

**DOMINION VIRGINIA POWER  
 RESPONSE TO COMMENTS MADE BY THE CONSULTING PARTIES  
 CONCERNING THE REVISED DRAFT MEMORANDUM OF AGREEMENT COORDINATED JUNE 13, 2016  
 September 16, 2016  
 (Updated October 10, 2016), (Updated December 9, 2016)**

**US Army Corps of Engineers  
 Norfolk District Regulatory  
 Office  
 Received by: RLS  
 Date: December 9, 2016**

<b>Issue Category 1 – Specific Issues</b>			
<b>General Response:</b> Comments in this category raise specific issues with the MOA that are best addressed individually, rather than with a general response as used in the majority of the Issue Categories in this response to comments document. The specific comments and responses are listed below.			
<u>No.</u>	<u>Commenter</u>	<u>Comment*</u>	<u>Response</u>
1	Virginia Department of Historic Resources	The MOA sets forth a valid framework to mitigate the identified effects and reduce the overall potential for cumulative and reasonably foreseeable effects of the project on historic properties. (1) <sup>1</sup>	Comment acknowledged and responds to the various comments that no consulting party has agreed that the MOA adequately mitigates the adverse impacts of the Project.
2	Virginia Department of Historic Resources	Dominion’s commitments to cultural landscape preservation, shoreline restoration projects, study and support of heritage tourism, reducing tower visibility, reevaluating the need	Comment acknowledged.

<sup>1</sup> Numbers in parenthesis following comments or commenter’s names indicate the page number where the comment can be found within the comment letter.

\*Commenters’ cite specific provisions in the draft MOA as it existed at the time comments were made. The responses to cite specific provisions as they appear in the current version (December, 2016) in the draft MOA.

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		of the project, and data recovery of archaeological resources recognize the historic value of the landscape and attempts to balance the project needs with the consulting parties’ concerns. (1)	
3	Preservation Virginia (4) Scenic Virginia (4)	Term “historic property documentation projects” is defined too narrowly and the MOA funding should be able to support archaeological investigations of sites other than the 1617 church site. If the intent of Section II(e)(1)(B) is to support archaeological investigation of the original 1607 Fort site and the related New Towne area, then more general language about establishing a fund with conditions and mechanisms for funding projects should be included.	The draft MOA has been revised to reflect suggestions made in this comment. Revisions are now in Stipulation III.c.1.B.iii.
4	National Parks Conservation Association (MOA)	The draft MOA used the term “enhancement” without a definition. (5)	The draft MOA has been revised to reflect issues raised in this comment. Stipulation XVII.c is a definitions section. “Enhancement” is defined as an increase or improvement in quality, value, or extent.
5	National Parks Conservation	The MOA proposes to put land in	The draft MOA has been revised to reflect this

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	Association (MOA)	conservation easements, but how long will this land be protected. References the Atlantic Coast Pipeline traveling over some conservation land. (5)	comment. Stipulation III.g.1.B authorizes funding to be used for landscape-scale conservation that may lead to permanently protecting lands necessary to preclude future river crossings and non-compatible shoreline development within the APE. <i>See also</i> Response to Issue Category 5.
6	National Park Service July 27, 2016	Draft MOA includes suggestions of potential mitigation measures, none of which are specific or mandatory and often unrealistic ( <i>i.e.</i> , acquiring land in the area within one year of the MOA signing). (26)	<p>In the revised draft MOA, the proposed mitigation components are specific to identified adversely affected resources, and broad-based to recognize and address the landscape attributes of the historic properties and the entire historic district. Additional detail on how the mitigation projects mitigate the adverse effects on the various historic properties can be found in the “Basis for Proposed Memorandum of Agreement to Resolve Adverse Effects to Historic Properties” (“Context Document”).</p> <p>The MOA is clear that the mitigation projects must be completed, and thus, are mandatory. Dominion disagrees that any of the proposed mitigation is unrealistic. (see next paragraph). As discussed below, the proposals have been designed with Dominion’s experience in project development in mind, and the MOA provides a flexible structure with specifically identified back-up measures if primary projects ultimately cannot be implemented.</p> <p>Finally, the MOA does not call for property acquisition within one year, but instead calls for Dominion to pursue and obtain property access and</p>

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			property owner corporation to complete the required mitigation project. In the event that Dominion fails to receive the requisite property access or corporation, Dominion is required to provide the Signatory Parties evidence that Dominion has made a good faith effort to secure property access and corporation. The MOA provides for alternative mitigation projects contingent on the Corps approval within each fund that provide equivalent mitigation for the historic properties at issue. <i>See</i> Stipulations III.a.6, III.b.6, III.c.6; <i>see also</i> Context Document.
7	<p>National Park Service July 27, 2016 (27-29)</p> <p>Preservation Virginia (4-5, regarding “Whereas” clause 2 and 22)</p> <p>Scenic Virginia (4-5, regarding “Whereas” clauses 2, 22, and 25)</p> <p>National Trust for Historic Preservation (5, regarding “Whereas” clauses 2, 22, and 25)</p>	<p>Issues with several “Whereas” clauses (number represents which clause):</p> <p>1 → 33 C.F.R. Part 325, Appendix C should not be referenced because it is an unapproved regulation</p> <p>2 → confusing to have language regarding Yorktown 3</p> <p>3 → more accurate description of project using length of river crossing and number and height of towers needed; delete detailed information on river bottom and wetlands conversion</p> <p>22 → Should be deleted because</p>	<p>The draft MOA has been revised to reflect some of the issues raised in these comments. “Whereas” clauses 22 and 25 have been deleted and the language regarding Yorktown Power Station in “Whereas” clause 2 has been deleted and that clause revised. These deletions were made because the Whereas clauses are not necessary for the purposes of the MOA, but the statements therein were accurate and supported by the record.</p> <p>As discussed in the Context Document, the proposed mitigation consists of types and kinds previously employed by NPS and others to compensate for adverse visual effects from transmission line and other projects, and as such, it creates acceptable mitigation value. In addition, Dominion used NPS-accepted methods to quantify and monetize the value of the impacts and visual resources impacted to correlate the scope of the proposed mitigation further than</p>

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		<p>no one agreed that the mitigation creates “acceptable mitigation value”</p> <p>25 → Thinks additional conservation efforts will have no value</p>	<p>explained in the Context Document. <i>See</i> Dominion, <i>Correlating the Scope of the Proposed Compensatory Mitigation to the Adverse Impacts and/or Value of Impacted Resources</i> (Sept. 16, 2016) (“Mitigation Correlation”) (explaining how the scope of the proposed mitigation accounts for the monetized value of the impacts, and provides substantial value added).</p> <p>Dominion disagrees that additional conservation measures will have no value; as discussed, the types and kinds of mitigation proposed are consistent with those used by NPS and others in similar situations to account for visual effects on historic properties and cultural landscapes from transmission lines (<i>e.g.</i>, the Susquehanna to Roseland 500 kV line). <i>See</i> Context Document for further explanation.</p> <p>33 C.F.R. Part 325 Appendix C was promulgated properly by the Corps in 1990 in a rulemaking process in which the ACHP participated. Those regulations are consistent with the NHPA and the 36 C.F.R. Part 800 Section 106 implementing regulations. 55 Fed. Reg. 27,000 (June 29, 1990).</p> <p>The description of the project is accurate and specific enough and was not changed in Whereas clause 3.</p>
8	National Park Service July 27, 2016	Stipulation II.c, regarding tower coatings, does not have enough detail nor does it discuss how reductions in visibility from	This stipulation has been partially revised after considering this comment. The MOA requires analysis of whether a coating may provide visibility reduction above and beyond that achieved by standard

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		coatings may be offset by measures to ensure visibility for safety purposes, and no guarantee that coatings would be effective. (30)	weathered galvanized steel. The stipulation requires that any such coating be consistent with applicable legal requirements, which would include visibility for safety purposes. The stipulation also allows for comment on the analysis by the Corps, SHPO, ACHP, and other concurring parties to the MOA. <i>See</i> Stipulation I.e.
9	National Park Service July 27, 2016	Stipulation II.d, regarding pre-construction mitigation assurances, is oddly placed and only addresses part of the pre-construction efforts. Re-locate to Stipulation II.f and cover all pre-construction activities currently described in the other Stipulation II subsections.  Part 4 of the stipulation should reference II.e. (30)	This stipulation has been deleted. In the revised draft MOA, this stipulation has been incorporated under each specific mitigation project.
10	National Park Service July 27, 2016	Stipulation II(e), regarding additional mitigation for adverse effects on historic properties in the APE, should be relocated to II(d). II(e) is the heart of the MOA regarding attempts to mitigate specific adverse effects to historic properties in the APE.	This stipulation has been moved and is incorporated under Stipulation III-Additional Compensatory Mitigation Project of the MOA.

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		Should not say “additional” as it solidifies the misunderstanding of the severity of the adverse effects and downplays the importance of the mitigation detailed in the section. (31)	
11	Council of Virginia Archaeologists	The priorities of money and research for Jamestown Island – Hog Island – CAJO Trail should be determined in consultation with the organizations responsible for their study. The amount of money designated specifically for Jamestown is inadequate given the importance of the site. (2)	The MOA contemplates and permits that Dominion and the cooperative management entities can consult with subject matter experts when implementing the mitigation, which would include organizations responsible for the study of the properties the commenter lists. Dominion has allocated funding in a manner consistent with approaches used by NPS on similar projects. The Mitigation Correlation document demonstrates that the amount of mitigation funds is more than adequate to compensate for impacts from the Project, including for Jamestown Island, Hog Island, and the CAJO Trail. Finally, Stipulation II.a.9 provides a process to increase required funds needed in order to complete a specific mitigation project.
12	National Trust for Historic Preservation	MOA should include a draft avoidance plan reviewed and approved by the Corps, SHPO, ACHP, and Consulting Parties as an exhibit to the final Section 106 agreement. (5)	Stipulation I.b.1 provides for an avoidance plan that Dominion shall submit to the Corps, SHPO, ACHP, and other concurring parties to the MOA for review and comment before being finalized. The avoidance plan for all archaeological sites is provided in Attachment C.
13	National Trust for Historic	MOA should be specific that interpretative signage should	The draft MOA has been revised to reflect this comment. Specifically, Stipulation I.c.4 clarifies that

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	Preservation	only focus on historic resources within the project area and should not include any information about Dominion or its business. (5)	“interpretive signage shall not contain any information about Dominion or its business.”
14	Scenic Virginia / National Trust for Historic Preservation (5)  Preservation Virginia (4)	Paragraph 21 “Whereas” clause should be deleted because the Corps has not satisfied Federal law to take actions to the maximum extent possible to minimize harm. EIS is needed to do this.	Changes requested have been made to the revised draft MOA. This deletion was made because the Whereas clause is not necessary for the purposes of the MOA, but the statements therein were accurate and supported by the record.  For reasons provided in the Response to Issue Category 13, an EIS is not required for this project.
15	Scenic Virginia / National Trust for Historic Preservation (5)  Preservation Virginia (5)	Paragraph 23 of the “Whereas” section is factually incorrect and should be deleted. Without an EIS, it cannot be said that the Project’s adverse effects have been minimized and avoided to the greatest extent possible. Alternatives that would cause less harm have not been fully explored.	The requested changes have been made to the revised draft MOA. This deletion was made because the Whereas clause is not necessary for the purposes of the MOA, but the statements therein were accurate and supported by the record.  All alternatives have been explored and evaluated fully. <i>See</i> Response to Issue Category 12. The reasons an EIS is not required are provided the Response to Issue Category 13.
16	Scenic Virginia / National Trust for Historic Preservation (5)	Paragraph 24 of the “Whereas” section should be deleted because the consideration of cumulative effects for the project has been inadequate and is not in	Changes requested have been made to the revised draft MOA. This deletion was made because the Whereas clause is not necessary for the purposes of the MOA, but the statements therein were accurate and supported by the record. The evaluation of cumulative effects is

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	Preservation Virginia (5)	compliance with Federal requirements	adequate, as discussed in the Response to Issue Category 8.
17	Scenic Virginia	Paragraph 5 “Whereas” clause states that the identification of historic properties is complete and should be deleted. There remains an outstanding question about the eligibility of the Washington-Rochambeau Trail. (4-5)	<p>Changes have been made in the draft MOA to reflect the comment about “Whereas” clause 5. This change was made because the Whereas clause is not necessary for the purposes of the MOA, but the statements therein were accurate and supported by the record.</p> <p>There do not remain any outstanding issues regarding the eligibility of the Washington-Rochambeau Trail. The Corps determined that the trail was not eligible for listing on the National Register and the SHPO concurred in its letter dated May 11, 2015. The Keeper’s determination that the portion of the Captain John Smith National Historic Trail was eligible as a component part of the Historic District did not impact these decisions.</p>
18	National Trust for Historic Preservation (6-7)  Advisory Council on Historic Preservation (4)	<p>Reporting requirements are limited to annual reports and that is not frequent enough – should have quarterly reports and all Consulting Parties should be able to comment on reports.</p> <p>Timing, development of post-agreement documents, review, approval and implementation of mitigation projects need to be</p>	<p>The draft MOA has been revised in part to reflect this comment. A new stipulation, Stipulation XIII, requires Dominion to conduct annual meetings with Corps, SHPO, ACHP, and Participating Parties within 12 months of the execution of the MOA and every 12 months thereafter until Dominion’s obligations under the MOA are complete to discuss implementation and achieved outcomes of the MOA.</p> <p>Dominion disagrees that more frequent reporting will be beneficial. Developing, processing, and generating reports is time consuming and expensive. Dominion</p>

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		more clearly articulated.	believes the funds’ resources should be utilized to maximize the development, completion, and maintenance of actual projects, and keeping expenditures of resources on administrative and reporting tasks to the minimum necessary. Annual reports are appropriate here, particularly because the MOA authorizes and encourages the funds to consult and work with experts in implementing their tasks, and due to the addition of new Stipulation XIII, discussed above.
19	Council of Virginia Archaeologists	Funds should be established for the conservation, preservation, and study of collections from archaeological sites previously excavated throughout the entire Indirect APE ( <i>i.e.</i> Martin’s Hundred, Carter’s Grove, Kingsmill, etc.). These funds should be administered through endowments. (2)	Changes have been made in the MOA to reflect this comment at Stipulation III.c.1.C.
20	Advisory Council on Historic Preservation (3)  National Trust for Historic Preservation (3)	ACHP regulations recommend using a Programmatic Agreement for activities like the Project. Can restructure the MOA to be a Programmatic Agreement. The MOA differs dramatically from thoughtful programmatic	Because the Corps has completed identification and evaluation of historic properties and its assessment and determination of adverse effects for each historic property at issue to the satisfaction of the SHPO, the Corps has elected to document resolution of those adverse effects to comply with 36 C.F.R. § 800.6 in a MOA rather than a Programmatic Agreement. The

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	National Park Service (25)	approaches to ensuring durability over the entire 50 years project lifespan ( <i>i.e.</i> , no programmatic approach for measures that help visitors and students understand and experience Virginia, regional, and national history and heritage). There is no programmatic approach to the planning.	Corps’ choice is consistent with ACHP’s regulations and supported by the record. This decision is explained in more detail in the Context Document. In addition, in its July 27, 2016 letter, the SHPO concluded that the “MOA sets forth a valid framework to mitigate the identified effects” of the Project.
21	Scenic Virginia (5)  National Trust for Historic Preservation (redline of MOA removes cite to the visual assessment)	Objects to the statement in Paragraph 5 “Whereas” clause that the work completed to date satisfies visual effects assessment requirements.	In its July 27, 2016 letter, the SHPO concluded that the MOA sets forth a valid framework to mitigate the identified effects of the Project and did not have any comments regarding the “Whereas” clause 5. Nevertheless, this Whereas clause has been modified based on the fact that prior Attachment B has been omitted. Now the clause simply reflects the Corps’ findings, and SHPO’s concurrence, that the evaluation of the Project meets the Secretary of the Interior’s Standards and Guidelines for Archaeological Documentation (48 FR 44734-37, September 29, 1983) and the SHPO’s Guidelines for Conducting Historic Resources Survey in Virginia (2011) and the SHPO’s “Assessing Visual Effects on Historical Properties.”
22	Chesapeake Conservancy (2)  National Parks Conservation	Objects to various “Whereas” clauses because the statements are presented as factual statements, when there is	Each of the listed suggestions and issues with particular “Whereas” clauses have been responded to throughout this document.

