plantation and Jamestown Island, reasonably satisfy the applicable requirements and are consistent with past practices for assessing indirect effects on known properties. DVP is preparing a response to the Department of Historic Resources' June 19, 2015 letter and will present a consolidated report detailing all survey work performed, resources identified, eligibility determinations and effects to these resources.

### **Captain John Smith Trail Chesapeake National Historic Trail**

In May 2015, the Corps and the Virginia Department of Historic Resources (“VDHR”) concurred that the portion of the Captain John Smith Chesapeake National Historic Trail (“CAJO”) within the Corps’ defined area of potential effects (“APE”) for this undertaking is not eligible for listing. This decision would normally be the final action under 36 C.F.R. 800.4(c) (2) (If the agency official determines the National Register criteria are not met and the SHPO/THPO agrees, the property shall be considered not eligible). Nevertheless, on June 19, 2015, the ACHP, acting under its authority in 36 C.F.R. § 800.4(c)(2) requested that “the Corps obtain a formal determination of eligibility from the Keeper of the National Register (Keeper) pursuant to 36 C.F.R. § 800.4(c)(2)”, letter from Reid J. Nelson, Director, Office of Federal Programs ACHP to Lynette Rhodes, Chief, Regulatory Branch Norfolk District ACOE at 1. DVP believes the Corps and SHPO’s determination that CAJO is not eligible is sound. Moreover, the ACHP based its request not on any new information that the Corps or SHPO failed to consider in their determinations that the CAJO was not eligible, but rather based on the public attention given that decision -- “the level of concern expressed by numerous consulting parties regarding the eligibility of CAJO, its proximity to the referenced undertaking, and the broader public interest associated with the purpose and need of the undertaking.” *Id.*

DVP understands both (a) ACHP’s interest in having the Keeper make a formal determination to satisfy consulting party opponents to the Project, and (b) the procedural requirements of the ACHP regulations; however, DVP urges the Corps to continue moving forward to concluding its permitting action rather than to defer a final decision while the Keeper deliberates. DVP believes the Corps can conclude its permitting evaluation for two primary reasons. First the requests of ACHP and the consulting parties raise no new issues related to the eligibility of listing CAJO on the National Register. Second, should the Keeper determine the APE portion of the CAJO is eligible, the on-going Corps actions can continue as planned because the Corps’ present consultation process regarding adverse effects to other historical properties can easily be adapted to include considerations of effects to the APE portion of the CAJO. Mitigation for any unavoidable adverse effects can be readily incorporated into the Memorandum of Agreement (“MOA”) process.

### **Cumulative Effects**

DVP understands the importance of documenting cumulative effects including those from reasonably foreseeable activities that might impact the Project area as required under the definition in 40 CFR 1508.7. Ms. Vaughn and Mr. Eddins suggested that we confirm that DVP has no plan to install another line across the James River at this location or its vicinity. At this time, and for the reasonably foreseeable future, DVP has no plans to install additional lines across the James River in this vicinity because the proposed Project will meet the future expected electricity demand on the Peninsula.

Lynette R. Rhodes  
July 2, 2015  
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We appreciate the Corps efforts on its application and we remain available to provide any additional information or to respond to any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott C. Miller". The signature is fluid and cursive, with the first name "Scott" being more prominent.

Scott Miller  
Vice President Electric Transmission

**DOMINION VIRGINIA POWER  
RESPONSE TO PUBLIC COMMENTS SUBMITTED IN RESPONSE TO  
PUBLIC NOTICE FOR NAO-201200080 / 13-V0408  
ON NHPA § 106 EFFECTS TO HISTORIC PROPERTIES  
POSTED MAY 21, 2015—EXPIRATION JUNE 20, 2015**

Many of the comments received by the U.S. Army Corps of Engineers (Corps) in response to its 3<sup>rd</sup> Public Notice (dated May 21, 2015) for NAO-201200080 / 13-V0408 on NHPA § 106 Effects to Historic Properties were substantially similar, if not identical, to each other. Dominion Virginia Power (“Dominion”) provides for the Corps’ consideration a full response to each such common comment below. For brevity, the public comments are paraphrased and the response to comments is a summary of information in the record. The documents referred to in the responses provide greater detail.

A. Comment – The Corps’ Public Notice and Information Supporting Its Effects Determination Were Inadequate

Response – Commenters may disagree with the Corps’ substantive determinations, but the Corps’ effects determinations are adequately supported and were properly noticed. The Corps’ notice supplied ample evidence to support its effects determination subsequent to the identification effort.

