

## Surry-Skiffes Creek-Wheaton Transmission Line

NOA-2012-0080/13-V0408

### Basis for Proposed Memorandum of Agreement to Resolve Adverse Effects to Historic Properties

December 8, 2016

US Army Corps of  
Engineers  
Norfolk District  
Regulatory Office  
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#### EXECUTIVE SUMMARY

The Corps has completed the identification and evaluation of historic properties and an assessment of adverse effects to the satisfaction of the Virginia State Historic Preservation Officer (“SHPO”). In an effort to satisfy the remaining requirements under the National Historic Preservation Act (“NHPA”) specific to resolving adverse effects on historic properties (36 C.F.R. § 800.6), the U.S. Army Corps of Engineers (“Corps”) has elected to document resolution of those adverse effects in a memorandum of agreement (“MOA”) rather than a programmatic agreement.<sup>1</sup> Throughout this entire process the Corps has consulted with the Advisory Council on Historic Preservation (“ACHP”), SHPO, Dominion Virginia Power (“Dominion”), and the consulting parties to obtain input on all aspects of its compliance with the NHPA, including on multiple draft versions of the MOA that sets forth stipulations and actions to mitigate adverse effects on historic properties. The draft MOAs have been revised a number of times to reflect the consultation and the comments provided, as has this document.

This document provides (i) a discussion of considerations for developing mitigation under the applicable NHPA regulations and the general characteristics of the historic properties that will be adversely affected by the Project; and (ii) a description of the specific mitigation, the eight historic properties, the steps taken to avoid and minimize adverse effects and how the mitigation imposed by the MOA will mitigate the unavoidable minimized effects. With this document, Dominion concludes that the MOA will mitigate for the adverse effects to historic properties that will result from the project.

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<sup>1</sup> The use of a MOA, as opposed to a programmatic agreement, is appropriate in this case. As discussed herein, in the Corps April 5 Letter, and throughout the record, the Corps has completed the process of identifying historic properties and obtained SHPO concurrence, determining how and the extent to which those properties are adversely effected and obtained SHPO concurrence, and resolved those effects through avoidance, minimization, and mitigation consistent with 36 C.F.R. § 800.6, and SHPO has indicated it concurs in that decision and will execute the MOA. As such, the circumstances that typically would militate in favor of using a programmatic agreement are not present here. 36 C.F.R. § 800.14(b)(1). There are no circumstances that would warrant a departure from the normal Section 106 process; that process worked as intended in this case.

## **DISCUSSION**

### **1. Project Description**

The project at issue is Dominion's proposed Surry-Skiffes Creek-Wheaton 500 kilovolt (kV) transmission line ("Project"), which contemplates the construction of a new high voltage aerial electrical transmission line that consists of three components: (1) Surry – Skiffes Creek 500 kV aerial transmission line, (2) Skiffes Creek 500 kV – 230 kV – 115 kV Switching Station, and (3) Skiffes Creek – Wheaton 230 kV aerial transmission line.

### **2. Section 106 Compliance Process**

The following is a list of historic properties that the Corps determined were adversely affected by the Project, a decision in which the SHPO concurred:

1. Carter's Grove;
2. Colonial National Historic Park/Colonial Parkway Historic District;
3. Jamestown National Historic Site;
4. Hog Island Wildlife Management Area ("WMA");
5. Archeological Site 44JC0662;
6. Jamestown National Historic Site/Jamestown Island/Jamestown Island Historic District ("Historic District"),<sup>2</sup> including the contributing section of the Captain John Smith Chesapeake National Historic Trail ("CAJO Trail");
7. Battle of Yorktown; and
8. Fort Crafford.

### **3. General Considerations**

Before discussing the efficacy of the specific mitigation set forth in the MOA, it is important to describe the relevant context, *i.e.*, (a) the general approach to mitigation, (b) the general characteristics of the historic properties, how they relate to one another, and the nature of the adverse effects in a general sense, (c) how mitigation is approached in the context of the historic properties and the Project, and (d) some additional information about the mitigation proposed.

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<sup>2</sup> When the Keeper of the National Register determined this district was eligible for the National Register, it did not establish a formal name for it as a historic property. In the record, it has been referred to as the Eligible Historic District, and, before the Keeper's determination, was known as the Jamestown Island-Hog Island Cultural Landscape. The SHPO has referred to this property as the Captain John Smith Trail Historic District. In the MOA, the name for this historic property is the Jamestown Island-Hog Island-Captain John Smith Trail Historic District.

## a. General Approach to Mitigation

When seeking to resolve adverse effects through avoidance, minimization, and mitigation for certain adverse effects, such as adverse visual effects that affect a historic property's setting, feeling, association, sense of place, essential character, or contribution to a larger landscape or district, it often is not possible, or even feasible or prudent, to develop or think of mitigation in quantitative terms. This is because, as the record reflects in this case, the types of resources at issue have qualities and values that often are not quantifiable in a way that directly reflects those qualities and values, and thus, the effects to those qualities and values often cannot be assessed or measured in a quantifiable way. Instead, as is the case here, these qualities and values and the potential effects thereto can be assessed and measured qualitatively. Thus, because there is no exact science or measure to quantify these types of effects, there also is no exact science or measure in determining the amount of mitigation necessary to resolve an adverse effect.

In such situations, the action agency, in consultation with the consulting parties, and relying on guidance and prior examples of mitigation in similar circumstances, among other things, uses its best judgment to reasonably and conservatively determine the types and extent of mitigation activities needed to adequately compensate for and enhance the affected values and integrity of the historic properties, while also providing added value beyond mitigation.<sup>3</sup> This approach is consistent with the National Trust for Historic Preservation's ("NTHP") presentation at the October 15, 2015, consulting parties' meeting, as well as NTHP's January 29, 2016 letter regarding mitigation. There can be no doubt that NTHP's opinions regarding the extent of the adverse effects in this case, and thus, the appropriate amount of compensatory mitigation, differ from other parties' opinions on these subjects. What is clear, however, is that the use of compensatory mitigation to resolve adverse effects is a tried and accepted method to mitigate adverse effects. *Nat'l Parks Conserv. Ass'n v. Jewell*, 965 F. Supp. 2d 67, 75–77 (D.D.C. 2013) (upholding the National Park Service's ("NPS") mitigation decisions, including compensatory mitigation to account for, among other things, effects to historic properties).<sup>4</sup>