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	Association (MOA) (4)	disagreement. All the available alternatives have not been considered.	All available alternatives have been thoroughly considered. <i>See</i> Response to Issue Category 12. This comment has been addressed on multiple occasions in prior responses to comments.
23	National Park Service	Whereas clauses 10-16 - Issue regarding full signatories and concurring parties (may need concurring parties to be full signatories to execute parts of the MOA) (28)	The cited “Whereas” clauses are factual statements regarding invitations to participate in the consultation process. To the extent commenter is requesting confirmation that the listed parties have been invited and declined or accepted the invitation, this information is in the record and can be provided. The regulation cited by the commenter (§ 800.6(c)(2)) regarding signatory parties states that the “agency official <i>should</i> invite any party that assumes a responsibility under a memorandum of agreement to be a signatory.” (emphasis added). Initially, this is discretionary and not mandatory; ACHP regulations do not require the concurring parties to be full signatories. More importantly, while the MOA contemplates that concurring parties will have the opportunity to provide comments on Dominion-generated mitigation documents, and to participate in annual meetings, for example, nothing about their participation rises to the level of assuming any responsibility, as contemplated by § 800.6(c)(2). That is, if the concurring parties do not participate, the mitigation will still be implemented as contemplated. Concurring parties do not need to, and should not be, signatory parties to the MOA.

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24	National Park Service	Stipulation II.e.3, regarding water quality improvements, seems to be more logically formed as it uses a fund and does not pre-select specific projects. Rational connection between this stipulation and the historic property impacts are not clear. Seems misplaced for Section 106 purposes. (37)	This stipulation was kept at III.f in the revised draft MOA, but clarifying language was added to it to make the connection to historic property impacts and the mitigation clearer.
25	National Park Service July 27, 2016	Stipulation II.e.2, regarding historic property treatment at Hog Island WMA, is mis-titled as some of the measures have nothing to do with Hog Island WMA. Lacks information and clarity on assessment and planning or permitting. Remote viewing will just give visitors “an up close and personal experience of the towers.” (36)	This stipulation (III.e) is appropriately titled to reflect mitigation projects and activities that are intended to mitigate the adverse effects to Hog Island as a result of the Project. While some of the listed projects may not be completed within the Hog Island WMA, all of the projects are intended to benefit the Hog Island WMA.
26	National Park Service July 27, 2016	Stipulation IV, Professional Qualifications, should include that Dominion’s contractors have skills in analyzing historic landscapes. (39)	The MOA’s requirement that all archaeological and/or architectural work carried out pursuant to the MOA be conducted directly by, or under the supervision of, an individual or individuals who meets the Secretary of the Interior’s <i>Professional Qualifications Standards</i> is sufficient. Among other things, these requirements mandate, as minimum qualifications, a graduate degree or state licensure (depending on the subject

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			matter) and relevant field experience. Contractors can be supervised by the individual or individuals meeting the qualification to the extent the individual/s is not performing the work directly.
27	National Park Service July 27, 2016	Stipulation VIII, regarding human remains, NAGPRA, not Section 106 MOA, is the appropriate legal authority. (39)	Stipulation X makes clear that all human remains are to be treated in a manner consistent with applicable Federal and state law.
28	National Park Service July 27, 2016	Stipulation IX, regarding dispute resolution, should involve signatory and concurring parties.  Agency official for the Corps with legal and financial responsibility for the action should be the signatory and any party with a role in the implementation of the MOA should be a full-signatory. (40)	Only the Signatory Parties have enforcement and contract rights under the revised draft MOA based on Stipulation XVIII and it is only these parties that may object to issues regarding any action carried out or proposed pursuant to the MOA, and then attempt to resolve such issue with the Corps. Concurring Parties are afforded other opportunities throughout the MOA to influence the development of projects and other activities undertaken pursuant to the revised draft MOA. <i>See also</i> Response to Comment 23 above in this Issue Category.
29	National Trust for Historic Preservation	Inappropriate to include a statement regarding 110(f) compliance in the “Whereas” clauses as only NPS has the authority to determine whether the Corps has satisfied those requirements. (7-8)	The Whereas clause regarding Section 110(f) has been deleted. This deletion was made because the Whereas clause is not necessary for the purposes of the MOA, but the statements therein are accurate and supported by the record. <i>See</i> discussion regarding the application of Section 110(f) in the Response to Issue Category 13, and the discussion below in the response to Comment 30 in this Issue Category.

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30	Advisory Council on Historic Preservation	The requirements of Section 110(f) of the NHPA apply to the effects of the undertaking on Carter’s Grove, a National Historic Landmark (“NHL”). The Corps’s distinction between direct and indirect effects is not supported by the statute and the proposed mitigation might not meet the Section 110(f) standard. (2)	<p>While the ACHP may take the position that the distinction between direct and indirect effect is not supported by the statute, the language of Section 110(f) is clear. It applies only to a “Federal undertaking which may <i>directly and adversely affect</i> any National Historic Landmark.” (Emphasis added). The Project’s proposed route was designed to avoid any direct effect on Carter’s Grove, and there in fact will be no ground disturbing or physical effects to the resource’s character defining assets. At its closest point, the Project is 1.49 miles away from the shore of the James River at Carter’s Grove.</p> <p>To the extent the distinction between direct and indirect effects is not supported by the statute, as set forth in Dominion’s letter to the Corps (June 28, 2016), the Corps has complied with the requirements of Section 110(f) and 36 C.F.R. § 800.10 and taken actions, to the maximum extent possible, to minimize harm to Carter’s Grove; the visual adverse effects will be mitigated by landscape and viewshed enhancement projects and shoreline protection activities. <i>See</i> Context Document and Response to Issue Category 13 for more detailed discussion.</p>
31	National Park Service July 27, 2016	The Corps’s June 20 email did not reflect a “reasonable and good faith effort” to consider the views of the Consulting Parties	While the commenter may disagree with the Corps’ responses in its June 20 email, those responses were reasonable, well-documented, and supported by the record. That e-mail provides a point by point response

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		concerning the deficiencies of the Project. (2)	to the ACHP’s May 3, 2016, letter and includes links to relevant documents to support its responses. In any event, NPS’ comment does not specify why the Corps’s e-mail is insufficient.
32	Save the James Alliance	Endorses all comments from other Consulting Parties in opposition to the Project. (1)	Comment acknowledged. Specific comments submitted by other Consulting Parties, both regarding the MOA and otherwise, are or have been specifically addressed.
33	Save the James Alliance (1) Preservation Virginia (4)	An MOU should not be drafted before the completion of the examination of all areas impacted by the Project.  Paragraph 5 “Whereas” clause incorrectly states that identification of historic properties is complete because National Register eligibility of the Washington Rochambeau Trail is still in question.	The Corps and SHPO have agreed on the identification of historic properties in the Project Area and concluded that the 44JC0662, Carter’s Grove, Hog Island Wildlife Management Area, the newly defined Eligible Historic District, Jamestown, the Colonial Parkway, Fort Crafford, and Battle of Yorktown would experience an adverse effect due to impacts from the Project. <i>See</i> “Final List of Historic Properties” and “VDHR Effect Determination Concurrence 2-17-2016.” The Corps and SHPO have agreed that no additional properties are either eligible for listing on the National Register that may be impacted by the Project, or that any additional properties listed or eligible for listing on the National Register need to be evaluated for impacts from the Project as historic properties. The Corps and SHPO have agreed that the identification and effects determination processes have been completed. Under the Section 106 regulations, resolution of the identified adverse effects is appropriate. 36 C.F.R. §

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			800.6.  See Response to Comment 17 above in this Issue Category regarding the comment about the Washington-Rochambeau Trail.
34	Save the James Alliance (1-2)	Organizations have presented ample and compelling evidence that refutes Dominion’s misstatement as fact-less assertions.	Dominion has responded to each of the consulting parties’ comments regarding Dominion’s statements about the facts surrounding the Project to the Corps’ satisfaction. No misstatements regarding facts has been demonstrated. While commenters may disagree with information Dominion has provided, that alone does not make that information incorrect.
35	Save the James Alliance	The proposed route has been described by Early American scholars as the worst possible choice. (2)	While the commenter is focused on the statements made by Early Americans Scholars, their views are not conclusive and do not take into account any regulatory requirements. The Corps made a preliminary determination regarding alternatives based on the applicable regulatory criteria. Corps Preliminary Alternative White Paper (Oct. 1, 2015). During that evaluation, the Corps evaluated numerous alternative routes, and concluded, based on the applicable regulatory criteria, that two alternatives were practicable and met the project’s purpose and need. One of those alternatives is the Project (the other is the Chickahominy route). The proposed route for the Project has been approved by the Virginia State Corporation Commission (“SCC”) as one of two routes that meets the Project’s purpose and need. The other route that meets the Project’s purpose and need,

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			the Chickahominy route, has environmental impacts that are significantly greater than those for the proposed route (including impacts to aquatic resources). The Corps confirmed its evaluation and conclusions in its April 5, 2016, letter to ACHP. Mitigation efforts proposed in the MOA will more than mitigate and compensate for the proposed route's impacts.
36	Save the James Alliance	The MOU wants to dismiss with dollar signs the nation's legacy of 400+ years destroying it for future generations. (1)	Dominion is proposing to fund different actions as mitigation for the Project's unavoidable and minimized direct, indirect, and cumulative effects to historic properties and cultural and natural landscapes contributing to the significance of these Historic Properties. The MOA is authorized as part of the Section 106 process and drafted to resolve the Project's adverse effects consistent with 36 C.F.R. § 800.6, and the resolution of similar adverse effects from other transmission line projects. <i>See</i> Context Document; Mitigation Correlation.

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## Issue Category 2 – Landscape – Scale Consideration

### General Response:

The MOA has been revised to reflect more of a landscape-scale approach as suggested by many of the comments in this Issue Category. For example, additional mitigation projects undertaken pursuant to Stipulation III now have an overarching consideration of the cultural and natural landscapes. Hence, historic properties are viewed *with* and as a part of their related cultural and natural landscapes instead of separate from them. Further, Stipulation II.e.6 now gives overarching consideration to landscape-scale approaches to any projects undertaken pursuant to the MOA.

Dominion notes that the consideration of the reach of the effects of the Project was considered when the Corps determined the extent of the APE (direct and indirect), and the SHPO concurred. There is no legal or other basis for extending the APE to the greater Tidewater Area, the Chesapeake Bay, or the Nation. Nevertheless, as noted, the MOA considers the landscape context of the historic properties at issue (including Jamestown) within and adjacent to the APE, consistent with the extent and nature of the properties and their aspects of integrity at issue, and the Corps' legal obligations. It also is worth noting that effects beyond the APE were considered by the Virginia SCC, and those evaluations and conclusions are in the record and have been reviewed by the Corps.

Dominion disagrees with statements that projects at or involving the Werowocomoco and York River State Parks cannot enhance the setting and feeling of the Historic District and the historic properties at issue located therein. Consistent with NPS' and the consulting parties' demand that a landscape approach be taken to mitigation of effects, as well as NPS' definition of setting and feeling (and how to assess those aspects of integrity, as discussed in Issue Category 4), consideration of how adjacent and nearby areas interact with historic properties is appropriate. Therefore, the MOA was revised to reflect the fact that the Werowocomoco site was purchased recently by NPS, and to shift the focus of mitigation projects there to developing and supporting that new national park system asset in a manner that enhances the setting and feeling of the historic properties at issue here.

<u>No.</u>	<u>Comment</u>	<u>Commenter</u>	<u>Response</u>
1	National Park Service July 27, 2016	"Landscape Context" Jamestown has landscape-scale influence and the MOA fails to articulate or recognize the broader landscape context of resources affected by the Project or the scope and significance of the direct, indirect, and cumulative impacts the project would cause within that landscape. The Project should be considered in several landscape contexts: Tidewater Virginia,	<i>See</i> Response to Issue Category 2. <i>See also</i> Context Document for further explanation

<b>Issue Category 2 – Landscape – Scale Consideration</b>			
		Chesapeake Bay/Chesapeake Watershed, and the Nation. How have the effects of the Project been assessed in terms of each of these landscape contexts, how much would the context be changed, and how does mitigation hierarchy avoid, minimize or offset landscape level impacts? (21-22)	of how the MOA takes a landscape scale approach that is appropriate under the circumstances.
2	National Park Service July 27, 2016	Issues with lack of context MOA uses to choose specific projects and instead these decisions need to be made using an approach to ensure landscape scale treatment. (30-31)	<i>See</i> Response to Issue Category 2.
3	National Park Service July 27, 2016	Stipulation II.e.4, regarding landscape and battlefield conservation, is a reasonable offset for development projects. Needs to be calibrated with the severity of effect within the district. Much of the available land will be impacted by the Project. May want to form a landscape level land conservation fund. (37-38)	<i>See</i> Response to Issue Category 2.
4	National Park Service July 27, 2016	Stipulation II.e.1.A.ii, regarding the Colonial Parkway, does not understand what the adverse effects truly are. Mitigation aimed at counteracting adverse effects to the Parkway are premature because the adverse effects are not clearly defined and understood. Referencing the NPS Cultural Landscape Inventory as a tool to determine ways to “enhance” or “protect” the Parkway is misguided because it’s a NHPA § 110 tool. Need a full study of the Parkway, which would not be completed in the Stipulation II.d.5 timeframe. No way to fully mitigate the adverse effects the Project would cause to the Parkway. (33)	<i>See</i> Response to Issue Category 2.
5	National Park Service July 27, 2016	Stipulation II.e.1.A.iv, regarding Werowocomoco and York River State Park, neither of the sites mentioned are within the historic district, so they cannot enhance or improve the historic districts setting and feeling. Best practices in offsets take a different approach to ensure landscape scale treatment and to avoid specific projects that may be infeasible. (34-35)	<i>See</i> Response to Issue Category 2.

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### Issue Category 3 – Mitigation Hierarchy

**General Response:**

The mitigation hierarchy has been utilized throughout the planning and analysis process for the Project before both the Corps and the Virginia SCC. Before the SCC, for example, numerous alternatives and routes were considered to avoid and minimize impacts to known and potential historic properties and sensitive environmental and cultural areas. These issues were reevaluated and confirmed before the Corps during its process. The record reflects that adverse effects have been avoided and minimized to the maximum extent possible, and thereafter the parties looked to compensatory mitigation to resolve the remaining adverse effects. The Context Document also prioritizes avoidance, minimization, and then mitigation when describing the resolution of adverse effect.