With the 3<sup>rd</sup> public notice concerning effects, the following attachments were included:

1. A location map
2. Project Impacts Map (Battlefields, Direct Effects Archeological Resources, Indirect Effects Architectural Resources)
3. Three thorough reports by Stantec.
  - a. The first report (March 2014) is over 90 pages and detailed Stantec’s visual impact analysis for 16 resources in the APE (Carter’s Grove; Colonial Parkway; Jamestown Island; Kingsmill Plantation; Amblers and Coke Watts House; Governor’s Land Archaeological District; Fort Huger; Basses Choice/Days Point Archaeological District; Fort Boykin; SS Charles H Cugle/Sturgis; Crouches Creek Plantation/Pleasant Point; Chippokes Plantation; Scotland Wharf Historic District; Battle of Yorktown; SS John W. Brown; and the Ghost Fleet).
  - b. The second report (November 2014) added analysis of the Green Springs Battlefield located in James City County and within the Governor’s Land Archaeological District.
  - c. The third report (October of 2014) was prepared at the request of the Virginia Department of Historic Resources and analyzed visual impacts for 17 additional historic resources in the APE (the Bourne-Turner House; James C. Sprigg Jr.



House; Barlow-Nelson House; the Bay View School; Kingsmill Plantation; Trebell's Landing; 4H Camp; Pleasant Point; Hog Island Wildlife Management Area; Scotland Wharf Historic District and associated individually surveyed resources; Jones House; and Crafford House Site and Earthworks). The third report found that the project would have no effect on 13 of these 17 resources, and no adverse visual effect on the other four. All of this information is available on the Corps website for this project.

4. Final Listing of Historic Properties
5. A Historic Properties Potentially Effected summary which includes reference to six (6) additional documents not publically noticed because they are not releasable under FOIA due to sensitive resource information but otherwise evaluated by the Corps as part of their determination

Further, Dominion is in the process of reworking its submittals to reformat and consolidate them at the request of the VDHR into a Consolidated Effects Report.

B. Comment – The James River Crossing should be placed under the river rather than as an aerial span.

Response –The Alternatives Analysis (November 6, 2015) and Revised Alternatives Analysis (January 1, 2015), including the revised Table 3.1, evaluated a number of underground alternatives. Among other things, it demonstrates that burying a transmission line under the river would result in adverse environmental and archeological impacts greater than those of the proposed project, cost many times the amount of the proposed project, still have visual impacts from towers along and near the riverbanks, and have reliability issues. Contrary to the comment, the Alternatives Analysis and Revised Alternatives Analysis concluded that the underground alternatives did not meet the project's purpose and need, and/or were not practicable.

C. Comment - Another siting option is better (such as Hampton Roads Bridge-Tunnel or James River Bridge), or is at least as good

Response – The Revised Alternatives Analysis and the revised Table 3.1 evaluated the James River Bridge alternative and concluded that, contrary to the comment, “due to the significant cost, electrical violations likely to occur and inability to construct the transmission plus generation alternative within the required timeframe, this alternative does not meet the purpose and need.” With respect to the Hampton Roads Bridge-Tunnel (“HHBT”), the commenter does not provide any specifics as to how such a project would be accomplished, and none exists. The HHBT connects southeastern Hampton to Norfolk, nearby the Norfolk Naval Base. In order for Dominion to route transmission through this area, Dominion would have to route transmission southeast from Surry, presumably along U.S. Route 17, over Chuckatuck Creek and the Naesmond River, through portions of Suffolk, Portsmouth, and Norfolk, crossing the Elizabeth River (twice), crossing Norfolk Naval Base, all before making its way along the bridge and tunnel portions of the HHBT before reaching Hampton. Even assuming such a project was logistically, legally, and financially possible, in light of the evaluation of the

alternatives seeking a crossing at James River Bridge, the Corps need not closely evaluate this proposed alternative to reject it for similar reasons. Although not suggested, the Corps would reach a similar conclusion for a proposed crossing along the Monitor-Merrimack Memorial Bridge-Tunnel. Please also see Stantec's Summary of Corps Public Notice Comments and Responses, at 7-8 (May 12, 2014) for an analysis of why other considered alternatives were rejected.

D. Comments - The cost of the other alternatives would not be so large, spread over time; generally: the other alternatives do not have major drawbacks except for cost (and cost can be spread over time).