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<sup>3</sup> While the potential visual impacts from a project often are not directly quantifiable, as reflected in comments from the NPS, project proponents and action agencies sometimes use surrogate or indirect methods to attempt to quantify visual impacts and/or monetize the value of the impacted viewshed to assist in determining an appropriate scope/amount of compensatory mitigation. Early in the mitigation development process, Dominion preliminarily evaluated these types of methods to provide it an appropriate starting point regarding the development of compensatory mitigation in this matter. Thereafter, on September 16, 2016, Dominion provided a document titled *Correlating the Scope of the Proposed Compensatory Mitigation to the Adverse Impacts and/or Value of Impacted Resources* that provides an evaluation of several quantitative methods that provide further assistance in correlating the scope of the compensatory mitigation to the adverse effects from the Project, in addition to the qualitative analysis discussed in the text. The evaluation demonstrates that the scope of mitigation proposed in the MOA to resolve adverse effects on historic properties more than mitigates and resolves the adverse effects in this case, and provides substantial added value to the impacted qualities of the resources at issue and the landscape as a whole.

<sup>4</sup> See also 40 C.F.R. § 1508.20(e) (National Environmental Policy Act regulations saying that mitigation includes "[c]ompensating for the impact by replacing or providing substitute resources or environments").

In such circumstances, as the record reflects in this case, experts consider appropriate mitigation activities that provide benefits to the historic properties by enhancing the values of the historic properties that have been affected, even if the enhancement is not addressing directly the precise aspect of the value adversely affected. Examples of acceptable compensatory mitigation include: the acquisition in fee or by easement lands that would protect or enhance a historic property's values; activities that implement, continue, restore, and enhance a historic property's values; and, activities that implement, continue, restore, and enhance a historic property's surrounding landscape, or ongoing landscape initiatives and historic resource preservation strategies and plans. See, e.g., NPS, Susquehanna to Roseland 500 kV Transmission Line Right-of-Way and Special Use Permit Final Environmental Impact Statement at 72–73 (Aug. 2012) (“NPS FEIS”). In the case of the Susquehanna-Roseland project, NPS also identified data recovery and treatment plans as acceptable mitigation for effects to archeological sites that could not be avoided. NPS FEIS at F-12.

For visual effects to historic properties that could not be avoided or further minimized, NPS also identified the funding or preparation of educational materials to interpret the history and architecture of the study area related to the project for the public, including publishing histories, making National Register of Historic Places (“NRHP” or “National Register”) nominations, and creating informational websites, brochures, exhibits, wayside panels, and driving/walking tours. NPS also identified the funding or completion of improvements to physical aspects of historic properties. *Id.* at F-12 to F-13. The NPS FEIS was upheld against challenge in the *Jewell* case cited above. In other comments in this matter, NPS and the consulting parties also stated a landscape-focused approach, and as such landscape-focused activities, were necessary.

As set out below, the MOA identifies compensatory mitigation that falls directly in line with the compensatory mitigation identified in the NPS FEIS, and approved of in *Jewell*, as well as called for by the consulting parties. The mitigation also is consistent with the SHPO's guidance regarding visual effects. See Virginia Dep't of Historic Resources, *Assessing Visual Effects on Historic Properties* at 6 (2010). The MOA also provides for the additional avoidance or minimization of effects, which lends further credibility and reasonableness to the identification and selection of compensatory mitigation.

#### **b. General Considerations of the Adversely Affected Historic Properties**

Many of the individual historic properties located within the APE are distinct and significant enough to be either listed or considered eligible for inclusion in the NRHP by themselves. Moreover, their thematic connections make them significant contributing elements to the broader cultural landscape, and as a whole eligible for designation as a historic district, which documents a continuum of American history up through today from both a cultural and natural perspective. Similarly, the cultural landscape contributes historic context to each individual element.

As recognized by the Keeper of the National Register (“Keeper”) and the consulting parties, the entire river crossing APE, direct and indirect, is located within a historic

district, which is a cultural landscape of national historic significance.<sup>5</sup> As a cultural landscape, this area illustrates the specific local response of American Indian, European, and African cultures, land use, and activities to the inherent qualities of the underlying environment. The landscape reflects these aspects of our country's origins and development through the natural, relatively unaltered river and segments of undeveloped shoreline, evoking the ways it was used by the early inhabitants and continuing to reveal much about our current evolving relationship with the natural world.

**c. The Process of Identifying Appropriate Mitigation that Also Creates Added Value**

After the Corps' initial determination of adverse effects, which later was expanded based on comments from the SHPO, ACHP, the consulting parties, and the public, Dominion consulted first with the SHPO, and then the Corps, ACHP, and the consulting parties, on appropriate mitigation projects to address the identified adverse effects, and their scope. This was done by looking at projects and activities within the APE that could enhance the aspects of integrity of the historic properties at issue found to be adversely affected, namely setting and feeling. Dominion also considered projects or activities located outside of the APE that would have beneficial effects on the adversely affected aspects of integrity for the sites at issue. Dominion also recognized that there may be additional, not currently identified projects that could have beneficial effects.

Once the list of potential projects were developed, and due consideration was allowed for potential, future projects not currently identified, Dominion considered potential, conservative funding amounts to allow for the completion of such projects, while allowing for additional funds for projects and activities to add value beyond what is believed to be necessary to adequately mitigate the adverse effects. In so doing, Dominion did not assign a fixed amount to any one potential project. Instead, Dominion believed a more flexible approach was appropriate and therefore determined a total funding amount for each category of project or activity set out in the current MOA that are keyed to specifically affected historic properties (designated as funds in the MOA), and provided guidelines for the timing and use of money from those funds by qualified third-parties to effectuate the mitigation with oversight by the Corps, SHPO, and ACHP, and input from those agencies, Dominion, and the Participating Parties.