The Corps has offered opportunities for public comment and held multiple consulting party meetings regarding its entire evaluation of the Project, including mitigation. Consulting parties were free to discuss any topic, including the mitigation hierarchy and alternatives, and often chose to do so.

<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	National Park Service July 27, 2016	“Sequence of the Mitigation Hierarchy”→ Section 106 and NEPA place avoidance at the front of the hierarchy and the MOA does little to follow this mitigation hierarchy by simply noting that the Corps has sought to avoid and minimize impacts through consideration of alternatives. Only the proposed project has been subject to Section 106 review and no other alternatives have been subject to public review under NEPA. This lack of consideration of alternatives fundamentally affects the process and the process fails to apply the mitigation hierarchy sequentially and assess which alternatives best balance public need and the avoidance of impacts to nationally significant resources. (23)	<i>See</i> Response to Issue Category 3. For further discussion on consideration of alternatives, <i>see</i> Response to Issue Category 12.
2	National Parks Conservation Association (MOA)	Adverse effects have not been minimized and avoided. (4)	<i>See</i> Response to Issue Category 3.
3	National Park Service	Whereas Clause 23 → Efforts to avoid and minimize adverse effects have	<i>See</i> Response to

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<b>Issue Category 3 – Mitigation Hierarchy</b>			
		not been discussed with consulting parties	Issue Category 3.

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## Issue Category 4 – Equivalence

### General Response:

Dominion disagrees with comments alleging that the proposed mitigation does not enhance the integrity of the historic properties. As set forth in the Cultural Resources Effects Assessment (Sept. 15, 2015) (“CREA”), setting, feeling, and to some minimal extent association, are the adversely affected aspects of the historic properties. Per NPS Bulletin 15, setting is the physical environment of a historic property; it “involves how, not just where, the property is situated and its relationship to surrounding features and open space.” It also considers the function a property was intended to serve. Physical features that constitute setting can be natural or manmade, and include things like topographic features (*e.g.*, a hill), vegetation, paths or fences, and the relationship between features or open space. NPS states that feeling “is a property’s expression of the aesthetic or historic sense of a particular period of time,” which “results from the presence of physical features that, taken together, convey the property’s historic character.” Like feeling, NPS states that association is “the direct link between an important historic event or person and a historic property. A property retains association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer. Like feeling, association requires the presence of physical features that convey a property’s historic character.”

The proposed mitigation directly addresses setting, feeling, and association by, among other things, providing enhancements to the physical nature of the historic properties, and to those areas surrounding the properties that help convey the properties’ historic character, as well as help the properties express the historic sense of the colonial past. The proposed preservation, conservation, and water quality improvements also contribute to these enhancements. NPS incorrectly suggests that all mitigation must be of a landscape nature in order to enhance the historic properties at issue. Its own definitions of the affected aspects of integrity bely that assertion.

Dominion disagrees that the MOA needs to set out exactly how the proposed mitigation will offset the impacts to the historic properties aspects of integrity, or values and functions. That information can be, and is, properly contained within the record. Of note, using the NPS visual impacts analysis, as well as other NPS-approved models, to quantify and monetize the impacts to the historic properties and the value of those properties’ ecoservices (*i.e.*, visual resources), Dominion determined that the scope of the proposed mitigation accounts for the impacts and values, and adds significant value thereto. *See* Mitigation Correlation. The Context Document also provides a discussion of why the types and kinds of mitigation proposed enhance the historic properties’ adversely affected aspects of integrity and values and functions.



#### **Issue Category 4 – Equivalence**

Dominion disagrees that interpretive signs cannot enhance or improve the setting and feeling of the historic properties. Consistent with NPS' own definition of the aspects of integrity, setting and feeling do not exclusively address landscape issues, and for NPS to suggest so is in error. Interpretive signage can assist a historic property in conveying its historic character or expressing its aesthetic or historic sense, among other things, and thereby enhance its setting and feeling.

The Context Document and revised draft MOA explain that Dominion will conduct a HALS Survey and photo-documentation survey to aid in educational, investigation, preservation, and interpretive activities that enhance, directly or indirectly, the historic properties at issue 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 (consistent 36 C.F.R. § 800.5). The final HALS document will be submitted to the NPS Heritage Documentation Program for acceptance. This will provide a permanent visual record of the historic district and its setting as it existed prior to construction of the Project. This document will be placed in the Library of Congress and available to the public in perpetuity. The Section 106 and NEPA analysis does not require or recommend this all be completed as a matter of course. In addition, NPS approved of a similar action as compensatory mitigation with respect to the Susquehanna to Roseland 500 kV transmission line.

The draft MOA has been revised to better address mitigation issues related to the Colonial Parkway unit at the Colonial National Historical Park. Stipulation II.a.1.A now authorizes funds to be spent for viewshed enhancement, landscape enhancement, and shoreline protection as described in Stipulation III.b that will help to preserve the setting and feeling of the Colonial Parkway consistent with the site's "design, open and forested areas, other natural elements, and interpretative areas." Dominion disagrees that the adverse effects to the Colonial Parkway are not understood fully. The record reflects that potential adverse effects to this historic property have been evaluated fully in the CREA, and the severity of such effects is addressed therein, as well as in Dominion's White Paper Regarding Severity of Impacts on Historic Properties (Aug. 31, 2016) ("Severity White Paper"). Additional record materials, including the Truescape photographs and simulations, further supports the conclusions in the CREA and Severity White Paper.

Regarding the use of the NPS Cultural Landscapes Inventory, Dominion will defer to NPS as to the reason that document was created (and updated). Nevertheless, NPS has referenced that document in filings before the Corps when attempting to explain to the Corps the visual resources and values of the parkway. *See, e.g.*, Letter from NPS to Corps at 2 (Sept. 26, 2013). As such, Dominion believes it is an appropriate source of information to consider when developing and implementing mitigation projects.

Dominion disagrees that the proposed mitigation is not related to the actual adverse effects on Jamestown. As discussed in the MOA and Context Document, the proposed mitigation will enhance the setting and feeling of Jamestown, which are the aspects of integrity

#### **Issue Category 4 – Equivalence**

impacted at that historic property. In any event, the draft MOA has been revised to address mitigation issues related to Historic Jamestowne at Colonial National Historical Park. Further explanation of the seawall rehabilitation/replacement at Historic Jamestowne is provided as preserving and enhancing the existing setting (*i.e.*, topography, vegetation, and other defining physical features) and feeling gained from the presence of its defining physical features that help convey its historic character. Additional projects that also enhance setting and feeling on the island also have been added.

As described in the Context Document, the revised draft MOA, and above in response to comments in Issue Category 1, the proposed mitigation components are specific to identified adversely affected resources, yet also broad-based to recognize the landscape attributes of the historic property and the entire historic district. Additional detail on how the mitigation projects mitigate the adverse effects on the various historic properties can be found in the Context Document.

There are no historic properties within the APE that were eligible for listing and for which the extent of adverse effects were not determined. Because there is no exact science or measure to quantify the visual effects of projects such as the one here, agencies, in consultation with consulting parties, rely on guidance and prior mitigation examples in similar circumstances, and use their 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. This approach is consistent with the NTHP's presentation at the October 15, 2015 consulting parties' meeting and the NTHP's January 29, 2016 letter regarding mitigation. The Mitigation Correlation document and Context Document further describe the adequacy of the proposed mitigation plan in the revised draft MOA, including ensuring that the scope of the mitigation adequately accounts for the quantified/monetized value of the impacts and ecoservices at issue. As discussed below in the Response to Issue Category 5, the mitigation is designed to compensate for effects for the life of the project. *See* Context Document; March 30, 2016 MOA Response to Comments; January 29, 2016 Response to Public Comments; Severity White Paper; Mitigation Correlation; *see also* Letter from S. Miller, Dominion, to Col. J. Kelly, Corps (Sept. 16, 2016) (responding to NPS' March 25, 2016 and July 5, 2016, letter to the Corps regarding the CREA and cumulative impacts) ("Response to NPS Letters").

The claim that the Project would jeopardize the nomination of Jamestown as a World Heritage Site is unfounded. There is no record evidence that the Project will affect the potential designation of Jamestown as a World Heritage Site. Further, no application for a nomination as a World Heritage Site for Jamestown, or the Historic Triangle more generally, has been filed. The contents of this comment have been addressed a number of times, including in the Severity White Paper.

<b>Issue Category 4 – Equivalence</b>			
<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	National Park Service July 27, 2016	<p>“Equivalence” → Offsets should provide conservation results that are equivalent in value, function, and significance as the resources being impacted, but the MOA does not clearly articulate how offsets provide the same value, function, and significance. The MOA ignores standing and previously employed methods for quantifying effects (cites to January 29, 2016, March 15, 2016, and March 25, 2016 letters from NPS) and there is little in the record to support claim of “employed qualitative measures for characterizing level of effect.” None of the proposed offsets are related at all to a landscape context or landscape impact analysis. (23-24)</p> <p>MOA and Context Document make no attempt to calibrate proposed mitigation actions with the severity of effects within the district, nor does it state the effects on the broader landscape. There is no system, method, or rationale for correlating magnitude of effect with the offset. (32)</p>	See Response to Issue Category 4.
2	National Park Service July 27, 2016	<p>Stipulation II.a, which uses interpretive signs as a form of mitigation, does not enhance or improve the setting and feeling of the landscape. Suggesting otherwise displays a fundamental lack of understanding. Interpretative media as a compensatory offset can enhance visitor experience in some circumstances, but needs to be</p>	Revisions have been made to the draft MOA and Context Document in response to this comment. In particular, Stipulation I.c.1.C now requires Dominion to review and evaluate existing and any planned signage and other interpretative

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<b>Issue Category 4 – Equivalence</b>			
		based on a full evaluation of existing interpretive signage, other media, and programming. All interpretive media and programs have lifecycles and maintenance and replacement costs that need to be considered too. (29-30)	media currently serving the historic properties at issue so as to develop signage that is complementary. <i>See</i> Response to Issue Category 4 for further discussion on interpretive signage.
3	National Park Service July 27, 2016	Stipulation II.b, regarding viewshed documentation of the James, has no compensatory value as it just documents existing conditions prior to construction, which should already be done as part of the Section 106 and NEPA analysis. (30)	<i>See</i> Response to Issue Category 4.
4	National Park Service July 27, 2016	No mitigation proposal in the MOA that “enhances the integrity” of the adversely affected resource. (30-31)	<i>See</i> Response to Issue Category 4.
5	National Park Service July 27, 2016	Stipulation II.e.1.A.i, regarding Carter’s Grove, does not address the damage the Project will cause to the setting of Carter’s Grove or the integral views from it to the river. Stipulation just throws funding at Carter’s Grove.  Should conduct a landscape study to document existing landscape and understand critical views that would be affected by the Project. (33)	For the reasons set forth in the Response to Issue Category 4, NPS’ comment is not correct. Nevertheless, the draft MOA has been revised to reflect the positive points from this comment. Stipulation III.a.1 now additionally authorizes funds to be used for viewshed enhancement projects at Carter’s Grove. Also, Stipulation III.g.1.C now gives overarching consideration to landscape scale projects related to landscape and battlefield conservation.

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<b>Issue Category 4 – Equivalence</b>			
6	National Park Service July 27, 2016	Stipulation II.e.1.A.ii, regarding the Colonial Parkway, does not understand what the adverse effects truly are. Mitigation aimed at counteracting adverse effects to the Parkway are premature because the adverse effects are not clearly defined and understood. Referencing the NPS Cultural Landscape Inventory as a tool to determine ways to “enhance” or “protect” the Parkway is misguided because it’s a NHPA § 110 tool. Need a full study of the Parkway, which would not be completed in the Stipulation II.d.5 timeframe. No way to fully mitigate the adverse effects the Project would cause to the Parkway. (33)	<i>See</i> Response to Issue Category 4.
7	National Park Service July 27, 2016	Stipulation II.e.1.A.iii, regarding Historic Jamestowne at Colonial National Historical Park, has no mitigation related to the actual adverse effects caused by the project. Need a thorough cultural landscape report after Corps defines the effects of the Project to Jamestowne. (34)	<i>See</i> Response to Issue Category 4.
8	National Trust for Historic Preservation	Mitigation funding proposed is grossly inadequate and no consulting party has agreed that the proposed mitigation is adequate to address the harms to various resources. Total mitigation funding was not determined in any reasoned fashion, but is “a completely arbitrary number.” The determination that the currently proposed mitigation amount adequately minimizes and mitigates harm is “arbitrary, capricious, and an	As set out in the Mitigation Correlation, the proposed mitigation funding accounts fully for all adverse effects, even using NPS’ own impact quantification/monetization methods, and provides substantial value added. As discussed therein, Dominion’s proposed funding amount initially was determined using surrogate

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<b>Issue Category 4 – Equivalence</b>			
		abuse of agency discretion.” (6)	<p>impact quantification/monetization methods accepted by NPS. The Context Document provides additional detail regarding the analysis of how the mitigation funding amount was reached in light of the inherently subjective nature of visual effects such as those at issue here.</p> <p>In any event, consistent with the comment, the draft MOA has been revised to reflect this comment. Stipulation II.a.9 now provides a process to increase required funds needed in order to complete a specific mitigation project.</p>
9	National Park Service July 27, 2016	<p>Stipulation II.e.1.C.i.-iii, regarding heritage tourism, setting and feeling pertain to aspects of the landscape’s historical integrity and are <i>not</i> enhanced or improved by heritage tourism promotion, interpretive or visitor facilities.</p> <p>Marketing program for heritage tourism does not have the ability to enhance the National Register aspects of integrity, like setting and feeling. (38-39)</p>	<p>For the reasons discussed in the General Response to Issue Category 4, Dominion disagrees that setting and feeling could not, as a rule, be enhanced by the promotion of heritage tourism or the use of interpretive or visitor facilities. In any event, consistent with the comment, Stipulations II.b now authorizes heritage tourism and landscape-enhancements projects that promote and enhance the impacted heritage tourism sites and visitor</p>

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<b>Issue Category 4 – Equivalence</b>			
			experience within the indirect APE
10	<p>Advisory Council on Historic Preservation (1)</p> <p>First California Company Jamestowne Society (1)</p> <p>Scenic Virginia (3)</p> <p>National Parks Conservation Association (MOA) (4)</p> <p>National Park Service July 27, 2016 (4, 25-26)</p> <p>Preservation Virginia (3)</p> <p>Council of Virginia Archaeologists (1)</p> <p>Advisory Council on Historic Preservation (2)</p>	<p>The proposed mitigation does not adequately resolve visual effects that will alter the context, setting and feeling of the Historic District along the James River and the adequacy of the proposed mitigation to address adverse effects to other properties in the APE is still unclear. The Project will cause significant visual impacts that cannot be effectively mitigated through avoidance, minimization, rectification, or reduction over time. The visual impact is unavoidable.</p> <p>“Limits to Offsets” → Many of the resources impacted by the Project are entirely unique and nationally significant and impacts can only be avoided through an alternative. No compensatory offset can undo the 50 years of impacts to the nationally significant resources that this project would cause;</p> <p>Project jeopardizes the nomination of Jamestown as a World Heritage Site.</p>	See Response to Issue Category 4.

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## Issue Category 5 – Durability

### General Response:

Dominion agrees that mitigation should last as long as the impact it is intended to offset, and, through its implementing agreements with the cooperative management entities, intends to ensure that the allocation of funds for each project contemplates the management and implementation of the project, to the extent necessary based on the kind and type of project at issue.