Response – Contrary to the comments, as the Revised Alternatives Analysis and the revised Table 3.1 demonstrate, the costs associated with the evaluated alternatives are, with one exception, between three and eight times the cost of the proposed project, and that the alternatives have additional environmental, cultural, archeological, logistical, and temporal impacts and/or issues that render them unable to meet the project's purpose and need and/or not practicable. In any event, even assuming the facts were as the comment suggests, high cost alternatives do not meet the project's purpose and need of providing "cost-effective" bulk electric services. As a regulated entity, Dominion is required to provide cost-effective services to its customers, because, among other things, the costs of service are passed on to its customers through electricity rates and fees. Dominion's ability to recover the costs of the project is limited by the fact that the rates it can charge are set by the Federal Energy Regulatory Commission and Virginia State Corporation Commission. Therefore, contrary to the comment, Dominion cannot simply spread out the costs related to a project indefinitely, and thus, chose among project alternatives without reference to cost.

E. Comment - Yorktown could be converted to natural gas or be retrofitted with control equipment. Yorktown Unit #2 does not need to be shut down.

Response - The Revised Alternatives Analysis examined the potential to convert all or one Yorktown units to natural gas and found that such an alternative does not meet the purpose and need of the project, and is otherwise not practicable. To support these conclusions, the analyses found, among other things, that there would not be a reliable source of natural gas in the area until 2018, well after the time the project is needed, and even that would not come without significant infrastructure costs related to the additional natural gas needed. Retrofitting the Yorktown units would only temporarily delay the need for transmission upgrades within the region to 2019 but at a cost of over \$1 billion to the Virginia customer. Moreover, the retrofitted facilities would still be less efficient than newer generation facilities and burn more fuel to achieve the required capacities." Page 3.13, Alternatives Analysis (January 5, 2015). Yorktown 2 is addressed in the Alternative Analysis at Section 3.1.2 on page 3.9. Testimony in the SCC case confirmed that it is not economically feasible to retrofit Yorktown Unit 2 or convert it to oil and gas firing.

F. Comment - The view is “pristine”

Response – The comment represents the commenter’s opinion regarding, what appears to be, one or more views from some vantage point within the APE. No response is necessary regarding the commenters opinion. In any event, to the extent the commenter means to equate pristine with a lack of development, as reflected in the Visual Effects Assessment and its addendum, there is industrial, commercial, and residential development in this area visible within the APE, and has been for many years.

G. Comment - The view would be damaged by the towers (often mentioned specifically: Jamestown Island, Hog Island, Carter’s Grove, Colonial Parkway).

Response – As reflected in the Visual Effects Assessment, the visual impacts to these resources have been considered. In response to comments, an additional view shed analysis was conducted in an expanded APE, which is an addendum to the Visual Effects Assessment. These reviews show that, generally, the impacts to the view sheds are minimal or non-existent. In addition, following a meeting among the Corps, Dominion, and the consulting parties, Dominion agreed to provide further simulations related to potential visual impacts. To the extent a view may be adversely impacted, the Corps is accepting comments and encourages comments regarding how best to mitigate those impacts under the circumstances. While it is not known exactly what the commenter believes “damage” to the views means, we assume it means an adverse effect. As set forth in the Visual Effects Assessment, the Corps disagrees with the comment that the proposed project would have any adverse visual effect on Jamestown Island and Colonial Parkway, but did find an adverse visual effect on Carter’s Grove. The addendum to the Visual Effects Assessment concludes that there would be an adverse visual effect on the Hog Island Wildlife Management Area. The Corps also has concluded that there will be an adverse visual effect on the Jamestown Island-Hog Island Cultural Landscape. The Corps’s analysis is thorough and based on comprehensive view shed simulations. A generalized claim of damage does not provide the Corps any reason to change its conclusions. For properties for which there is an unavoidable adverse effect determination, the Corps currently is consulting with the consulting parties on ways mitigate for those effects.

H. Comment – The project will harm the economy by diminishing tourism

Response – As reflected in the Summary of Corps Public Notice Comments and Responses prepared by Stantec on May 12, 2014, the Virginia State Corporation Commission (“SCC”) was required, by statute, to consider the economic impacts of the project. In its Approval Order, SCC found the project would support economic development because it is crucial to ensuring reliable electric service. “Given these benefits and the modern development along the route, the SCC could not conclude that tourism in the Historic Triangle or economic development in the Commonwealth would be negatively impacted by the proposed project.” Stantec, Summary of Corps Public Notice Comments and Responses, at 4 (May 12, 2014).