Working with the Corps and SHPO, Dominion has identified a suite of many different types and kinds of projects and activities that are designed to enhance qualitatively the integrity and values of the historic properties at issue, although each in different ways, to resolve the identified adverse effects, nearly all of which are visual effects. In so

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<sup>5</sup> More specifically, the Keeper stated that the Indirect APE was eligible for the National Register as a historic district under The National Register Criteria A, B, C, and D, in the areas of significance of Exploration/Settlement, Ethnic Heritage, and Archeology. "This historic district forms a significant cultural landscape associated with both the American Indian inhabitants of the area and the later English settlers." "This segment of CAJO is among the most historically significant portions of the overall National Historic Trail's 3,000 plus miles of waterways." Letter from the Keeper to W. T. Walker, USACE dated August 14, 2015.

doing, relative mitigatory values were not assigned to individual activities and projects, because, consistent with accepted mitigation practices, those values ultimately are subjective to experts as well as to visitors to historic properties; the numerous types of mitigation that the MOA employs and contemplates (e.g., land acquisition, natural and cultural resource restoration, enhancement, or preservation, cultural interpretation, historical education, etc.) all create acceptable mitigatory value. Dominion has proposed a flexible structure that will implement a diverse suite of mitigation at a scope and level that is conservative and that, based on the parties' experience and expertise, will appropriately mitigate the Project's adverse effects and provide significant additional value to the historic properties and their greater landscape. Notably, in cases in which an initially specified mitigation project cannot be accomplished, for example due to a current property owner's unwillingness to provide access to the relevant property, the MOA provides for specified alternatives in each fund to ensure that historic property-specific mitigation proceeds. Like the primary choices, the alternatives also create acceptable mitigation value keyed to the historic properties at issue.

**d. Mitigation in Light of These General Considerations and the Nature of the Project**

In light of the situation where there are individual and landscape-scale historic properties that will be adversely affected by the Project, a proposed transmission line over open water, and as recognized by the NPS, assessing effects to historic properties from this Project is especially challenging given the nature of the project and the manner that reflects individual perceptions and interests. As noted in the Cultural Resource Effects Assessment ("CREA"), there are certain direct effects from the project that can be documented and mitigated in the traditional sense. However, direct, indirect, and cumulative effects to the cultural landscape and historic district, as well as some individual contributing elements to that district, are difficult to mitigate in a direct, traditional manner such as landscape screening, documentation, or data recovery. The Section 106 process has resulted in significant agreement among the parties regarding which properties are and are not adversely affected. The Corps, SHPO, ACHP, Dominion, NPS, and consulting party experts could indefinitely debate the merits of various parties' arguments about the adversity and severity of effects to individual properties or the landscape as a whole. In light of this range of perceptions, mitigation of adverse effects to historic properties must be approached more broadly and in a manner that pursues a substantially larger range of more permanent resource documentation, enhancement, and preservation efforts. While the proposed mitigation recognizes that the Project will leave intact the characteristics for which the historical properties have been listed or determined to be eligible for listing, it reflects the effects to setting and feeling of the individual historic properties and the cultural landscape that will result from the Project. The remaining question is whether the current characterization of adversity of effects and the amount of proposed mitigation is sufficient to allow a determination that the proposed mitigation is appropriately targeted and more than adequate to resolve the adverse effects, in full compliance with the requirements 36 C.F.R. § 800.6. The record demonstrates that it is.

**e. Additional Information on the Proposed Mitigation**

In the selection of the alternative and proposed Stipulations in the MOA, the adverse effects will be avoided and minimized to the greatest extent possible. Thereafter, the MOA defines a series of mitigation initiatives that, in addition to enhancing the affected values and integrity of the historic properties and the cultural landscape, will strengthen the general public and visitor's understanding of and experience at significant places within and related to this landscape through enhanced heritage tourism opportunities including development of additional interpretive and orientation facilities. Proposed mitigation also seeks to ensure future permanent preservation of existing above-ground cultural landscape features, such as natural resources and systems, vegetation, landform and topography, land uses, circulation, buildings and structures, Native American settlements, views, and small-scale features through land acquisition, and acquisition of historic preservation and open space easements.

Mitigation to support water quality improvement of the James River watershed also is provided and will have direct benefits to waters within the APE, which will further enhance visitor experience and enjoyment of the district's cultural and natural features, and otherwise maintain and improve the setting and feeling of the river as a key component of the Jamestown Island-Hog Island Cultural Landscape Historic District, as well as the other historic properties at issue that are within the district and border the river. Lastly, mitigation for shoreline protection at Jamestown Island, the Colonial Parkway, and Carter's Grove is intended to help address expected effects from erosion and sea level rise at these iconic resources, that, along with the Captain John Smith Chesapeake National Historic Trail and Hog Island, are the key character-defining elements of the eligible historic district. Other more traditional mitigation (data recovery) is proposed to address direct effects to archaeological site 44JC0662, as well as avoidance of effects to identified underwater cultural anomalies and terrestrial archaeological sites.

The proposed mitigation components are both specific to identified adversely affected resources and broad-based to recognize the landscape attributes of the historic property and the entire historic district. Landscape and viewshed enhancement, shoreline protection and water quality improvement mitigation measures collectively recognize the individual significance and integrity of the segment of the CAJO Trail, as well as its connection to the individual sites of Jamestown, the Colonial Parkway, Hog Island, and Carter's Grove. The proposed mitigation will also ensure that the visitor experience and understanding of Virginia's prehistory and colonial experience is enhanced beyond today's story with additional viewshed preservation of the Captain John Smith Chesapeake National Historic Trail on the York River and the enhancement of Werowocomoco, the seat of Virginia Indian society, culture, and governance during the time of the English settlement at Jamestown. Preservation of this Native American settlement provides a mirror image of the Jamestown site in which a more fulsome understanding of the confluence of cultures is reflected. In the event some of the mitigation activities cannot proceed, Dominion shall proceed with mitigation alternatives within the APE, such as at Chippokes Plantation State Park in Surry, Virginia directly across the James River from Jamestown. Chippokes Plantation is the oldest,

continuously farmed site in the Nation established in 1619. The site possesses archeology associated with the first wave of settlement for agricultural and other pursuits outside of James Fort, and provides values, experiences, and history similar to that of Carter's Grove. Mitigation alternative activities could also include scholarly exhibits and facilities at the Jamestown-Yorktown Settlement on the landscapes and watershed before, during and after the convergence of the three cultures in the area and their role in understanding the newly defined Jamestown Island-Hog Island-Captain John Smith Trail Historic District. Additional mitigation alternatives could also include projects at Ft. Monroe, which is linked to Virginia's pre-colonial period, Captain John Smith's journeys of exploration of the Chesapeake Bay, and the first landing place of Africans brought forcibly to the colony. These projects enhance the setting and feeling of the Historic District and its component historic properties at issue. In sum, while there are adverse effects that are unavoidable, the proposed mitigation will result in future long-term positive and expanded benefits to the historic district and related properties and visitor experience that are both substantial and meaningful.