NPS appears to miscomprehend how the MOA’s funds operate (*e.g.*, Stipulation II.a). Stipulation II.a.7 ensures only that any funds *not* obligated for projects within 12 years after the effective date of the MOA under stipulations are transferred to a fund administered by the VLCF, which then will seek to obligate them as soon as possible. The goal to obligate funds within 10 years of the effective date of the MOA under, for example Stipulation II.a is to ensure that the planned mitigation is timely undertaken and pursued. As noted in Stipulation II.a.4, funded mitigation projects under, for example Stipulation II.a, do not need to be *completed* within the 10-year time frame. In the event that funding is not obligated within 12 years for the mitigation projects described in Stipulation II.a.7, the remaining mitigation funds will be moved to a legally separate mitigation fund administered by the VLCF over the life of the Project (Stipulation II.a.7).

The Project’s lifespan is anticipated to end after 50 years. Stipulation IV.4 requires Dominion to, every 10 years, determine whether the Project is needed or whether it can be removed from the river crossing earlier than the anticipated 50 years. With these determinations, on top of the annual reports, there is no need to reinitiate consultation, and there is no legal basis for it either.

<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	National Park Service July 27, 2016	<p>“Durability” → Mitigation should last at least as long as the impact they are intended to offset (50 years for Skiffes), but there is “no real concept” of durability within the proposed MOA. Certain individual offset/mitigation action may provide a degree of durability (specifically with land acquisition), but none of the specific offsets have life-cycle costs built into them. Suggesting that an endowment for life-cycle or sustainability costs associated with offsets should be considered.</p> <p>Other aspect of durability the MOA does not address is creating offsets that continue to compensate for impacts over the lifetime of the project as they are</p>	See Response to Issue Category 5.

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<b>Issue Category 5 – Durability</b>			
		essentially one-off isolated individual projects intended to be implemented within a ten year period. None of the proposed mitigation directly reduces impacts to specific resources and is purely compensatory. (24-25)	
2	National Trust for Historic Preservation	Paragraph II.e.5.E should make funds available for at least 50 years and the funds, if returned, should be returned directly from the Conservation Fund to VLCF. Dominion should not be an intermediary. (6)	Stipulation II.a.7 requires unobligated funds to be transferred to a legally separate mitigation compensation fund administered by VLCF.
3	National Park Service July 27, 2016	Stipulation II.e.1, regarding the Jamestown Island – Hog Island – CAJO Trail Historic District mitigation, the 10-year time limit is not sufficient for a 50-year project. MOA must include mechanisms that allow proper time frames reflecting necessary and sometimes complicated steps involved and potential continuation of maintenance needs over the lifespan of the Project. (32)	<i>See</i> Response to Issue Category 5.
4	National Park Service July 27, 2016	Stipulation II.e.1.D, regarding alternative mitigation, this allows an “out” if other mitigation situations fails, but best practices generally establish funds with criteria and procedures for management over the lifespan of a project. (36)	<i>See</i> Response to Issue Category 5.
5	National Park Service July 27, 2016	Should reinitiate consultation after 50 years. (39)	<i>See</i> Response to Issue Category 5.

<b>Issue Category 5 – Durability</b>			
6	Scenic Virginia	The Project will be visible from Colonial Parkway. (2)	<i>See Response to Issue Category 5.</i>

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## Issue Category 6 – Dominion / Corps Responsibility Issues

### General Response:

The draft MOA has been revised in response to comments regarding the various parties’ role in implementing the MOA. For example, Stipulation III.a.6 provides an oversight role for the Corps to determine whether Dominion has made a good faith effort to secure access and cooperation from the Landowner of Carter’s Grove as referenced in Stipulation II.a.1.A Further, the MOA has been revised to make clear that only the Corps, SHPO, and ACHP are signatory parties and can enforce the terms of the agreement, thereby making clear the Corps’ role as the lead federal agency. Further, the Context Document also clarifies the roles between the Corps and Dominion, in some instances requiring the Corps to confirm determinations made by Dominion.

<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	National Park Service July 27, 2016	MOA requires an oversight role for the Corps and indication of the Corps’s ultimate responsibility for ensuring that mitigation measures are completed sufficiently. For example, the Corps, not the applicant, needs to determine whether it is reasonable to continue pursuing acquisition after twelve months. Dominion should submit documentation and products to the Corps first and then the Corps should submit the products to the consulting parties. Language within stipulations regarding Dominion’s authority versus the Corps’s role as the lead federal agency is not at all clear. Decisions of “diligence” and “reasonable” should rest with the Corps. (27, 29, 30-31)	<i>See</i> Response to Issue Category 6.
2	National Park Service July 27, 2016	Need to include that Dominion will get written approval from the Corps as a final step after securing approval from the entities involved in pre-construction mitigation assurances.  Limitations in part 5 of Stipulation II.d are unreasonable – Corps should be making “diligent” or “reasonable” conclusions. (30)	The draft MOA has been revised to reflect some of the issues raised in this comment. The MOA now requires the Corps to approve pursuit of Alternate Measures after Dominion makes a

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<b>Issue Category 6 – Dominion / Corps Responsibility Issues</b>			
			<p>good faith effort to coordinate with Landowners. It is not necessary that the Corps provide additional approvals after it has approved the Project and the proposed mitigation. Further, creating additional approval points creates additional legal issues regarding new agency decisions (e.g., compliance with Section 106 and NEPA) that could only serve to hamper the implementation of the mitigation and the Project, and otherwise create confusion and delay.</p>

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## Issue Category 7 – Heritage Tourism

### General Response:

Dominion notes that the comments regarding the need for an assessment or plan regarding heritage tourism needs is misplaced. Heritage tourism, of course, is not a historic property (or characteristic or aspect of integrity thereof) for which effects must be determined and, if found, resolved. Thus, the suggested assessment and plan, *etc.*, is neither required under Section 106, nor relevant. That is not say, however, that enhancements to heritage tourism (which generally would be beneficial the tourism economic on micro and macro levels) cannot be utilized as one of many tools to otherwise provide enhancements to affected aspects of integrity of the historic properties at issue. As such, Stipulation II.b in the revised draft MOA describes the proposed heritage tourism and visitor experience study in detail, with the goal of providing such enhancements to the historic properties at issue (and to the local tourist economy as well). In addition, it is worth noting that by improving heritage tourism, one improves or helps to sustain spending at historic properties, which provides funding for the maintenance and improvements of historic properties, and their aspects of integrity. *See* Mitigation Correlation (discussing macro and micro visitor spending at and near the historic properties, admission fees and museum and other park receipts are spent, in part, to maintain and enhance the historic properties). Stipulation II.b provides a robust, thorough approach to conducting a heritage tourism and visitor impact evaluation that will be used to implement enhancements to heritage tourism, which also will generate enhancements to the adversely affected historic properties at issue.

Comments that suggest that impacts to heritage tourism have not been assessed are incorrect. They have. *See* Assessment of Potential Impacts on Heritage Tourism (June 10, 2016) (“Heritage Tourism Assessment”).

<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	National Park Service July 27, 2016	There has been no assessment, evaluation, or consultation or plan regarding the heritage tourism needs associated with the listed sites. Provisions do not address the scope and scale of effects to the Historic District, the trail, or the park.	<i>See</i> Response to Issue Category 7.
2	Preservation Virginia (10) National Parks Conservation	MOA postpones review of effects on heritage tourism and visitor experience until after the project is permitted, but these impacts should be determined before a decision is made. The	<i>See</i> Response to Issue Category 7.

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<b>Issue Category 7 – Heritage Tourism</b>			
	Association (MOA) (4) Scenic Virginia (4)	mitigation may not adequately compensate the region for the harm of the Project.	
3	National Park Service July 27, 2016	Stipulation II.f, regarding enhancement of heritage tourism, the contribution calculated in part 4 should be based differently. Compensatory mitigation only addressing a single year does not match the significance of the impacts. (38-39)	<p>As discussed in the General Response to Issue Category 7, Stipulation II.b is not to compensate for a believed, but unsupported, effect of the Project on heritage tourism as NPS suggests. Instead, it is to bolster the enhancement of setting and feeling of the adversely affected historic properties, while also benefiting heritage tourism. As such, the actions related to this project do not need to consider the durability issue.</p> <p>NPS states that the proposed mitigation does not match the significance of effects to heritage tourism, yet nowhere in the record has it provided any indications as to what those effects might be, or the extent thereof; the information in the record on this issue makes clear that heritage tourism likely will not be impacted negatively by the Project, and may indeed be impacted positively in light of having a reliable source of electricity to provide power to the needs of the tourism industry. <i>See Heritage Tourism Assessment.</i></p>

## Issue Category 8 – Cumulative Effects

### General Response:

As discussed in the Response to NPS Letters, among other record documents, the cumulative effects have been fully identified and considered in the CREA. Following the receipt of additional information from Dominion regarding the extent of conservation and preservation lands in the APE, as well as in-river photographs and simulations, in its June 20, 2016 e-mail, the Corps states that “Dominion’s consideration and assessment of cumulative effects for past, present, and reasonably foreseeable actions as outlined in the [CREA] is sufficient.” The Response to NPS Letters provides additional discussion and evaluation of cumulative effects.

Many of these comments regarding the inadequacy of the cumulative impacts analysis have been responded to in the December 18, 2015 Response to Comments Submitted by Consulting Parties. Reasonable minds can differ regarding speculation related to unknown and currently unknowable potential future effects related to increases in development in the NHRLA. No party has provided any evidence or information regarding potential future industrial or commercial projects seeking to cross the James River near the Project’s proposed crossing so as to create some form of an industrial corridor. Similarly, no evidence has been provided about subsequent development in or nearby the APE being induced by the Project (whether that be because of its electricity provision or because of its precedent). *See also* Response to NPS Letters.

The Response to NPS Letters provides a detailed response to comments that raise issues with the cumulative effects analysis, including those raised in the comments in this Issue Category.

A more detailed discussion of cumulative effects as it relates to the Section 106 Process can be found in Issue Category 14.

<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	National Park Service	24 <sup>th</sup> “Whereas” clause, false statement that cumulative effects have been fully identified (Corps recognized at February 18, 2016 meeting that Dominion’s cumulative effects analysis was insufficient).	As noted above, the 24 <sup>th</sup> “Whereas” clause in the revised draft MOA has been deleted. This deletion was made because the Whereas clause is not necessary for the purposes of the MOA, but the

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<b>Issue Category 8 – Cumulative Effects</b>			
			statements therein were accurate and supported by the record. <i>See also</i> Response to Issue Category 8.
2	National Parks Conservation Association (MOA)	Visual and cumulative impacts have not been completed.	<i>See</i> Response to Issue Category 8.
3	<p>Scenic Virginia (3)</p> <p>National Park Service July 27, 2016 (5, 6)</p> <p>Preservation Virginia (1, 2)</p> <p>National Trust for Historic Preservation (7)</p> <p>National Park Service (2)</p> <p>ACHP (2)</p>	<p>Do not agree with Dominion’s approach to analyze cumulative effects to historic resources that limits the evaluation only historic resources that were identified in the Section 106 review process. The Project will be visible from a large area which will increase the likelihood of cumulative visual impact effects. The increased availability of reliable power would also facilitate the expansion of industrial and other land uses that are incompatible with the historic landscape setting. The cumulative effects analysis should address the reasonably foreseeable increase in development. Limited evaluation of cumulative effects to effects on resources specifically identified and considered in the NHPA 106 process is inadequate and the Corps “agreed that the approach to considering cumulative effects used by Dominion is not consistent with the NHPA requirements.” (no citation provided). Methodology used to consider cumulative effects is deeply flawed based on 40 C.F.R. § 1508.7 and 36 C.F.R. § 800.5(a) standard, as the analysis is limited to cumulative effects to resources that were individually identified and evaluated under the Section 106 process.</p> <p>Stipulation II(g), regarding avoidance and minimization of potential future and cumulative effects, does nothing to address cumulative effects beyond placement of new or heightened infrastructure within the APE. Approval of this project would create precedent. Forecast</p>	<p>Stipulation IV, “Avoidance and Minimization of Potential Future and Cumulative Effects within the Direct and Indirect APE of the River Crossing,” provides several examples of how Dominion will ensure that long-term and cumulative effects are avoided when possible (<i>e.g.</i>, Dominion will not add new or additional line infrastructure within the Project’s defined indirect APE for the river crossing).</p> <p>At Stipulation VII.4, the revised draft MOA provides that the Corps, SHPO, ACHP, and other Participating Parties of the MOA will provide comments on all technical reports, treatment plans, and other documentation arising</p>

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<b>Issue Category 8 – Cumulative Effects</b>			
		<p>data in II(g)(3) would need to be shared with Corps and consulting parties. Corps, not Dominion, needs to be responsible to review Dominion’s assessments with the consulting parties.</p> <p>The draft MOA has failed to clarify how Dominion will partner with consulting parties to ensure that long-term and cumulative effects are avoided when possible.</p>	<p>from the MOA.</p> <p>Other issues raised by these comments are addressed in the General Response to Issue Category 8.</p>
4	National Parks Conservation Association (MOA)	<p>Dominion’s limit of only evaluating cumulative effects on resources that were specifically identified and considered in the 106 review process does not comply with federal law. (3)</p>	<p>As set out in the CREA and Dominion’s December 18, 2015 Response to Comments Submitted by Consulting Parties, the cumulative effects analysis considered cumulative effects for all properties for which a visual effect could accumulate. To the extent a property was not affected by the Project, it need not be the subject of a cumulative effects analysis.</p>

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## Issue Category 9 – Concurring vs. Consulting Parties

### General Response:

Generally, the term “concurring parties” has not been changed throughout the revised MOA to “consulting parties.” There is no legal requirement for consulting parties to have the MOA implementation opportunities requested and to date, the consulting parties have been afforded multiple opportunities to provide comments on the various stages of the Section 106 process. Those comments have been addressed and reflected in the numerous Section 106 documents and analyses. It also is noteworthy that many of the consulting parties have claimed, and continue to claim, that the adverse effects from the Project that were not avoided and that cannot be minimized further cannot be mitigated. Dominion, the Corps, and the SHPO disagree. Affording third-parties that expressly do not believe in the proposed mitigation a blanket voice in the implementation of that mitigation after the close of the Section 106 process could unacceptably impede that implementation to the detriment of the historic properties. The purpose of the MOA is not to rehash disagreements about the effects and potential mitigation, it is to implement the selected mitigation. Nevertheless, the MOA provides consulting parties the opportunity to concur with the MOA and be concurring parties to the MOA, and thereby participate in its implementation. Nevertheless, in some instances, the change requested in this comment has been made. *See* Stipulation VII.1 Also, under the revised draft MOA, participating parties are included in the review of technical reports, treatment plans, and other required documentation pursuant to Stipulation VII.1.

No.	Commenter	Comment	Response
1	Scenic Virginia (4) Chesapeake Conservancy (1) National Parks Conservation Association (MOA) (4) Preservation Virginia (3) National Trust for Historic Preservation (3-4) Save the James Alliance (2)	Wants Consulting Parties to have the opportunity to participate in the implementation of the MOA and to object to deficiencies in implementing the MOA or requesting amendments to the MOA. Wants Concurring Parties be changed to Consulting parties throughout the document. The Consulting Parties should have a voice in the ongoing work of protecting the site.	<i>See</i> Response to Issue Category 9.
2	Advisory Council on Historic Preservation (4)  National Park Service (27)	A review group consisting of members of the consulting parties should be established to work with Dominion on the details of proposed mitigation measures. No clear process for consulting parties to review and provide input on identification and implementation of proposed mitigation	<i>See</i> Response to Issue Category 9.