I. Comment – The prospect of brownouts are being used as a threat and are not realistic or likely

Response – The proposed project is needed to meet growing electric demands within the North Hampton Roads Load Area (NHRLA). New regulations aimed at reducing air emissions have imposed mandatory and inflexible deadlines on existing electric generating units and require Dominion to retire two coal plants that serve the region. As a result of the retirement decisions and deadlines required to comply with reliability standards, the proposed project is necessary to replace lost generation by 2017. The Company notes that the inability to begin construction for the past three years since the Application was filed with the Commission has made it impossible for the proposed facilities to be completed and in service by December 31, 2015, as provided in the Commission's February 28, 2014 Order Amending Certificates. As permitted by federal environmental regulations, the Company has obtained from the Virginia Department of Environmental Quality a one-year extension of the April 16, 2015 deadline for Yorktown Units 1 and 2 to comply with the U.S. Environmental Protection Agency's ("EPA") Mercury and Air Toxics Standards ("MATS") regulation that will be achieved by retiring the units, which drove the original June 1, 2015 need date for the new transmission facilities. The Company also will seek from the EPA an administrative order under EPA's Administrative Order Policy for the Mercury and Air Toxics Standards (MATS) Rule 2 which, if granted, would provide an additional one-year waiver of non-compliance with the regulations that drive those retirements and further extend the deadline for Project completion to June 1, 2017. According to PJM Regional Transmission Operator, Dominion's load is the third largest in the PJM territory serving approximately 2.4 million customers. (Stantec, 2015). PJM performed sensitivity analyses to evaluate the performance of transmission projects without the retired units and concluded there is limited availability to offset the loss of generation and an overall lack of new generation development in the area. *Id.* at 2.4. Various alternatives evaluated show an inability to provide sufficient electric generation to meet service area needs. Dozens of engineering studies validated Dominion studies, concluding, "in all cases, several cascading outage scenarios affecting areas from the NHRLA into northern Virginia, City of Richmond and North Carolina were identified." (Stantec, 2015 at 3.1).

J. Comment – There is no particular rush, and timing is being used as a smokescreen

Response – Timing of the project is being driven by mandatory and inflexible regulatory requirements issued by the US Environmental Protection Agency for the control of emissions from listed air pollutants and the electricity load demands in the North Hampton Roads area. The electric facilities proposed as part of the Project are necessary so that DVP can continue to provide reliable electric service to its customers, consistent with mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards for transmission facilities and the Company's planning criteria. These EPA regulations include the Mercury and Air Toxics Standards ("MATS") rule. On June 29, 2015, the United States Supreme Court remanded the MATS rule back to the US Court of Appeals for the D.C. Circuit for further proceedings consistent with the Supreme Court opinion. The Supreme Court held that EPA must consider cost, including the cost of compliance, before deciding whether regulation is "appropriate" and "necessary." The Supreme Court did not vacate nor stay the effective date of the MATS rule. Thus, the deadlines imposed in the rule are unchanged by the Supreme Court decision until

further action is taken by the D.C. Circuit. As a result, it is necessary for DVP to proceed with the Project, as well as the retirement of units 1 and 2 at Yorktown Power Station, as scheduled.

K. Comment – The viewshed analysis is incomplete, either because it does not include all historic properties or because it is insufficient

Response – In response to comments received, additional visual analyses were completed to address six sites identified by VDHR that were not included in previous visual effects reports. Visual effects were completed for Martin’s Hundred Graveyard (DHR ID # 047-533), New Chippokes (DHR ID #090-0024), Yorktown and Yorktown Battlefield (DHR ID #099-5241), Fort Crafford (DHR ID #121-0027), and Village of Lee Hall Historic District (DHR ID #121-5068), Jamestown-Hog Island Cultural Landscape, and Captain John Smith Trail, segments within the APE. An updated, visual effects report was compiled, including a discussion of the resource, photographs clearly showing the location of the towers, line of sight maps and a discussion of effects for each resource within the APE. Reasonably foreseeable cumulative effects are also considered.

L. Comment – The towers will be too vulnerable to storms/hurricanes

While the engineering is complex, essentially the facilities are designed for 100 MPH wind with the worst case exposure over the water. The National Electric Safety Code (NESC) defines the criteria required for the extreme wind load that apply to transmission facilities. The NESC uses wind speed maps and calculations in the American Society of Civil Engineers (ASCE) standard “Minimum Design Loads for Buildings and Other Structures”.