Under Stipulation III.g.1, Dominion shall coordinate with the entities identified in therein to ensure that due consideration of a landscape-scale approach to the development and implementation of projects is given and employed to the extent practicable under the circumstances. A landscape-scale approach considers the historic district in its entirety and each historic property at issue within the context of the broader cultures and historic themes to which it relates in a wider geographic area. Among other things, relevant here are the cultures and historic themes related to the Virginia Indian cultures and the early English settlement in the areas within, nearby, and thematically related to the APE, as well as the Virginia river flowing into and through these areas and out to the Chesapeake Bay.

#### **4. How the MOA Mitigates the Adverse Effects to the Historic Properties**

The following provides a discussion about how the projects and activities committed to in the MOA are designed to mitigate fully the identified adverse effects on the above listed historic properties, and provide additional value. The Stipulations are first explained, followed by an explanation of how the adverse effects to each historic property are mitigated.

##### **a. Avoidance and Minimization Measures**

When Dominion developed and proposed the Project, it incorporated project designs to avoid and minimize the visibility of the transmission line infrastructure, while still meeting state and federal requirements. Avoidance and minimization occurred through selection of the alternative and the specific route of the river crossing, given all of the constraints imposed by conservation easements, land use regulations, and military and aviation restrictions. This minimization helps reduce the unavoidable visual effects discussed above. Minimization also is achieved through the use of naturally weathered galvanized steel towers, whose color will provide substantial visibility reduction. Further, through the MOA, under Stipulation I.e, Dominion has agreed to reexamine all viable and feasible tower coatings and finishing materials and methods to determine if they can



further minimize the visibility of the transmission line infrastructure beyond that achieved by naturally weathered galvanized steel towers, and if they can be applied such that they adhere initially and over the longer term and are consistent with federal and state law. Dominion also has agreed to maintain the visibility reduction obtained by the use of weathered galvanized steel. If Dominion can identify suitable coatings and methods (e.g., that will adhere to the galvanized steel after it weathers sufficiently to accept the coating and that further minimize the visibility of the towers used in the river crossing), it will apply them when conditions allow effective application.

Additional avoidance has been incorporated through the MOA, under Stipulation I.b, where prior to construction, Dominion will develop an avoidance plan for archeological and underwater resources located within the APE. Avoiding potential historic properties (e.g., the underwater resources) and maintaining their integrity preserves and enhances the integrity of the historic properties at issue, particularly the Historic District and CAJO Trail.

#### **b. Additional Mitigation by the Enhancement of Heritage Tourism**

According to the NTHP, heritage tourism is “traveling to experience the places, artifacts and activities that authentically represent the stories and people of the past,” which can include cultural, historic and natural resources.<sup>6</sup> Heritage tourism has a symbiotic relationship with historic preservation. As NTHP states, “[h]eritage tourism helps make historic preservation economically viable by using historic structures and landscapes to attract and serve travelers. . . . [S]tudies have consistently shown that heritage travelers stay longer and spend more money than other kinds of travelers.”<sup>7</sup> “As an added bonus,” NTHP states, “a good heritage tourism program improves the quality of life for residents as well as serving visitors.”<sup>8</sup> Information from NPS regarding the number of heritage tourists over the years to certain historic properties in the APE and in the Historic Triangle generally demonstrates that the number of heritage tourists visiting this area varies seasonally throughout the year. It also demonstrates that the overall annual levels of tourism do not appear to be impacted by the construction of industrial facilities (e.g., the Surry Power Plant, BASF facility) nearby or within view of the historic properties or other heritage tourist destinations, as well as with the advent of modern developments and recreation nearby (e.g., Busch Gardens). Similarly, the information shows that heritage tourism levels also do not appear to be impacted significantly by heavily advertised events showcasing one or more historic properties (e.g., the 400<sup>th</sup> Anniversary at Jamestown). Nevertheless, the parties agree that heritage tourism would benefit from further study and targeted enhancement.

Through the MOA, Dominion has agreed to take advantage of the symbiotic link between heritage tourism and historic preservation to enhance the integrity (namely, the

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<sup>6</sup> NTHP, Heritage Tourism, at <http://www.preservationnation.org/information-center/economics-of-revitalization/heritage-tourism/> (last visited Mar. 14, 2016).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

setting and feeling) of the historic properties, as well as the visitor experience to those properties. Specifically, under Stipulation II.b., prior to construction within the James River, Dominion, in consultation with the Corps, SHPO, ACHP, and Participating Parties as appropriate, will initiate a heritage tourism and visitor experience study regarding such tourism within the Indirect APE. The purpose of the study is to evaluate current heritage tourism and visitor experience within the Indirect APE to allow for the development of a marketing and visitation program (program) to promote and enhance heritage tourism sites and visitor experiences within the Indirect APE. The study will be done in collaboration with the heritage tourism site stakeholders (e.g., historic property site operators and tourist amenity (e.g., hotels, theme park) owners/operators). When completed, the study will recommend a program to the Corps, SHPO, ACHP, and Participating Parties as appropriate for review and comment. Following review and comment, Dominion shall address any comments received, and submit the final study and program to the Corps and SHPO for concurrence. Upon receiving concurrence, Dominion will make a onetime contribution to fund the implementation of the program.<sup>9</sup> The results of the study will also be used to inform development of the various visitor experience and interpretation enhancement projects identified in the MOA and these stipulations are cross-referenced in the MOA accordingly.

**c. Stipulations that Compensate for Visual and Physical Effects to Historic Properties (aside from Archeological site)**

Stipulation I.c contemplates that, prior to construction within the James River, Dominion will develop interpretative signage to inform visitors about the historic significance and character of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE. No less than ten signs will be developed in consultation with the Corps, ACHP, SHPO, and the Participating Parties to the MOA, and will be located on publically accessible lands, including recreation and heritage tourism destinations. In developing the interpretive signs, Dominion will review and evaluate existing and any planned signage and other interpretive media currently serving the historic properties at issue so as to develop signage that is complementary. This mitigative measure will enhance and improve the setting and feeling of the CAJO Trail within the historic district, the district itself, and all of the historic properties located therein by establishing and providing for education and recreation missions that focus on supporting the reasons the district was determined to be eligible for the National Register (*i.e.*, for its significance regarding exploration/settlement, ethnic heritage, and archeology).