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<b>Issue Category 9 – Concurring vs. Consulting Parties</b>		
	measures.	

**Issue Category 10 – Mitigation Methodology**

**General Response:**

NPS argues that factual differences in the Susquehanna to Roseland 500 kV transmission line project (“SR Line”) and this Project means that the underlying methods NPS used to analyze and mitigate the SR Line’s visual effects are not valid here. NPS is incorrect, and provides no rational explanation for its position. First, NPS states that a power line previously existed where the SR Line was proposed, and that the power companies had rights to continue to use the right-of-way. So too here, the majority of the Project will occur in previously existing rights-of-way, though Dominion acknowledges that the portion of the Project crossing the James River up to the switching station is new, residential, commercial, and industrial development in that area is not. Dominion further acknowledges that with the exception of the rights to the rights-of-way it currently possesses, it did not have prior rights beyond those granted by the Virginia SCC to the Project route. Nonetheless, the prior existence of rights does not have anything to do with methodologies for quantifying or evaluating visual impacts, or developing mitigation therefore.

NPS next says there is a “marked difference” between the significance of the historic resources affected by the two projects, and that the geography/topography is different in the two project areas. As discussed in the Response to NPS Letters, neither Section 106 nor its implementing regulations make a subjective belief regarding the relative importance or significance of a historic property a consideration in determining or resolving adverse effects thereto. Instead, 36 C.F.R. § 800.5(a)(1) lays out the criteria that must be used to assess adverse effects, and then § 800.6 requires the action agency, through continued consultation, to attempt to resolve those adverse effects through avoidance, minimization, and mitigation. Neither the regulations nor any guidance mandates the use of any particular method to develop mitigation in any circumstance. There is nothing in the record, and nothing Dominion has found in the available SR Line documents regarding mitigation, to suggest that the method used to develop and scope mitigation for the SR Line project was specific to “less significant” historic properties, or somehow was not useful for developing and scoping mitigation for “more significant” historic properties. Likewise, there is no evidence that the SR Line method was limited for use in circumstances involving certain geography or topography. NPS’ actions in this case make that clear because, as set out in the Mitigation Correlation, NPS used a variation of the SR Line method to assess visual impacts for the Project in its September 2015 visual impacts assessment. NPS even used the same underlying literature used for the SR Line project to support its assessment (albeit slightly modified for what

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### Issue Category 10 – Mitigation Methodology

NPS, in error, believed were different visual circumstances (*see* Mitigation Correlation)). These two alleged reasons not to use the SR Line method also fail.

Next, NPS states that the value for the compensatory mitigation for the SR Line was based on the development of fact-based cost estimates, and states that the value of the proposed mitigation of the Project has no apparent basis. The Mitigation Correlation document and the Context Document demonstrate that this statement is incorrect, and that the value of the proposed mitigation for the Project more than provides for the value of the impacts/ecoservices at issue.

Finally, NPS states that the mitigation scheme for the SR Line was only deemed appropriate after an EIS was performed that evaluated all possible alternatives and measures to avoid and minimize impacts, and that such an EIS has not been performed here. As such, NPS concludes that the SR Line method is not useful here because there has not been a comparable “level of effort” for the Project. That argument is without merit. Whether a method of analysis is appropriate for use in a certain circumstance has nothing to do with the level of effort involved; the method is either appropriate for use or it is not. Here, the facts and NPS’ actions make clear that it is. Both projects are 500 kV transmission line projects with visual impacts on historic properties; both projects avoided and minimized adverse effects to the maximum extent possible; both projects sought to resolve the outstanding adverse effects through various forms of compensatory mitigation, such as enhancement of aspects of integrity, preservation, conservation, and other similar actions. There simply is no rational basis upon which to argue that the method and mitigation actions used for the SR Line cannot be applied here.

The Context Document, though not providing specific values, provides the methodology used to determine what is needed to adequately mitigate the adverse effects from the Project. In addition, the Mitigation Correlation document provides an analysis of various methods to quantify/monetize the impacts/values of ecoservices at issue as compared to the total proposed mitigation, to assist in determining if the mitigation is sized appropriately.

<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	National Park Service July 27, 2016	The MOA relies on an inaccurate analysis of the approach used by the NPS for the Susquehanna to Roseland utility line project.	<i>See</i> Response to Issue Category 10.
2	National Park Service July 27,	Differences between the Susquehanna to Roseland 500 kV Transmission Line (“Susquehanna”) and the Surry-Skiffes Line projects that demonstrate that the two projects are not comparable: First, a power line existed at the Susquehanna	<i>See</i> Response to Issue Category 10.

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<b>Issue Category 10 – Mitigation Methodology</b>			
	2016	location previously. The NPS did not have authority to deny the utilities the use of their easement to the extent that their deeded rights allowed. Second, the Susquehanna line affected historic structures and landscapes that were not unique, one of a kind resources. Third, value of the compensatory mitigation for the Susquehanna Line was determined through various fact-based cost estimates and scientific research to determine where the money should go, whereas the Project has no basis for the amounts of money set aside for the four funds. If there is a methodology, it should be shared. Compensatory mitigation for the Susquehanna line was only deemed appropriate after lengthy analysis of alternatives and the environmental impacts of the project through an EIS, whereas the Project involves no EIS. A better example line would be the Northern Pass Transmission Line Project, where 52 miles of the line were buried in the most visually sensitive areas. (19-20)	
3	Council of Virginia Archaeologists	Wants an accounting of how the total amount of money for mitigation as well as the amount per resource was determined. (1)	<i>See Response to Issue Category 10.</i>

## **Issue Category 11– Excess Capacity**

### **General Response:**

The need for the Project was determined using the specific methodologies and computer modeling algorithms required by the NERC Reliability Standards, and the power flow studies used to make that determination were verified by the Virginia SCC’s independent expert consultant and the Regional Transmission Organization, PJM. The existing system load in the NHRLA already exceeds the capability of the transmission system without Yorktown Units 1 and 2. *See Stantec Alternatives Analysis, Section 3.1.3 (January 8, 2015).* The Project is needed to resolve violations in the critically generation-deficient NHRLA when Yorktown Units 1 and 2 are retired. *See July 21, 2016 Letter from Scott Miller, Dominion, to Tom Walker, USACE; March 30, 2016 MOA Response to Comments; January 29, 2016 Response to Public Comments; Corps response to ACHP (Apr. 5, 2016); Dominion response to Corps re ACHP letters (June 28, 2016); PJM letter to Dominion (Jan. 25, 2016).* The Surry-Skiffes Creek-Whealton “Modeling and Alternatives Analysis Review” (“MAAR”) explains that the Project is needed based on the latest load forecast, recently validated by PJM, and remains the optimum long-term solution to power reliability issues in the NHRLA. Reliability in the NHRLA is not tied to total energy consumption. Instead, reliability is tied to peak electrical demand, which continues to grow—six federal facilities in the NHRLA experienced actual peak electrical demand increases between 2013 and 2015.

The MAAR explains and diagrams the limitations of an underground transmission alternative. An underwater 230 kV line, even double circuit, cannot solve the NERC violations. Existing underwater 500 kV lines (such as the Vancouver line) have less capacity than required to resolve the identified NERC violations. In addition to electric capacity issues, an underwater line would result in significant environmental impacts (including excavation of 36,000 cubic yards of riverbed) and reliability issues (more difficult to locate problems on underground transmission lines, therefore requiring longer service restoration than overhead lines). Dominion also responded to the challenges by PERI, NPS, and NPCA to the Corps’ satisfaction. *See Dominion, Response to National Park Service’s June 7, 2016, Letter (June 23, 2016); Dominion Virginia Power, NAO-2012-0080113-V0408, Dominion Virginia Power Response to National Parks Conservation Association/Princeton Energy Resources International Comments (December 15, 2015); March 30, 2016 Response to Consulting Parties’ comments concerning the Draft MOA; PJM Letter to Dominion (Jan. 25, 2016).* Dominion also recently responded to additional questions regarding capacity and operations at Yorktown, which further demonstrates the lack of excess capacity there and need for the Project. *See Letter from Scott Miller, Dominion, to Tom Walker, USACE (Sept. 12, 2016) (responding to the Corps’ questions about excess capacity, NERC standards, and operations at Yorktown Power Stations, and alternatives thereto) (“Yorktown Response”); see also Surry-Skiffes Creek-Whealton, Modeling and Alternatives Summary Slide Deck (Sept. 12, 2016) (providing an updated evaluation of alternatives and potential NERC standards violations based on 2016 load forecast information).*

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<b>Issue Category 11– Excess Capacity</b>			
<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	National Parks Conservation Association (MOA) (1) Save the James Alliance (2) ACHP (2) National Parks Conservation Association (Alternatives) (1-2) National Parks Conservation Association (MOA) (1) National Park Service July 27, 2016 (11-12) Preservation Virginia (2)	<p>The lines would provide excess capacity to the region and peak load growth has not materialized as Dominion forecasted and can be mitigated with Demand Side Management and Distributed Generation. The Yorktown station has been effectively shut down since March 2015 with no rolling blackouts. The size of the Project is larger than what is required to meet replacement need. It has been demonstrated that the Project is not needed based on the PERI Group’s revelation that Yorktown Power Station has been virtually offline for two years without blackouts or brownouts. Operating Unit 3 at the 8% limit still produces plenty of capacity to generate electricity, which may be capable of replacing the power generated by Units 1 and 2. Unit 3 may not be closed at all and is no longer part of the need for the project as stated in the MOA. Thus, continued use of Unit 3 could negate, or significantly reduce the need for, the Project. In addition, the characterization of the plant as “coal fired” is misleading. The amount of power to be replaced is for the two units at Yorktown which have a combined maximum capacity of just 323 Mw of the 1,141 Mw total. Significantly lower than first presented.</p> <p>Dominion’s representative stated in a June 13 meeting that there is no need for a transmission line of 500kV with 5,000 MVA capacity, rather this option was chosen due to a business preference.</p>	<i>See Response to Issue Category 11.</i>
2	Advisory Council on Historic Preservation	Dominion’s predictions about the levels of growth in demand and conclusions about rolling blackouts have been challenged by PERI, NPS and NPCA. (1)	<i>See Response to Issue Category 11.</i>

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## Issue Category 12 – Alternatives / Oil or Natural Gas

### General Response:

An exhaustive list of alternatives to the Project were offered and extensively evaluated as part of the Joint Permit Application (submitted August 2013), the Alternatives Analysis (received by the Corps November 7, 2014), the revised Alternatives Analysis (received by the Corps January 8, 2015), revised Table 3.1 (received by the Corps January 15, 2015), Stantec's Alternatives Analysis (received by the Corps Nov. 7, 2014 and additional materials provided Dec. 19, 2014 and Jan. 8, 2015), the Summary of Alternatives Analyses (Aug. 28, 2015), and the USACE Preliminary Alternatives Conclusions White Paper (Oct. 1, 2015).

In October 2015, the Corps stated that based on information presented to date, its preliminary finding is that two alternatives appear to meet the Project purpose while reasonably complying with the evaluation criteria. These are Surry-Skiffes-Wheaton 500 kV OH (AC) (Dominion's Preferred) and Chickahominy –Skiffes – Wheaton 500kV. The Corps determined that other alternatives were not practicable or did not meet the project purpose and need due to cost, engineering constraints, and/or logistics, among other things. The Corps confirmed its October 2015 evaluation and conclusions in its April 5, 2016, letter to ACHP. Furthermore, the alternatives analysis found that the environmental impacts associated with the Chickahominy route were significantly greater than those for the proposed project.

Repowering Yorktown Power Station with natural gas has been thoroughly evaluated and found to be impracticable and not to meet the project purpose and need. Dominion recently responded to the Corps' additional questions regarding this and related alternatives regarding the current use of, as well as repowering and retrofitting, Yorktown. *See Yorktown Response.* Regarding repowering Yorktown with oil, even assuming National Parks Conservation Association's ("NPCA") factual assertions were correct, for the reasons set forth in the Yorktown Response, NPCA's suggestion is not practicable. Like retrofitting Yorktown Units 1 and 2, repowering Yorktown Units 1 and 2 to oil, and to allow Yorktown Unit 3 to operate beyond the 8% capacity limit while powered by oil, subjects the units to Clean Water Act § 316(b) requirements, as well as Clean Air Act emissions limitations for SO<sub>2</sub> and NO<sub>x</sub>. As set forth in the Yorktown Response, those costs range from \$859 million to \$1.8 billion for all three units. These costs do not include the cost to repower of Units 1 and 2 to oil, or any additional compliance related emissions limitations compliance related to SO<sub>2</sub>, NO<sub>x</sub>, and carbon monoxide. This option is not practicable and should be rejected for the same reasons the Corps found that retrofitting and repowering to natural gas were not practicable.

It also should be noted that NPCA's factual assumptions are not correct. Some of the oil infrastructure from the 1970s was removed while some was abandoned in place. The equipment that was abandoned in place is unusable. As such, all new infrastructure would

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## Issue Category 12 – Alternatives / Oil or Natural Gas

be needed to repower Units 1 and 2 to oil. As discussed in the Yorktown Response and elsewhere in the record, the time necessary to permit and repower Yorktown is well beyond the timeframe for which the Project is needed.

Reliability means providing electricity on demand. Having natural gas half the year does not ensure reliability since natural gas is not available at the other times.

The Atlantic Coast Pipeline (“ACP”) project would not be considered a reasonably foreseeable future action that needs to be considered under NEPA because, due to its distance from the area of potential effect (“APE”), it would not impact the historic properties or other resources at issue. In Dominion’s Yorktown Response, Dominion evaluated the alternatives of repowering Yorktown, and these alternatives take into consideration the timing and estimated cost of firm natural gas transportation (FT) arrangements that would be necessary to deliver fuel to the plant, including any new pipeline infrastructure required to support those FT arrangements, which could involve as a component gas transport services on the ACP. Therefore, contrary to comments, the Corps has evaluated the availability of natural gas transportation on the ACP. As explained in Dominion’s Yorktown Response, repowering Yorktown to natural gas is not a practicable alternative.

<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	National Parks Conservation Association (Alternatives) (1) Scenic Virginia (3) Chesapeake Conservancy (2) National Parks Conservation Association (MOA) (2) National Trust for Historic Preservation (1-3) Advisory Council	Dominion has not met its obligations under NEPA to consider all feasible alternatives to the proposed Project. The permit should be denied with leave for Dominion to resubmit when all feasible alternatives have been fully analyzed.  The draft mitigation plan is premature because there are many alternatives that Dominion has not explored. There has not been a robust, technical review of project alternatives, using a “problem solving mindset” that looks at underground options, relocating the line, rebuilding existing lines, combining smaller voltage solutions with distributed energy and/or energy efficiency programs.  Can proceed with the Section 106 Process only when issues regarding alternatives to the Project have been addressed.	<i>See</i> Response to Issue Category 12.