M. Comment – The towers will interfere with military operations, especially helicopter flights

Response – Lighting will be added to the towers per Federal Aviation Administration (FAA) regulations. Stantec, Summary of Corps Public Notice Comments and Responses, at 2 (May 12, 2014). As reflected in the Supplemental Testimony of Elizabeth P. Harper filed in the SCC case on September 19, 2012, and its attachments, Dominion had significant discussions and correspondence with the military. (Langley Air Force Base and Fort Eustis) to arrive at the proposed route.

N. Comment – The towers may interfere with boat traffic

Response – The Corps has considered the impacts of the project on navigation, as documented in Stantec’s Summary of Corps Public Notice Comments and Responses, at 1-2, 13 (May 12, 2014). Dominion has worked with the Corps on potential navigation issues, has designed its transmission line structures to provide the necessary clearances to the navigation channels in the James River, and has agreed to coordinate with the Corps and the Virginia Pilots Association on a natural channel realignment drift issue in the Tribell Shoal Channel.

O. Comment – An EIS should be prepared

Response – The Corps, as lead agency, makes the determination on whether to require an EIS based on an evaluation of all of the resources that may be impacted by the project, the significance of those impacts and whether impacts may be mitigated. The relevant portion of the Corps’s regulation states that “actions normally requiring an EA, but not an EIS” include regulatory actions – “most permits will normally require only an EA.” See 33 CFR 230.7(a). The Corps may decide, based on its experience with similar projects and the facts and circumstances that proceeding first with an EA is appropriate here. The Corps issues its decision, along with a decision document explaining its rational upon making a decision on whether to issue or deny a permit. NEPA requires federal agencies to prepare an EIS only for “major federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). An agency may prepare an environmental assessment (EA) to determine if an EIS is required. 40 C.F.R. §§ 1501.4(b)-(c), 1508.9(a). If pursuant to an EA an agency determines that no significant environmental impacts will occur, it may issue a finding of no significant impact (FONSI) and an EIS is not required. 40 C.F.R. §§ 1501.4(e), 1508.13. In evaluating whether a FONSI is appropriate, an agency may consider the mitigation that an applicant will undertake and determine that the federal action, as mitigated, does not rise to the level of significance. The Corps NEPA regulations expressly provide that section 404 permits “normally require only an EA.” 33 C.F.R. § 230.7(a).

P. Comment – The Captain John Smith Chesapeake National Historic Trail (CAJO) is eligible or should be referred to the Keeper for an eligibility determination

Response – The Corps and VDHR (functioning as the State Historic Preservation Officer, or SHPO), determined that the APE portion of the CAJO is not eligible for listing on the National Register. See Letter from Roger Kirchen, Director of VDHR’s Review and Compliance Division, to Randy Steffey, U.S. Army Corps of Engineers (hereinafter “VDHR CAJO Letter”) (May 11, 2015), available at [http://www.nao.usace.army.mil/Portals/31/docs/regulatory/Skiffes/Section%20106/EligibilityDocs/Trails\\_Landscape\\_DOE.pdf](http://www.nao.usace.army.mil/Portals/31/docs/regulatory/Skiffes/Section%20106/EligibilityDocs/Trails_Landscape_DOE.pdf); U.S. Army Corps of Engineers, Norfolk District Regulatory Branch “National Register of Historic Places Eligibility of the Captain John Smith National Historic Trail, Washington-Rochambeau Revolutionary Route National Historic Trail, and Other Potentially Eligible Cultural Landscapes Within the Area of Potential Effect,” (hereinafter “Corps CAJO Determination”) (May 7, 2015) (attached to VDHR CAJO Letter). This determination rested on the fact that the trail is a natural water body; the National Register of Historic Places has a longstanding policy that excludes natural waterways from the definition of “site” that can be listed on the National Register; the only relevant historic resources are located at Jamestown and not throughout the trail; and any evocative landscapes are not significant because they have no relationship to historic events. Corps CAJO Determination at 9. In response to public comments and a request by the ACHP, the Corps requested, on July 2, 2015, that the Keeper determine whether the Trail is eligible for listing on the National Register. The Corps’ effects analysis tentatively considers the area as eligible. In the event the Keeper determines the Trail eligible for listing, the Corps will have already completed its effects



analysis. Any additional work that would be required is addressed in the terms of the MOA that will be incorporated into any permit issued by the Corps.

Q.. Comment – The Corps failed to consider impacts on endangered species including the Atlantic Sturgeon.

Response – As stated on the Corps website for the project under the heading “ESA”, “coordination efforts remain ongoing updated information will be provided when available.”