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<sup>9</sup> The mitigation of adverse effects to historic properties through the enhancement of heritage tourism also would act as mitigation for potential adverse effects to heritage tourism itself as a result of the Project. Based on available information regarding heritage tourism in the Historical Triangle area, specifically including the historic properties at issue here, it does not appear that the Project will have an effect on heritage tourism, adverse or otherwise. Instead, it appears that seasonal weather patterns, large storms and park closures may impact heritage tourism temporarily, while the construction and placement of modern intrusions, including, for example, the Surry Nuclear Power Plant, had no impact on tourism. Indeed, during the time the Surry plant was constructed and thereafter, the evidence shows that tourism numbers increased.

Stipulation I.d.1. requires that, prior to construction within the James River, Dominion will complete the necessary photography, illustrations maps and drawings to complete a Historic American Landscapes (HALS) photo-document for the Jamestown Island-Hog Island-Captain John Smith Trail Historic District, and all of the other adversely affected historic properties identified in Attachment B to the MOA in a manner consistent with NPS Heritage Documentation Program Standards and Guidelines. Dominion submit the HALS document to the NPS heritage Documentation Program for review.. This mitigative measure will provide a permanent visual record of the historic district (and its component historic properties) and its setting as it existed prior to construction of the project. This documentation will be placed in the Library of Congress and available to the general public in perpetuity. Consistent with NPS guidance, the HALS Survey and photo-documentation will be used to inform the mitigation projects under this MOA, as well as to aid in educational, investigative, preservation, and interpretive activities that enhance, directly or indirectly, the historic properties at issues here, including preservation and education missions that focus on supporting the reasons the district and the properties were determined to be eligible for the National Register.

Stipulations II.a.1.A through II.a.1.E. of the MOA contemplate that Dominion will establish five legally separate mitigation compensation funds. The five funds are focus on effects related to Jamestown Island-Hog Island-Captain John Smith Trail Historic District and the thematically related areas including the CAJO Trail Hog Island Wildlife Management Area; Water Quality Improvements; and Landscape and Battlefield Conservation. Dominion will provide a total of \$85,000,000 in mitigation funds, to be distributed to the five funds as set forth in Stipulation II.a.1. Stipulation II.a.1.A . allocates \$27,700,000 to projects and activities at and related to Carter's Grove, Colonial National Historic Park/Colonial Parkway Historic District, Jamestown National Historic Site, and Jamestown National Historic Site/Jamestown Island/Jamestown Island Historic District including the contributing section of the CAJO Trail, and alternative projects at Ft. Monroe, Chippokes Plantation and the Jamestown Settlement by the Jamestown-Yorktown Foundation as specified in Stipulations III a.to c. Stipulation .II a.1.B. allocates \$25,000,000 for the projects related to the York River and the York River State Park as the gateway to visitor understanding of Werowocomoco) in accordance with Stipulation III.d. ,Stipulation III.a.1.C. allocates \$4,205,000 for enhancement and improvement projects at and related to Hog Island WMA in accordance with Stipulation III.e, Stipulation II.a.1.D.. allocates \$15,595,000 in water quality improvement projects in accordance with Stipulation III.f.. Stipulation II.a.1.E.. allocates \$12,500,000 for landscape and battlefield improvement projects associated with, among other things, the Battle of Yorktown, Fort Crafford, and Fort Monroe.

While Dominion ultimately will be responsible for funding these projects and ensuring implementation of agreed upon mitigation, each fund sets out specific projects and activities, along with certain guidelines and requirements, about the allocation of these funds for those projects and activities. Each fund will be operated and administered by a third party along with independent subject matter experts. To ensure the funds are used to mitigate effects as they occur within the Project's life, the funds must be obligated within 10 years of the effective date of the MOA.

The projects and activities contemplated by the funds have been designed to directly enhance and improve the various aspects of integrity of the historic properties that have been identified as adversely affected, as discussed above, as well as otherwise enhance all aspects of the historic properties and increase their value. As discussed above, the visual effects on the historic properties affect their setting and feeling. Physical effects can also affect location. Setting “is the physical environment of a historic property that illustrates the character of the place”; feeling “is the quality that a historic property has in evoking the aesthetic or historic sense of a past period of time. Although it is itself intangible, feeling is dependent upon the significant physical characteristics that convey historic qualities;” and association “is the direct link between a property and the event or person for which the property is significant.” CREA § 1.4 (quoting NPS guidance). As the projects below demonstrate, they work to enhance the physical environment and characteristics of the historic properties, as well as their ability to evoke the historic sense of the past through a number of diverse projects, all of which have been recognized as important ways to mitigate unavoidable effects. See *supra* discussion in Section 3, General Considerations.

In light of the foregoing, below is a property-by-property list of the historic properties, along with the characteristics for which they are eligible for listing on the NRHP, how they will be adversely affected by the Project, and an identification of the projects and activities that enhance and improve those properties’ values or otherwise mitigate for the unavoidable adverse effects. In reviewing this information, it is important to remember that each property is a contributing element of the historic district, therefore, in reviewing the effects and mitigation, each effect on a property applies to the district and all mitigation for the district applies to each property and vice-versa. While not listed here, but as noted above, the MOA provides for specified alternatives to the mitigation projects listed below that will be implemented if the enumerated projects cannot be accomplished due to, for example, a landowner’s unwillingness to provide access to her land for the accomplishment of the project. The alternatives provide like-kind or similar projects that provide comparable mitigative value for the historic properties at issue.

### **1. Carter’s Grove**

- **Eligibility:** Carter’s Grove was listed on the National Register in 1969 and specified as a National Historic Landmark in 1970 for its significance under Criterion C (architecture). Its well-preserved architectural features are indicative of its period of significance dating from the eighteenth century through the early twentieth century. Further, significant archaeological resources are located within the grounds of the property; thus, the property is also eligible for listing under Criterion D for information potential.
- **Effects:** The Project has avoided any direct effect on Carter’s Grove because there will be no ground disturbing or physical effects to the resource’s assets or character defining elements, which include the

mansion, grounds, archaeological sites, and associated resources. Indirect effects to the property were determined to be visual. At its closest point, the property is approximately 3,000 feet from the Project's switching station, but it is not visible at Carter's Grove. The property is also in close proximity to the Project's river crossing. The photographic simulations indicate that the Project is visible some 1.76 miles from the manor house and 1.49 miles from the shore of the James River at Carter's Grove, which would detract from the resource's characteristics of setting and feeling.