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<b>Issue Category 12 – Alternatives / Oil or Natural Gas</b>			
	on Historic Preservation (4)		
2	National Parks Conservation Association (MOA) (3) Advisory Council on Historic Preservation (1-2) National Park Service (14-15)	The line can be buried and Yorktown Units 1 and 3 could run on natural gas when natural gas is available to supplement Unit 3’s oil burning capacity. Dominion representatives have testified that natural gas supplies at the Yorktown plant are sufficient to allow these units to operate using natural gas for as much as half the year. Unit 1 and 2 could also return to burning oil. The Atlantic Coast Pipeline would likely qualify as a “reasonably foreseeable future action” under NEPA. Specifically, wants to know why the Corps will not consider the pipeline on the supply side, but simultaneously is considering the pipeline as driving demand and load growth. This opens a wide range of alternative for the Corps to consider.	<i>See Response to Issue Category 12.</i>
3	Advisory Council on Historic Preservation	The NPCA asserts that a 250 kV line can be buried under the river that could meet the updated demand predictions. Corps should clearly articulate its consideration of burying a 250 kV line, and share the information regarding its feasibility with the consulting parties and the public before the ACHP and Corps make a decision concerning the adequacy of Dominion’s proposed mitigation package. (2)	<i>See Response to Issue Category 12.</i>
3	National Parks Conservation Association	An alternative that Dominion did not present is firing Units 1 & 2 with oil during high natural gas demand periods when natural gas supplies are insufficient. The units once burned oil in the past. If Dominion has not maintained the oil burners, heaters and pumps, it would be a reasonable cost to convert back to oil. (2)  The facility has infrastructure in place to convert Units 1 and 2 to fire oil. The units are already equipped with more advanced particulate matter pollution controls. Also, Dominion utilizes two oil storage tanks on the Plains All-American oil storage complex. Dominion has existing pier facilities to receive oil via ships. There is also an existing piping system to transport the oil between	<i>See Response to Issue Category 12</i>

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<b>Issue Category 12 – Alternatives / Oil or Natural Gas</b>			
		<p>the pier facilities and oil storage facilities to the power station. The MATS regulation permits the usage of oil in electric utility boilers at a level that will accommodate the oil firing for Units 1 and 2. (2)</p> <p>Converting Units 1 and 2 to oil will give Dominion time to consider long-term, more environmentally sustainable and acceptable alternatives like renewable power projects, underwater construction of transmission lines, energy demand side management, and increased use of existing natural gas facilities at the power plant. (2-3)</p>	

## **Issue Category 13 – EIS / Applicable Standards**

### **General Response:**

#### *The Section 106 Process & NEPA*

NHPA Section 106 regulations (36 C.F.R. § 800.6) require the consideration of mitigating any adverse effects on historic properties that cannot be avoided or minimized. The Corps has identified the Project as one of two feasible alternatives. *See* USACE, Preliminary Alternatives Conclusions White Paper (Oct. 1, 2015). The Corps and SHPO have agreed on the identification of historic properties in the Project Area. *See* “Final List of Historic Properties” and “VDHR Effect Determination Concurrence (Feb. 17, 2016). The Corps determined and SHPO concurred that 44JC0662, Carter’s Grove, Hog Island Wildlife Management Area, the newly defined Eligible Historic District (which includes the contributing portion of the Captain John Smith Chesapeake National Historic Trail), Jamestown Island, Colonial Parkway, Fort Crafford, and Battle of Yorktown would experience an adverse effect due to the Project. This determination and concurrence satisfied the requirements of 36 C.F.R. §§ 800.4 and 800.5.

36 C.F.R. § 800 encourages, but does not require, agencies to complete the requirements of NEPA concurrent with the requirements of Section 106. While there are benefits to doing so, each process has its own scope of investigation and consideration of broader impacts to the human environment is not a consideration under 36 C.F.R. § 800. That said, discussion at every consulting party meeting and public meeting has been open to comments on any topic. The consultation process has not been limited to only a particular set of issues.

Still, Dominion agrees that visual impacts must be considered under NEPA along with other impacts from the Project. With respect to visual impacts, Dominion would expect that the Corps can and would rely on the existing visual impact analyses prepared for Section 106 compliance to comply with NEPA. In addition, the Truescape photographs and simulations, which the Corps has found to be accurate and representative, will aid in that analysis, as will the years of analysis regarding the Project and its potential impacts performed by the Virginia SCC.

The standards with which the Corps must comply that are relevant to the MOA and the resolution of adverse effects are set out in Section 106 of the NHPA and its implementing regulations (36 C.F.R. pt. 800). As noted elsewhere in these comments, nothing in these requirements creates a “higher standard,” or changes the rules based on a subjective belief regarding the significance of the property or historic property at issue. While commenters might disagree with a decision to grant the permit for the Project, that does

### **Issue Category 13 – EIS / Applicable Standards**

not make that decision arbitrary, capricious or unlawful.

#### *EIS*

An EIS is not required here because the unmitigated adverse effects of the Project are not significant, and to the extent they are significant, the provisions of the MOA will more than adequately mitigate them so that there is no significant adverse effects from the Project. Under the Corps' regulations, most permits require an Environmental Assessment, not an EIS. 33 C.F.R. § 230.7(a). Further, in this case there has been a thorough review of alternatives to the project as documented by the Corps. The Corps issued a preliminary white paper summarizing its analysis which is supported firmly by the record in October 2015, and reaffirmed its analysis and findings in April 2016. The need for the Project to provide a reliable source of electricity to the NHRLA and resolve projected NERC Reliability Standards violations has been clearly demonstrated by federally-mandated computer models. Only the Project and the Chickahominy route will meet the project purpose and needs. Dominion has provided an updated analysis showing the continued need after the latest PJM load forecasts and PJM has confirmed the continuing need and that the Project is the best alternative to meet that need, and also is consistent with the CWA § 404(b)(1) guidelines' requirement that the Corps only permit the practicable alternative that has the least amount of adverse impact on the aquatic ecosystem, and does not have other significant adverse environmental impacts. 40 C.F.R. § 230.10(a). An EIS will not improve upon the robust analysis that has been done.

An EIS is required only when a major federal action will significantly affect the quality of the human environment. Under the National Environmental Policy Act ("NEPA"), a determination of significance must be based not only on context, but also on the intensity of an impact, which, under CEQ regulations, evaluates impacts based on matters of degree. 40 C.F.R. § 1508.27(a)-(b). When evaluating impacts to historic properties under NEPA, the permitting federal agency typically classifies the quality of the impacts based on whether there is a direct or indirect physical impact to historic properties, and the extent to which the visual impacts affect the characteristics or diminish the elements of integrity that render the properties historic. This typically is done by categorizing impacts as, for example, negligible, minor, moderate, or major. These categories often are linked to or correlated with the agencies' NHPA § 106 evaluation of whether there are adverse impacts under 36 C.F.R. § 800.5. That evaluation focuses on the extent to which impacts diminish the integrity of the historic property. *See* 36 C.F.R. § 800.5(a)'s 7 integrity factors of location, design, setting, materials, workmanship, feeling, or association. The CREA's evaluation of impacts under 36 C.F.R. § 800.5, the facts surrounding the location of the transmission line and towers, and other record evidence, provide USACE with the information necessary to make significance conclusions regarding visual impacts under NEPA. *See also* Severity White Paper.

The Corps has jurisdiction based on the Project's proposed impacts to navigable waters, including those defined as waters of the

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United States and the Corps' scope of analysis under NEPA is governed by the level of federal involvement and control in a project. 33 C.F.R. pt. 325 App. B.7.b(1); 40 C.F.R. § 1508.25. Here, there is minimal federal involvement in and control over the Project. The impacts to jurisdictional waters triggering the need for the RHA and CWA permits are minimal and limited. The scope of the NEPA review is limited to (a) the impacts of the specific activity requiring the Corps permit and (b) those portions of the larger project over which USACE has "sufficient [f]ederal control and responsibility." 33 C.F.R. pt. 325 App. B.7.b(1). Here, with the exception of the river crossing, the origin, destination, and route of Dominion's transmission lines are not within the control and responsibility of the Corps. It is Dominion's sources of electricity, placement of substations, destination of electricity, existing utility lines and corridors, and other siting constraints that determines potential transmission routes in uplands, not the authorized activity. Thus, beyond the impacts to the river bottom, the conversion of 0.56 acres palustrine forested wetlands to scrub shrub non-tidal wetlands is driven by the need to remove trees from the line route, the location of which is controlled by the existing right of way and Virginia SCC decisions, not the authorized activity. Similarly, the permanent impacts to 0.01 acres of non-tidal wetlands is related to the removal and replacement of existing line towers in long-established utility lines and corridors. The Corps' degree of control is small in light of the Project's overall size. There is no federal funding for the Project. In light of the foregoing, among other things in record, the Corps does not have sufficient control and responsibility over any other portion of the Project except the parts for which the permits are needed. *Id.* App B.7.b(3). Thus, the scope of the Corps' NEPA review is limited to impacts from permanently impacting 2,712 square feet (0.06 acres) of river bottom and the placement of the towers in the river, permanently impacting 281 square feet (0.01 acres) of non-tidal wetlands, and converting 0.56 acres of palustrine forested wetlands to scrub shrub non-tidal wetlands.

Comments that state that the criteria for context and intensity under 40 C.F.R. §1508.27 has been "met" miss the mark. Context and intensity are considerations in determining whether impacts are significant for purposes of NEPA, not thresholds that are or are not met. Here, the effects of the Project are localized, not national. As discussed in the CREA, Severity White Paper, Context Document, and Mitigation Correlation, the visual effects are negligible to moderate, and even assuming they were significant, those effects are more than mitigated for under the proposed MOA.

Effects from the Project have been carefully identified, evaluated and documented. These effects include those on identified historic properties on which the Corps and SHPO concur. Mitigation is being offered to address these impacts. In addition, the Corps has consulted with the National Marine Fisheries Service and the United States Fish and Wildlife Service and other agencies to develop permit conditions to avoid or minimize impacts on the environment, including on endangered species. Because alternatives have been carefully vetted, and direct, indirect, and cumulative impacts have been identified, evaluated, and documented, an EIS would offer no

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additional information necessary for the Corps decision making process required by law. An EIS is unnecessary.

Further, in a case challenging a USACE permit for a barge marina in a rural stretch of the Mississippi River, facts similar to Dominion’s Project, the court addressed whether an EA was sufficient or whether an EIS should be required based on potential visual impacts from the barge project. *River Rd. Alliance v. Army Corps of Engineers*, 784 F.2d 445, 449 (7th Cir. 1985). After articulating the deferential standard of review, the court went on to explain the role of visual impacts and public opposition in making this determination, and rejected both as the basis for mandating an EIS:

Aesthetic impacts alone will rarely compel the preparation of an environmental impact statement . . . . The necessary judgments are inherently subjective and normally can be made as reliably on the basis of an environmental assessment as on the basis of a much lengthier and costlier environmental impact statement. The fact that there was public opposition to the [barge project] cannot tip the balance. *See e.g., Town of Orangetown v. Gorsuch*, 718 F.2d 28, 39 (2d Cir. 1983). That would be the environmental counterpart to the “heckler’s veto” of First Amendment law.

*Id.* at 451.

Thus, as *River Road Alliance* makes clear, the decision whether to conduct an EA or EIS remains in the sole, and sound discretion of USACE, and here the USACE has more than ample information in the record to make a reasonable decision on whether to require an EIS.

#### *Application of NHPA §110(f)*

A commenter states that NHPA § 110(f) applies to the alternatives analysis, and as such, if the transmission line can be buried, that alternative should be evaluated to demonstrate additional planning by the Corps to minimize harm to Carter’s Grove. Assuming Section 110(f) applies, as discussed above, the record reflects that both the Virginia SCC and the Corps have tenaciously considered burying the transmission line, as well as other routing alternatives that minimize harm to Carter’s Grove. These actions easily meet Section 110(f)’s requirement that the Corps, to the maximum extent possible, undertake such planning and actions to minimize harm. *See* Response to Comment 30, Issue Category 1.

As the record reflects, among other things, burying the transmission line presents reliability and operational concerns. For example, locating and repairing damaged underground lines is significantly more difficult, time consuming, expensive, and environmentally damaging than locating and repairing overhead lines. For example, in order to replace a cable in a pipe-type cable system any cable

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splices in the circuit will need to be removed first in order to remove the old cable. Splices are larger in diameter than the pipe (as noted below, the pipe is welded around the splice) and prevent pulling the cable through the pipe. A splice in the riverbed will need to be retrieved by multiple cranes on barges to bring the pipe type cable to a splicing platform. The splicing platform is constructed in the river first before the pipe is retrieved. The pipe is secured to other piles driven in the river and on the platform. A controlled environment room is built on the platform surrounding splice to prevent contaminants and moisture from entering the pipe after it is opened. This room is critical to splicing a cable. Once the new splice is completed, the pipe is welded around the splice and lowered back into the riverbed. The riverbed is prepared by dredging or water jetting the river bottom in order to install the pipe to its proper depth. This process does not take into account the time and effort to remove and install new cables (which would need to be manufactured, causing further delay) in the pipe all of which requires specialized work crews and equipment. This process is extraordinarily expensive and time consuming. In addition, the necessary permits needed to perform dredging work in the river would need to be obtained, which would further increase expenses and delay. In short, this process is neither reasonable nor practicable and does not meet the project’s purpose and need. Other issues concerning this alternative include routing and siting constraints, land acquisition requirements, costs, increased environmental and cultural impacts, and time constraints. *See* Yorktown Response regarding the cost and length of putting the line underground. While some commenters have provided examples of transmission lines that have been buried underwater under different factual circumstances for different projects, as the discussion above suggests, those facts are not analogous here. This option was analyzed fully in the Corps White Paper as an alternative, and ultimately did not meet the project’s need and purpose and otherwise was not practicable. The Yorktown Response provides responses to the Corps additional questions (based on comments from commenters) regarding these issues.

Sources: December 18, 2015 Response to Comments Submitted by Consulting Parties Concerning the Surry-Skiffes Creek-Whealton Project; January 29, 2016 Response to Comments; Dominion’s July 2, 2015 Letter, Attachment 1, Response to Comment O; March 30, 2016 MOA Response to comments; CREA; Severity White Paper; Context Document; Mitigation Correlation Document; Corps Preliminary Alternatives Conclusions White Paper (Oct. 1, 2015); Dominion’s December Response; USFWS/NMFS/Corps correspondence on Corps project website; Yorktown Response.