- Mitigation: Stipulation III.a.1.A. – Landscape and viewshed enhancement projects and shoreline protection activities will be the focus of mitigation to ensure the ongoing preservation strategies and efforts and to physically protect the setting and feeling of the National Historic Landmark. An alternative mitigation project is identifying specific landscape and viewshed enhancement, shoreline protection, and other projects that enhance the affected setting and feeling of Chippokes Plantation State Park. Funding will be made available if these alternative projects are pursued.
- Stipulation I.c. – The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE.
- Stipulation I.d. – The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties will be submitted to the NPS heritage Documentation Program for acceptance. The HALS document will be placed in the Library of Congress.
- Stipulation I.e. - Dominion will examine all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law.

## **2. Colonial National Historical Park/Colonial Parkway Historic District**

- Eligibility: The Colonial National Historical Park is comprised of the Colonial Parkway Historic District, the Jamestown National Historic Site/Jamestown Historic District, and Yorktown and Yorktown Battlefield, each of which are discussed specifically below. The Colonial Parkway Historic District was listed on the National Register in 1966 under Criterion A and C. The Parkway is eligible under criterion A for its association with the early twentieth-century trends of

recreation and conservation with respect to the NPS's conservation ethic as applied to historic resources and as an intact example of an early twentieth-century recreational parkway constructed partially in response to the popularity of recreational "motoring" during the period of construction. The Parkway is eligible under Criterion C for landscape architecture as an intact example of Parkway Design and for its architectural features, which reflect the Colonial Revival style utilized during the renovation of Colonial Williamsburg. The parkway exhibits integrity of setting, location, feeling, association, design, materials, and workmanship.

- Effects: The Project has an adverse visual effect on certain portions of the Parkway in the APE adjacent to the James River which area not blocked by vegetation. The Project will detract from the resource's characteristics and integrity qualifying it for listing on the National Register.
- Mitigation: Stipulation III.b.1.A. – Funds shall be allocated for landscape and viewshed enhancement projects and shoreline improvement activities to preserve setting and feeling of the Colonial Parkway in a manner consistent with its design, open and forested areas, other natural elements, and interpretive areas as documented in NPS's Cultural Landscape Inventory (2008), and to physically protect the integrity of the property. An alternative mitigation project is identifying specific landscape and viewshed enhancement, shoreline protection, and other projects that enhance the affected setting, feeling and overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas including Jamestown Settlement and Fort Monroe in Stipulation III.b.7.-11. Funding for these alternative projects will be made available if these projects are pursued.. Mitigation: Stipulation III.c.1.A.. – Funds shall be allocated for heritage tourism enhancement projects for the Colonial National Historic Park that include additional visitor interpretation and visitor engagement opportunities. These projects will enhance and improve the historic properties' setting and feeling and promote their preservation, educational, and recreational missions and strategies. An alternative mitigation project is identifying specific landscape and viewshed enhancement, shoreline protection, and other projects that enhance the affected setting, feeling and overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas, including Fort Monroe and Chippokes Plantation State Park in Stipulation III.c.7.-11.. Funding will be made available if these alternative projects are pursued.
- Stipulation I.c. – The development of interpretive signs to inform visitors about the historic significance and character of Jamestown

Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE.

- Stipulation I.d. – The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties will be submitted to the NPS heritage Documentation Program for acceptance. The HALS document will be placed in the Library of Congress.
- Stipulation I.e. - Dominion will examine all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law.

### **3. Jamestown National Historic Site**

- Eligibility: Jamestown Island was listed on the National Register in 1966 under Criterion A as the first permanent English settlement and its association with the colonization of Virginia, and under Criterion D for its archaeological potential. This site is part of the larger Colonial National Historical Park. Character defining characteristics of Jamestown Island Historic District include its numerous archaeological resources and its significance in history. The site retains integrity with respect to association, location, setting, feeling, workmanship, materials, and design.
- Effects: The Project would have an adverse effect on Jamestown National Historic Site due to the visual effects from the transmission lines. While the transmission lines will not be visible from the Jamestown National Historic Site itself, visitors to Black Point, located about a mile down a trail toward the James River, will be able to see the transmission lines about 3.52 miles in the distance. This detracts from the site's characteristics and integrity qualifying it for listing on the National Register.
- Mitigation: Stipulation III.c.1.B.i. – Funds shall be allocated to rehabilitate or replace the seawall at Historic Jamestowne to physically protect the setting and feeling of the larger island property from erosion and sea level rise.
- Mitigation: Stipulation III.c.1.B.i.– Funds shall be allocated to build a series of breakwaters, sills, and revetments to provide greater physical protection to the larger island property than provided by revetments installed in 2004, which will protect its setting and feeling

- Mitigation: Stipulation III.c.1.B.ii.– Funds shall be allocated to restore Back Creek at Historic Jamestowne to enhance and improve an important historic feature to this property, protecting and improving its location, setting, feeling, and association.
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- Mitigation: Stipulation III.c.1.b.iii. provides for archeological investigations at Historic Jamestowne at specified locations
- Mitigation: Stipulation III.c.1.B.iv.– Funds shall be allocated for heritage tourism enhancement projects at the NPS visitor center on Jamestown Island that include additional landscape enhancement, visitor interpretation, and visitor engagement opportunities. These projects will enhance and improve the historic properties’ setting and feeling and promote their preservation, educational, and recreational missions and strategies.
- An alternative mitigation fallback project to Stipulations III.c.1.B.i, to.iv is identifying specific landscape and viewshed enhancement, shoreline protection, and other projects that enhance the affected setting, feeling and overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas. Funding will be made available if these alternative projects are pursued.
- Mitigation: Stipulation III.d.1.B. – The enhancement and preservation of Werowocomoco with associated supporting facilities at York River State Park will allow visitors there to see the landscape as it existed in pre-colonial days.
- Stipulation I.c. – The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE.
- Stipulation I.d. – The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties will be submitted to the NPS heritage Documentation Program for acceptance. The HALS document will be placed in the Library of Congress.
- Stipulation I.e. - Dominion will examine all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility



reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law.

#### 4. Hog Island WMA

- Eligibility: The Hog Island WMA has been determined as potentially eligible for listing in the National Register under Criterion A for Broad Patterns in History as one of the earliest settlements outside of Jamestown and under Criterion D for its archaeological potential to yield important information in prehistory and history. Hog Island WMA exhibits integrity of association, setting, feeling, and location. The extant resources are not individually eligible or outstanding and therefore the aspects of the integrity including workmanship, materials, and design are not applicable.
- Effect: The Project would have an adverse effect on the Hog Island WMA as the visual effects from the transmission lines would detract from the site's characteristics and integrity qualifying it for listing on the National Register. The line-of-sight modeling indicates that the Project's transmission lines would be visible from the site.
- Mitigation: Stipulation III.e.– Funds shall be allocated for natural resource enhancement and cultural resource identification and interpretation for the Hog Island WMA, including for: the enhancement of 1,100 acres of palustrine emergent marsh; shoreline restoration; acquisition of 400 acres of upland/emergent marsh adjacent to the Chickahominy WMA, which is upriver of the Hog Island WMA, to improve water quality in the APE; creating a history and viewing interpretation facility on Hog Island that connects to the Jamestown National Historic Site/Jamestown Island/Jamestown Island Historic District including the contributing section of the CAJO Trail; and a comprehensive archeological identification survey of Hog Island. These projects will enhance and improve the physical location of Hog Island, as well as its setting and feeling as a historic property, as well as promote its preservation and education missions and strategies. It also will do the same for the historic district and the CAJO Trail.
- Stipulation I.c. – The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE.
- Stipulation I.d. – The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties will be submitted to the NPS heritage Documentation Program for acceptance. The HALS document will be placed in the Library of Congress.

- Stipulation I.e. - Dominion will examine all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law.

**5. Jamestown National Historic Site/Jamestown Island/Jamestown Island Historic District including the contributing section of the CAJO Trail**

- Eligibility: Historic Jamestowne is the cultural heritage site that was the location of the 1607 James fort and the later 17<sup>th</sup> century city of Jamestown. The site was designated the Jamestown National Historic Site on December 18, 1940 and listed on the National Register in 1966 and the Virginia Landmarks Register in 1983. The island contains both above ground elements as well as archaeological sites related to the first permanent settlement in the New World. This resource is listed on the National Register for its significance as the first permanent English settlement in the New World, and also for its potential to yield significant information about the past related to both English and Native American settlement in the James River region. On August 14, 2015, the Keeper determined that the portion of the CAJO Trail located in the Indirect Area of Potential Effect is a contributing factor to the Eligible Historic District, which is eligible for listing in the National Register and coterminous with the limits of the Indirect Area of Potential Effect. The Eligible Historic District, which encompasses a portion of the CAJO Trail, is eligible for listing on the National Register under Criteria A, B, C, and D, in the areas of significance of Exploration/Settlement, Ethnic Heritage, and Archeology.
- Effect: The Project would have an adverse effect to the Jamestown National Historic Site/Jamestown Island/Jamestown Island Historic District, including the contributing section of the CAJO Trail, as the visual Effects from the Project's transmission lines would detract from the resource's integrity of feeling and would diminish the character defining elements qualifying the resource for listing on the National Register.
- Mitigation: Stipulation III.d.1.A. – Funds shall be allocated to acquire land and create and develop visitor site interpretation and related facilities to create enhanced visitor experiences for the CAJO Trail. These projects will enhance and improve the setting and feeling of the CAJO Trail within the historic district, as well as to further and continue its preservation, education, and recreation missions and strategies.

- Mitigation: Stipulation III.d.1.B.– Funds shall be allocated for the enhancement and preservation of Werowocomoco, including natural and cultural values on the James River and on the north and south sides of the York River near Werowocomoco. Werowocomoco was the principle residence of Powhatan, who was the paramount chief of the Indian Tribes in Virginia’s coastal region at the time the colonists arrived in 1607 along what is now the CAJO Trail. Because of the temporal, physical, social, political, and economic relationships, among others, between Captain John Smith and the colonists and the native tribes, this work will preserve and provide visitors with an undisturbed landscape and vista that evokes the setting and feeling of the rivers during the period of Captain John Smith’s exploration. This will enhance and preserve the setting and feeling of the CAJO Trail, as well as further and continue its preservation, education, and recreation missions and strategies.
- Mitigation: Stipulations III.c.1.B.iii and III.c.1.C.. – Funds shall be allocated to support ongoing archeological investigations and identification around Memorial Church at Historic Jamestowne, which are focused on discovering the early churches that stood on the site of the 1617 church, as well as other archaeological investigations associated with the early occupation and settlement of Jamestown Island, Hog Island, and other areas related to the early settlement. In addition, funds will be allocated to support activities related to the conservation, preservation, and study of collections from previously excavated archaeological sites throughout the APE, including, but not limited to, at Martin’s Hundred, Carter’s Grove, and Kingsmill, as well as newly located archaeological sites as a result of this project. These projects will further and enhance ongoing preservation, investigation, and education missions and strategies at this historic property and the others at issue, as well as enhance and improve their respective setting, feeling, location, and workmanship. An alternative mitigation project is identifying specific landscape and viewshed enhancement, shoreline protection, and other projects that enhance the affected setting, feeling and overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas. Funding will be made available if these alternative projects are pursued.
- Mitigation: Stipulation III.c.1.B.iv. – Funds shall be allocated for heritage tourism enhancement projects for the historic district and the CAJO Trail that include landscape enhancement, visitor interpretation, and visitor engagement opportunities, including at the NPS’s visitor center on Jamestown Island. These projects will enhance and improve the historic properties’ setting and feeling and promote their preservation, education, and recreation missions and strategies. An alternative mitigation project is identifying specific landscape and

viewshed enhancement, shoreline protection, and other projects that enhance the affected setting, feeling and overall understanding of the Jamestown Island-Hog Island-Captain John Smith Trail Historic District and thematically related areas. Funding will be made available if these alternative projects are pursued.

- Mitigation: Stipulation III.f.1.– Funds shall be allocated for riparian buffer creation and replacement, and erosion and sediment control projects in the James River watershed with priority given to projects located within the Indirect APE. These projects will protect and enhance the water quality of the James River, including within the historic district and CAJO Trail. The projects will further the preservation and recreation goals of the historic district and the CAJO Trail, as well as promote river health as a symbol of the center of the area’s economy and security, as it was during the colonial periods, and thus, enhance and improve the location, association, setting, and feeling of the historic district and CAJO Trail (as well as Jamestown Island).
- Mitigation: Stipulation III.f.1. – Funds shall be allocated for landscape preservation including through land and easement acquisition to preserve river and shoreline landscapes, as well as to promote water quality and river health for the James River. These projects will enhance these properties’ preservation, education, and recreation missions and strategies, as well as strengthen their setting and feeling. They also will provide mitigation for any temporary effects to water quality from the construction of the towers in the river, as well as help compensate for any loss of values from the permanent effects to the river bottom.
- Mitigation: Stipulation III.g.1.C.– Funds shall be allocated for landscape scale conservation that may lead to permanently protecting lands necessary to preclude future river crossings within the APE, to the greatest extent possible. These projects will prevent future impacts to the historic properties.
- Stipulation I.c. – The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE.
- Stipulation I.d. – The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties will be submitted to the NPS heritage Documentation Program for acceptance. The HALS document will be placed in the Library of Congress.