<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
1	Save the James Alliance	The Corps is held to a higher standard than the beauty is in the eye of the beholder standard because the decision can either save or destroy America’s birthplace. (1)	<i>See</i> Response to Issue Category 13. The legal standards governing the Corps’ decisions do not change based on the

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			commenters' subjective beliefs.
2	<p>Save the James Alliance (1)            First California Company            Jamestowne Society (1)            National Parks Conservation Association (Alternatives) (1)            Scenic Virginia (1-2)            Chesapeake Conservancy (2)            National Parks Conservation Association (MOA)            National Park Service July 27, 2016 (Cover Letter, 1)            Preservation Virginia (1)            Council of Virginia Archaeologists (1)            National Trust for Historic Preservation (2)            Letter from Steward of Carter's Grove (June 15, 2016)</p>	<p>The Corps review to date is a <i>prima facie</i> case for an EIS. Generally rejects the MOA because of inadequate foundational soundness because of the lack of an EIS to support the MOA. The draft MOA is premature. The proposed Project is likely to have significant adverse impacts to NPS units and program lands. Project will cause significant and irreparable damage to historic, scenic, cultural and natural resources including the Colonial Parkway, Jamestown, Captain John Smith Trail, Carter's Grove, and Colonial National Historical Parkway.</p> <p>Some want an EIS because of: (1) the negative impacts to resources that cannot be negated; (2) the project's questionable purpose and need; (3) reasonable, feasible alternatives exist that should be explored; (4) adverse effects have been inadequately studied; and (5) impacts to endangered and threatened species and proposed mitigation of these impacts have not been explored.</p> <p>Wants an EIS because the Project meets the criteria for context and intensity.</p>	<p>commenters' subjective beliefs.  <i>See</i> Response to Issue Category 13.</p>
3	<p>Save the James Alliance (1)            Preservation Virginia (4)</p>	<p>An MOU should not be drafted before the completion of the examinations of all areas impacted by the Project.</p>	<p><i>See</i> Response to Issue Category 13.</p>
4	<p>Advisory Council on Historic Preservation</p>	<p>Section 110(f) standard is applied to the consideration of alternatives, so if the line can be buried, this alternative should be evaluated to demonstrate additional planning by the Corps to minimize harm to the NHL by avoiding effects on the setting</p>	<p><i>See</i> Response to Issue Category 13.</p>

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		and view shed of Carter’s Grove. (2)	
5	First California Company Jamestowne Society	Rejects mitigation and opposes the construction of the proposed Project. (1)	<i>See</i> Response to Issue Category 13.
6	Chesapeake Conservancy	Believes that their concerns in their November 12, 2015 and January 25, 2016 letters have not been adequately addressed including the need for a full EIS and the adverse effects to the John Smith Chesapeake Trail. (1)	<i>See</i> Response to Issue Category 13.
7	National Park Service July 27, 2016	Visual impacts must be considered under NEPA. (3)	<i>See</i> Response to Issue Category 13.
8	National Park Service July 27, 2016	The lack of an analysis of the nature and magnitude of visual impacts of the Project is important because: (1) the decision to approve the project must include visitor experience and aesthetic impacts; (2) likely environmental impacts should be considered; and (3) design of both on-site mitigation and off-site compensatory mitigation must be informed by thorough analysis of the potential impacts of the project. (3)	The adverse visual effects for each resource were adequately addressed in the CREA, the Truescape photographs and simulations, Response to NPS Letters, Severity White Paper, March 30, 2016 Response to Consulting Parties’ comments concerning the Draft MOA, and December 18, 2015 Response to Comments Submitted by Consulting Parties. For further details responding to this

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			comment, <i>see</i> Responses to Issue Categories 13 and 14.
9	National Park Service July 27, 2016	Common sense dictates that a major transmission line crossing a National Historic Trail and adjacent to a National Park will cause significant visual impacts to trail users passing under or near it and the nearby viewers in the National Park. In fact, EISs are routinely prepared for major transmission projects that affect National Trails and National Parks, and the visual impacts of the transmission projects are routinely a central issue in these EISs. Listed transmission projects that required EISs (Boardman to Hemingway 500 kV Transmission Line Project, Northern Pass Transmission Line Project, Susquehanna to Roseland 500 kV Transmission Line, TransWest Express 600 kV DC Transmission Line, and Gateway West 230/500 kV Transmission Line). (15-18)	<i>See</i> Response to Issue Category 13. Further, simply because one agency found that its decision to permit a transmission line would have a significant impact on the human environment does not stand as a rule that another agency must reach that same conclusion with respect to a decision regarding a different project. NEPA does not contain categories of projects that always require an EIS. Instead, the goal of NEPA is to ensure that the federal decision maker is fully informed about the impacts of its decision, which necessarily is a fact- and project-specific inquiry.
10	National Park Service July 27,	Dominion has cited a court opinion that “Aesthetic impacts alone will rarely compel the preparation of an environmental	<i>See</i> Response to Issue Category 13 and

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	2016 (18)  National Parks Conservation Association (4)	<p>impact statement...” The court’s use of the word “rarely” is noteworthy. The court did not say that aesthetic impacts could not compel the preparation of an environmental impact statement, only that it would rarely be the case.</p> <p>There are many federally-protected species in the proposed project area and the details to address the impacts on those species have not been shared. These should be shared for comment.</p>	Response to Issue Category 15 with respect to impacts related to federally-protected species.
11	National Trust for Historic Preservation (7)	Corps has failed to coordinate the NEPA and NHPA reviews as required under 40 C.F.R. § 1500.2(c), § 1500.5(g). The initial August 28, 2013 notice contained a request for public comment under NEPA, but the other public comments have all solicited comment exclusively under the NHPA. No meaningful effort to involve the public in NEPA review or coordinate NEPA and NHPA. In fact, Corps has indicated that it intends to avoid public comment altogether on any EA prepared under NEPA.	<p><i>See</i> Response to Issue Category 13. As noted elsewhere in this response, the Corps has held numerous meeting open to the public and solicited comment on the Project. The public has had ample opportunity to provide comments regarding the Project, as envisioned and required by NEPA, and has taken full advantage of those opportunities, as Dominion’s response to public comment documents show.</p> <p>The Corps will comply</p>

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			with the terms of NEPA, CEQ’s implementing regulations, and the Corps’ NEPA regulations when completing its EA.
12	National Trust for Historic Preservation (7)	Corps failed to comply with Section 110(f) because an EIS has not been prepared and that would represent planning and minimizing harm “to the maximum extent possible.”	<i>See</i> Response to Issue Category 13. Also, it is noteworthy that nothing in Section 110(f) or ACHP’s implementing regulations (36 C.F.R. § 800.10) links compliance thereunder with the performance of an EIS. The Corps has complied with Section 110(f).

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## Issue Category 14 – Impact Disagreements

### General Response:

The seven historic properties (Carter’s Grove, Hog Island Wildlife Management Area, the newly defined Eligible Historic District (which includes the contributing portion of the Captain John Smith Chesapeake National Historic Trail), Colonial National Historical Park/Colonial Parkway, the Jamestown National Historic Site/Jamestown Island, Battle of Yorktown, and Fort Crafford that would experience an adverse effect due to visual impacts and would have an impact intensity of negligible to moderate. For these resources, the visibility of the transmission line would alter the integrity of setting and/or feeling in a way that would diminish the overall integrity of the resource. These resources will still retain historic importance and integrity for setting and feeling, and their other characteristics. While the construction of the Project will introduce elements that are out of historic character for the properties’ setting and feeling, the Project’s structures are seen within the mid-ground to horizon/background and do not obstruct, sever, or surround historical viewsheds for Carter’s Grove, Colonial Parkway, Jamestown, and Fort Crafford. Hog Island derives its historical significance primarily under Criterion D, for its archaeological potential to yield important information in prehistory and history. The construction of structures east of Hog Island will diminish the setting and feeling of the property, but not result in a loss of these characteristics as views from Hog Island to Jamestown are maintained and the setting and feeling within the boundary of the property itself remains. The same also is true for Fort Crafford and Battle of Yorktown. Similarly, the integrity of setting and feeling of the Eligible Historic District will be altered and diminished by the visibility of the transmission line structures, particularly in the immediate vicinity of the river crossing. However, setting and feeling are not lost overall for the resource as important views are maintained (*e.g.*, Hog Island to Jamestown) and visibility of the Project is minimal throughout much of this large property due to distance and topographic and vegetative obstructions. For example, without consideration of the visibility of the structures, more than 75% of the Eligible Historic District is greater than 3.5 miles from the transmission structures, making the structures appear in the background, if they are even visible at all. There would be no adverse effect for the remaining resources. *See* CREA, Severity White Paper, and Response to NPS Letters.

Dominion applied the criteria of adverse effects to identified historic property in accordance with 36 C.F.R. § 800.5(a). The adverse effect for each resource was adequately addressed in Stantec’s CREA. Potential adverse effects were discussed for each identified property and how the relevant aspects of integrity may be affected. While some of the consulting parties may disagree with the level of detail provided or the manner or presentation, both the Corps and SHPO have concurred with the findings and recommendations presented. *See* Virginia Department of Historic Resources February 17, 2016 letter.

The methodology utilized for the Stantec assessment followed the guidance of the VDHR and utilized the compiled list of resources

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that may be affected by the Project, which classified them as architectural and archaeological resources. Stantec evaluated impacts to the Eligible Historic District (which previously was established as the Jamestown Island-Hog Island Cultural Landscape) and determined they would be adversely affected. The landscape associated with individual resources, particularly those where setting and feeling were considered significant to the eligibility of the resource, was considered in the overall assessment of effect. These resources were also considered individually as noted. Photographs were taken for resources during a variety of seasons and environmental conditions. Line of sight analyses took into consideration a “worst case scenario” which would equate to a no vegetation scenario and were calculated from unobstructed key observer points where appropriate. For some resources, it was apparent that the Project would not be visible and viewpoints were utilized to represent potential views from the primary resources.

The boundary of the Eligible Historic District has been interpreted as including the entire water-based portion of the Indirect APE for the Project which extends from approximately the James River – Scotland Wharf Ferry crossing downstream to the mouth of the Pagan River and includes a portion of the Captain John Smith Chesapeake National Historic Trail, which extends from shore to shore of the James River, as well as Jamestown Island and Hog Island because of their locations within the James River. Included in the boundaries of the Eligible Historic District, as noted by the Keeper’s correspondence of August 14, 2015, are historic properties including Jamestown National Historic Site, Colonial Parkway, Yorktown Battlefield, and Carter’s Grove National Historic landmark, as well as archaeological sites on Hog Island and twelve additional sites located within the Indirect APE that have been listed or determined eligible for listing on the NRHP. A recommendation of adverse effect was made for the Eligible Historic District which includes the Captain John Smith Chesapeake National Historic Trail within the APE.

As set out in the CREA and Dominion’s December 18, 2015 Response to Comments Submitted by Consulting Parties, the cumulative effects analysis considered cumulative effects for all properties for which a visual effect could accumulate. To the extent a property was not affected by the Project, it need not be the subject of a cumulative effects analysis. *See* CREA; Response to NPS Letters.

Dominion recognizes that the proposed project will result in adverse effects to historic property listed or considered eligible for inclusion in the National Register. Under the NHPA Section 106 process, the consideration of cumulative effects is included in determining whether there are adverse effects to the historic properties previously identified in the process as potentially affected by the action at issue. 36 C.F.R. § 800.5. In identifying historic properties that will be adversely impacted, Dominion has fully identified cumulative effects, i.e. “the incremental environmental impact or effect of the proposed action, together with impacts of past, present, and reasonably foreseeable future actions.” 40 C.F.R. 1508.7; CREA; Response to NPS Letters. The relevant area of the river contains a number of modern (in the sense that they are not historic properties) facilities. The analyses also recognizes that the proposed transmission line project will maintain reliable power to a large region, and provides no advantage to locating additional

## Issue Category 14 – Impact Disagreements

new facilities in the immediate project area. Thus, it is not like a highway interchange that brings traffic or fosters and focuses development in nearby areas; instead, it distributes power throughout a large region allowing new facilities to be dispersed. Finally, it also appropriately recognizes the numerous land conservation efforts have been undertaken in this area that prohibit or severely limit development in certain portions of this area, or require buffers and set-backs so that land-based projects that go forward are not seen from the river and shoreline. It recognizes that such conservation effects have been and can be effective at doing what they were created to do—limit development and/or impacts related thereto in the area. For example, area local governments are obligated to implement provisions of the Chesapeake Bay Act which require a 100-foot buffer to development, Resource Protection Area (RPA) on lands adjacent to perennial flow water bodies. And the proposed mitigation will further this goal by providing additional land acquisition, conservation and protective measures. *See* CREA; Response to NPS Letters.

While the NHPA Section 106 analysis (and its guiding principles) is substantially similar to the cumulative impacts analysis under NEPA, the focus of each analysis is different. Under the NHPA Section 106 process, the context of the cumulative effects analysis renders it narrower in scope than the cumulative impacts analysis under NEPA. Under the NHPA Section 106 process, the consideration of cumulative effects is used only to determine whether there are adverse effects on the historic properties previously identified in the process as potentially affected by the action at issue. 36 C.F.R. § 800.5. Under NEPA, cumulative impacts are one of three types of potential impacts from an action (the other two being direct and indirect) that on their own or together might be determined to result in a significant impact to the human environment. Thus, the NEPA cumulative impacts analysis is broader. Nevertheless, while the two inquiries scopes are different and they inform different legal questions, as noted, they are conducted in essentially the same way using similar guidelines. The CREA recognizes these similarities and differences. CREA at 5.266. Consequently, the CREA’s cumulative effects analysis under the NHPA Section 106 process need not extend beyond the historic properties at issue.

The term “cumulative effects” under the NHPA regulations is not defined, and both the Council on Environmental Quality (“CEQ”) and ACHP agree that it should be interpreted as that term is defined by the CEQ in its NEPA regulations. *See* CEQ and ACHP, *NEPA and NHPA: A Handbook for Integrating NEPA and Section 106*, at 41 (Mar. 2013). As such, it was appropriate for the CREA’s cumulative effects analysis to be guided by and follow CEQ’s *Considering Cumulative Effects Under [NEPA]* (1997) and *Consideration of Cumulative Impacts in EPA Review of NEPA Documents* (1999). In accordance with this guidance, regarding Step 2 of the CREA methodology the CREA explains that it references different time periods when attempting to determine what reasonably foreseeable future actions may be planned for the area near the Project, because land development projects likely have shorter planning horizons than energy development projects. CREA at 5.267 (“The time period to assess reasonably foreseeable future action is dictated by the timeframes for planning level documentation that can contain information on such reasonably

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foreseeable future actions.”). As the CREA makes clear, all potential resources were investigated to determine what actions were reasonably foreseeable and did not artificially limit that review. No reasonably foreseeable actions have been identified that the CREA failed to consider.

Step 4 of the CREA methodology was also conducted appropriately. Per CEQ guidance, Step 4 is to ensure that the condition of the environment and the resources are described. CREA at 5.267. Based on over 200 pages of analysis in Sections 3 and 4 of the CREA, assessing thousands of pages of prior investigations regarding the historic properties at issue, it concludes that the conditions of historic properties have been well documented. The CREA addresses the purported lack of documentation about the Eligible Historic District that was only recently recognized as eligible for the National Register. The Keeper designated the Eligible Historic District as eligible for the National Register based on the presence of the historic properties the CREA analyzes and references. That is, the prior investigations regarding the historic properties provide the documentation regarding the contents of the Eligible Historic District, and thus, of the Eligible Historic District. In addition, the CREA categorizes historic properties’ investigations as “archeological” or “architectural,” but this does not mean that the CREA fails to consider them as landscape-based resources. The list of historic properties assessed was unquestionably complete. In addition, USACE’s and VDHR’s categorization of resources as architectural or archaeological was based on whether they were above or below ground, and did not, in any way, limit the consideration of all of the important aspects of each historic property, including landscapes. Dominion agrees that some of the historic properties have landscapes associated with them, and, to the extent they did, the CREA correctly recognized that fact and took it into consideration. For example, as noted and analyzed in the CREA, prior to the Keeper’s designation of the Eligible Historic District, both Dominion and USACE recognized the potential eligibility of the Jamestown Island- Hog Island Cultural Landscape. While that landscape ultimately was supplanted by the designation of the Eligible Historic District, it was analyzed by Dominion and USACE prior to the issuance of the CREA, and that analysis was incorporated into the CREA’s analysis of the Eligible Historic District. CREA at i, 3.215-.229. That analysis makes clear that landscape consideration of the district was addressed, and the analysis was not limited to only “architectural” considerations. Thus, there is nothing flawed about the CREA’s methodology or its analysis—it appropriately assessed landscape considerations.