- Stipulation I.e. - Dominion will examine all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law.
- Mitigation: See also projects and activities for the Hog Island WMA and Underwater Archeological Sites.

## 6. Battle of Yorktown and Fort Crafford

- Eligibility: The Yorktown Battlefield comprises an area of approximately 63,960 acres. Although portions of this battlefield have been surveyed independently for a variety of undertakings, very little comprehensive survey has been conducted. The site is eligible for listing on the National Register under Criterion A for its association with the Civil War as well as Criterion D for potentially significant archaeological resources that have the potential to yield significant information about the Civil War. Fort Crafford served as a line of defense for the mouth of the Warwick River and served as the extreme right flank of the Warwick Line of ground defenses working in conjunction with Fort Huger on the opposite bank of the James River. The site is listed in the National Register, and includes the Crafford House, under Criterion A for association with the Civil War and its strategic importance and Criterion D for the potential to yield significant information.
- Effect: While archaeological sites within the Battle of Yorktown battlefield and Fort Crafford will be avoided, the indirect visual effects associated with the Project would have an adverse effect because they would detract from the resources' overall integrity and diminish the character defining element qualifying the resources for listing on the National Register.
- Mitigation: Stipulation III.g.1.A. – funds shall be allocated for land conservation and preservation and open space easement projects on lands associated with the Battle of Yorktown and Fort Crafford to include preservation of landscapes associated with these properties. These projects will enhance these properties' preservation, education, and recreation missions and strategies, as well as strengthen their setting and feeling.
- Stipulation I.c. – The development of interpretive signs to inform visitors about the historic significance and character of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other thematically related locations in and outside the APE.

- Stipulation I.d. – The creation of a HALS photo document of Jamestown Island-Hog Island-Captain John Smith Trail Historic District and other adversely affected historic properties will be submitted to the NPS heritage Documentation Program for acceptance. The HALS document will be placed in the Library of Congress.
- Stipulation I.e. - Dominion will examine all available and feasible tower coating and finishing materials and methods that will further minimize and/or maintain the visual intensity of the transmission line infrastructure crossing the river, above and beyond the visibility reduction achieved by standard weathered galvanized steel coatings, that meet and comply with all applicable state and federal law.

**d. Stipulations that Mitigate for Effects to Archeological Site 44JC0662**

**1. Archeological Site 44JC0662**

- Eligibility: Archeological Site 44JC0662 is a single dwelling dating from the 18<sup>th</sup> to the 19<sup>th</sup> centuries that is associated with the Bailey family, a low- to middle-income, slave-holding family in James City County. This site previously was subject to Phase I and Phase II investigation and data recovery work. This project would stand as a Phase III data recovery work that would record and preserve historic and archeological information related to the site and times, consistent with archeological preservation strategies, prior to any direct effects to the site. The site is eligible for listing on the NRHP under Criterion D for its potential to provide information regarding 18<sup>th</sup> and 19<sup>th</sup> century domestic occupation associated with middling farmers in James City County.
- Effect: The site would be directly affected by construction activities and the Project would have an adverse effect on the site as it would detract from the resource's characteristics and integrity qualifying it for listing on the National Register.
- Mitigation: Stipulation I.a. – Dominion is required to fund, develop, and implement a Treatment Plan in consultation with the Corps, SHPO, ACHP, and other Participating Parties, consistent with Interior Department, SHPO, and ACHP guidelines for archeological investigations and documentations and data recovery, that specifies, among other things:
  - the areas where data recovery plans will be carried out;
  - the portion(s) of the site(s) to be preserved in place, if any, as well as the measures to be taken to ensure continued preservation;

- any property, properties, or portions of properties that will be destroyed or altered without data recovery;
- the research questions to be addressed through data recovery, with an explanation of their relevance and importance;
- the proposed disposition of recovered materials and records; and
- proposed methods of disseminating the results of the work to the interested public and/or organizations who have expressed an interest in the data recovery

Dominion shall finalize the Treatment Plan with input from the Corps, SHPO, ACHP, and the Participating Parties, and implement a final, Corps-approved plan.

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**e. Additional, Forward-Looking Stipulations Benefiting Historic Properties within the Direct and Indirect APE at the River Crossing**

In Stipulation IV.1, Dominion agrees that from the date of construction until the towers are dismantled, it will coordinate all maintenance and repair operations that have the potential to result in ground or underwater disturbance with the SHPO and other relevant resource agencies to avoid and minimize any additional effects to historic properties. In Stipulation IV.2, Dominion agrees that from the date of construction until the towers are dismantled, it will not construct or place any new or additional transmission line infrastructure, or increase the height or scale of existing tower infrastructure. These covenants ensure that the nature and extent of the adverse effects of the Project on the historic properties will remain constant, and the determination that those effects are mitigated appropriately and effectively in the MOA remains correct.

In Stipulation IV.3, Dominion agrees from the date construction is completed, it will examine the ongoing need for the river crossing at ten year increments, taking into account the most current PJM Interconnection load forecast data. In Stipulation IV.4, Dominion agrees that if, at the conclusion of the Project life span (believed to be 50 years), Dominion determines the river crossing is no longer needed, Dominion will remove the Project and return the area to pre-Project conditions. In Stipulation IV.5, Dominion agrees that if, at the conclusion of the Project life span, Dominion determines the Project remains necessary, it shall evaluate the viability and feasibility of a submerged river crossing, and if at that time such a crossing is accepted and available and approvals are received, Dominion will replace the overhead line with a submerged crossing. These covenants represent a commitment to continue to evaluate the need for the river crossing and to remove the effects to historic properties to the extent possible.

**CONCLUSION**

Dominion finds that the proposed stipulations set forth in the MOA will resolve those adverse effects consistent with 36 C.F.R. § 800.6.