The CREA evaluates the visual impacts of the Project’s towers using both a visual geoprocessing tool and line-of-sight geoprocessing tool. The former has a “potential to overestimate the visibility of features” and the latter uses specific observation locations and targets to determine whether targets can be seen from various locations. As explained in the Response to NPS Letters, the CREA followed NPS Guidance regarding the evaluation of visual impacts. In particular, it evaluated the visual impacts from key observation points, where people are likely to be, as well as worst case viewing scenarios.

### Issue Category 14 – Impact Disagreements

Sources: December 18, 2015 Response to Comments Submitted by Consulting Parties; March 30, 2016 Response to Comments made by Consulting Parties; Stantec, Summary of Corps Public Notice Comments and Responses, at 4 (May 12, 2014); March 30, 2016 Response to comments made at the public hearing; January 29, 2016 Response to Comments; Dominion’s July 2, 2015 Letter, Attachment 1, Response to Comment O; Alternative Analyses Summary (August 28, 2015); letter from S. Miller, Dominion, to L. Rhodes, USACE , Attachment 1, Response to Comments F, G (July 2, 2015); Cultural Resources Effects Assessment; CREA; Response to NPS Letters (providing response to NPS criticisms of the CREA and its cumulative effects analysis); Severity White Paper; Mitigation Correlation document.

No.	Commenter	Comment	Response
1	Save the James Alliance	Indisputable that the project will destroy a view of national and international significance. (1)	See Response to Issue Category 14.
2	<p>Scenic Virginia (3)</p> <p>National Park Service July 27, 2016 (7-11)</p> <p>Preservation Virginia (2, 4)</p>	<p>Not sure whether Dominion’s methods to resolve the project’s adverse effects will be effective given unanswered questions concerning the extent and severity of the effects. Wants additional visual impact studies.</p> <p>The Corps has not cited to peer-reviewed, science-based visual impact analysis methodology used in other locations. Instead, the draft MOA includes suggestions that some viewers may find the transmission project a visual amenity.</p> <p>The Corps’ documents suggest that visual effects are subjective and cannot be measured and visitorship did not fluctuate with major construction projects within the APE. These are unsupported in the literature. Finds that the socioeconomic analysis is insufficient. States that Federal agencies are directed to consider ecosystem services in their planning and decision-making. Claims that public values for the visual quality of a landscape can be quantified and cited to different documents as evidence of</p>	<p>See Response to Issue Category 14.</p> <p>See Response to Issue Category 15 regarding socio economic impacts comments.</p>

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<b>Issue Category 14 – Impact Disagreements</b>			
		<p>such. Finds that it would be feasible and worthwhile to evaluate the potential loss in economic value resulting from the possibility of diminished visitor experience due to aesthetic impacts from the proposed transmission line.</p> <p>Still do not have answers to questions about the nature and severity of the adverse effects, making it impossible to fully consider methods proposed in the MOA.</p> <p>Paragraph 5 “Whereas” clause that states that the work completed to date satisfies visual effects assessment requirements is inaccurate. NPS’ March 25, 2016 comments detailing the inadequacy and deficiencies of the visual effects assessment completed by the project applicant have been “ignored.”</p>	
3	Scenic Virginia	Stantec’s CREA was inadequate. (3)	<i>See Response to Issue Category 14 and Dominion’s December 18, 2015, Response to Consulting Party Comments.</i>
4	National Parks Conservation Association (MOA)	The project will have significant negative impacts to Colonial National Historical Park, Colonial Parkway, Carter’s Grove, the Captain John Smith Chesapeake National Historic Trail, the Washington-Rochambeau Revolutionary Trail, and the segment of the James River that is a state scenic river, and natural resources that cannot be mitigated. There will also be view shed impacts and impacts to visitor experience. (1)	<i>See Response to Issue Category 14.</i>
5	National Park Service July 27, 2016 (Cover	Issues related to the Section 106 process remain unresolved including: (1) completion of an adequate	Socio economic impacts are addressed in Issue Category 15 and

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	Letter, 2)	visual analysis; (2) evaluation of socioeconomic impacts; (3) proper assessment of effects for each historic property including understanding the effect and its severity; and (4) sufficient cumulative effects analysis.	cumulative impacts are addressed in Issue Category 8.  <i>See</i> Response to Issue Category 14.
6	Preservation Virginia	CREA is inadequate in the methodology and analysis provided to accurately discuss the magnitude of the adverse effects on historic resources. References attached letter from Genevieve Keller of Land and Community Associates that notes deficiencies of the studies to date and the need for a reassessment. (2)	The CREA’s methodology is sound and consistent with the requirements of the Section 106 implementing regulations criteria for determining adverse effects on historic properties. Response to NPS Letters. The severity of the effects are discussed accurately in the CREA, as well as in the Severity White Paper. <i>See also</i> December 18, 2015 Response to Comments Submitted by Consulting Parties, and Response to Issue Category 8 – Adequacy of Cumulative Effects Analysis.  <i>See</i> Response to Issue Category 14.
7	National Park Service July 27, 2016	The NPS Visual Impact Assessment Evaluation Guide for Renewable Energy Projects (the NPS Guide) describes methods available for identifying both the nature and magnitude of visual impacts. Considerations for determining the magnitude of visual impacts include: (1) the number of viewers, (2) the length of time the contrasting elements are in view, and (3) the sensitivity of the viewers to the changes to the view that result from the presence of the project. Found that hundreds of thousands will be subject to the view and view duration will be	<i>See</i> Response to Issue Category 14.

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<b>Issue Category 14 – Impact Disagreements</b>			
		relatively long. (4-5)	
8	National Park Service July 27, 2016	The visual impact assessment fails to address the visual impacts to the visitor experience for visitors to the Captain John Smith Trail and nearby onshore locations within Colonial National Historical Park (NHP). (3)	Visual impacts to the Colonial Parkway, Jamestown, and the Captain John Smith Trail were appropriately analyzed in the CREA and the Truescape photographs and simulations provided in May 2016 (revised June and August 2016). The line-of-sight analyses include observation points located on the river, as well as from the two Colonial NHP units at issue. In addition, to improve visitor experience, the MOA requires a heritage tourism and visitor impact study to be conducted to develop a marketing and visitation program to promote and enhance heritage tourism sites and visitor experiences within the Indirect APE.  <i>See Response to Issue Category 14.</i>
9	National Park Service July 27, 2016	The Project would be an overwhelming visual presence. Came to this conclusion by analyzing the results of a transmission facility visibility field study conducted by Argonne National Laboratory for the U.S. Department of the Interior Bureau of Land Management. Stated that Dominion’s project will be visible at a distance of 2.5	Reasonable minds can differ on the degree of visual presence the Project will have. The CREA provides a thorough, detailed analysis of the visual impacts of the project and uses line-of-site and visibility tools to make its determination. The CREA

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<b>Issue Category 14 – Impact Disagreements</b>			
		miles. (5)	<p>was independently reviewed and adopted by the Corps with concurrence from the SHPO. The extent of visual impacts is further documented and supported by the Truescape photographs and simulations, as well as in the Severity White Paper. Finally, the visual impact analysis was performed consistent with the NPS-Argonne National Laboratory methodology, as documented more fully in the Dominion’s comments on the NPS visual impacts assessment (Nov. 13, 2015), Response to NPS Letters, and Severity White Paper.</p> <p><i>See</i> Response to Issue Category 14.</p>
10	National Park Service	MOA Context Document downplays the severity of the effects. (32)	<p>The Context Document is based on the thorough analysis in the CREA. The Severity White Paper provides additional explanation and analysis regarding the severity of impacts, and responds to NPS comments and assertions regarding the alleged severity of impacts. In any event, as consistently repeated in past responses to comments and meetings, reasonable minds can differ as to the</p>

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<b>Issue Category 14 – Impact Disagreements</b>			
			severity of effects of the Project. <i>See Response to Issue Category 14.</i>

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## **Issue Category 15 – Miscellaneous**

### **General Response:**

The comments in this Issue Category include all the comments that were not categorized in one of the fourteen other Issue Categories listed above. For comments regarding socio economic impact or impacts on water quality and endangered species, the general response below is responsive. For other comments, responses are with the relevant comment below.

### *Socio Economic Impact*

The purpose of the Project is to provide electricity to the NHRLA including Williamsburg, the historic triangle, and surrounding area, including several military installations. Electricity is required for public health and safety. In addition, businesses that rely on and facilitate heritage tourism need electricity. As stated at the public hearing by Mr. Robert Coleman, Vice Mayor of Newport News City Council (Public Hearing Tr. Pg. 56), and Mr. Ross A Mugler, Commissioner of Revenue for the City of Hampton (see Public Hearing Tr. Pg. 88), the Project is needed to attract and retain businesses in the Peninsula. Not having reliable electricity would damage the economy of the area as a business destination. Businesses that would be affected include military, Federal, civilian, and national security installations. The same logic applies to hotels and restaurants. Without them, there would be no tourism. The Project is necessary to maintain tourism, including heritage tourism.

Common experience regarding the tourists' experience at the historic properties in question, for example Jamestown and Carter's Grove, informs us that the Project would have little to no impact to tourism. This is because these properties and attractions focus the tourists' interests landward toward the physical manifestations, or replications and explanations thereof, of the historic activities that occurred there, and not the river views that historic inhabitants may have had.

In its Approval Order, the Virginia 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."

Finally, record information regarding the likely effect of the Project on heritage tourism concludes that the Project likely will not negatively affect local tourism, but instead will aid it by providing a reliable source of power.

Sources: December 18, 2015 Response to Comments Submitted by Consulting Parties; Stantec, Summary of Corps Public Notice

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Comments and Responses, at 4 (May 12, 2014); March 30, 2016 Response to comments made at the public hearing; Heritage Tourism Assessment; *see also* Mitigation Correlation (discussing macro-economics in the region).

### *Water Quality and Endangered Species*

Impacts to water quality are expected to be temporary and minor, resulting from the installation of piles in the river crossing and construction of structure foundations within the land portions of the Project. Impact installation of piles within the substrate in the James River would not be expected to contribute to more than negligible turbidity. Construction work on the land portion of the Project will be performed using Best Management Practices to minimize erosion and sedimentation under Dominion's General Erosion and Sedimentation Control Specifications for the Construction and Maintenance of Electric Transmission Lines. The Corps will fully consider the effect to water quality in its Public Interest Review.

Regarding protected species in the river, formal consultation under the Endangered Species Act is not required if the National Marine Fisheries Service ("NMFS") concurs with a finding of "Not Likely to Adversely Affect." USACE coordination with NMFS has been ongoing concerning effects to the Atlantic sturgeon. On April 16, 2014, NMFS completed its informal consultation with the USACE regarding the proposed Project, concurring with USACE that the Project and USACE's issuance of permits was "not likely to adversely affect" species listed under the Endangered Species Act. In July 2014, NMFS re-affirmed that conclusion and found that re-initiation of informal consultation was not necessary related to potential project phasing. On June 10, 2015, USACE re-initiated consultation with NMFS. In an email to USACE dated June 23, 2015, NMFS provided several best management practices ("BMPs") that, if implemented, could allow for NMFS to concur that effects to the sturgeon would be insignificant or discountable. These BMPs included time of year restrictions and use of bubble curtains during pile driving activities to attenuate noise. Dominion has agreed to implement these measures and communicated this to USACE. USACE submitted a follow-up letter to NMFS on November 25, 2015 and also submitted additional information on December 17 and 29, 2015 in order to consider changes to the Project and provide new information about listed species in the action area. After reconsideration, in a lengthy, thorough analysis set forth in a January 28, 2016 letter, NMFS agreed with the USACE that re-initiation of informal consultation was appropriate, and concluded that the changes to the Project and other new information did not change its conclusion that it concurs with USACE that the Project and USACE's issuance of permits for it is "not likely to adversely affect" the Atlantic sturgeon.

In an email dated May 7, 2015, the USFWS indicated that they could concur with a "Not Likely to Adversely Affect" determination for the northern long-eared bat if no tree clearing occurs between April 15th through September 15th of any year. Dominion has agreed to this time of year restriction and communicated this to the Corps.

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**Issue Category 15 – Miscellaneous**

*BASF*

Dominion has coordinated with BASF to revise the proposed route across its property. The route across the BASF property was the subject of extended proceedings before the Virginia SCC which ultimately approved the route.

Sources: December 18, 2015 Response to Comments Submitted by Consulting Parties Concerning the Surry-Skiffes Creek-Wheaton Project; September 8, 2014 Section 106 Consulting Party Comment Response; March 30, 2016 Response to Consulting Parties’ comments concerning the Draft MOA.

<u>No.</u>	<u>Commenter</u>	<u>Comment</u>	<u>Response</u>
13	Save the James Alliance	The organization is confused as to why it’s taking this long for the Corps to deny the permit as well as why common sense of reasonable people is set aside in the process. (1)	The NHPA § 106 process imposes specific requirements and the Corps has gone above and beyond the procedures to allow public and consulting party comment on the project. The Corps has performed site visits to experience the landscape from various viewsheds and to further inform its decision. It has also meticulously reviewed and considered detailed comments in executing its duties. The Project’s purpose and need is essential for public health and safety. For these reasons, the Corps cannot reject the project based on the commenter’s view of what is “common sense”; the Corps must comply with the laws applicable to its decision making.
14	National Parks Conservation Association (MOA)	Socio-economic impacts have not been studied or properly considered. (3)	<i>See</i> Response to Issue Category 15.

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15	National Park Service July 27, 2016	Visitors would be highly sensitive to visual intrusions of the Project given its massive size. (5)	The comment represents the commenter’s opinion that visitors would be highly sensitive to visual intrusions of the Project. The visual impact analyses regarding the Project shows that the effect of the Project will be negligible to moderate, and will be negligible to minimal where visitors likely will be ( <i>e.g.</i> , Colonial Parkway and Jamestown), where the Project is over 3.25 miles away and, while noticeable, faded into the background/horizon and not prominent.
16	Preservation Virginia	Water quality degradation, loss of oyster producing leases, adverse impacts to endangered species (including long-eared bat and sturgeon), adverse impacts to bald eagles, and disruption of remediation at BASF property will result from Project. (2)	<i>See</i> Response to Issue Category 15.
17	Council of Virginia Archaeologists	Granting the permit would set a harmful precedent for cultural resources, both state and nationwide. (1)	Comment Acknowledged. Under the Section 106 implementing regulations, projects are evaluated on a case-by-case basis looking at the specific facts relevant to the project. The CREA provides a robust discussion of cumulative effects from reasonably foreseeable actions in the area, and did not identify any. <i>See</i> Response to NPS Letters.
18	National Park Service	Whereas Clause 19 → Shows that Corps is overlapping the 4 steps in the Section 106 process (declared steps 1-3 complete and began	The Corps has followed the steps outlined in 36 C.F.R. § 800 and sought input from the SHPO and consulting parties at each step as required.

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		<p>drafting and MOA before consulting parties commented on the CREA)</p> <p>The Corps identified the effects in its email to the consulting parties. <i>See</i> email from Randy Steffey to consulting parties dated October 13, 2015; List Of Identified Archaeological Resources And Corresponding Effect Determinations and List Of Identified Architectural Resources And Corresponding Effect Determinations attached to email from Randy Steffey to consulting Parties dated January 29, 2016; Letter from Roger W. Kirchen, Director, Review and Compliance Division VDHR to Randy Steffey, USACE dated February 17, 2016. Both the SHPO and the ACHP have affirmed the Corps’ determination that the process is now at 36 C.F.R. § 800.6 resolution of adverse effects. <i>See</i> Consulting Parties Meeting 5 Transcript at 24. Issues related to so-called overlapping of Section 106 steps were addressed in the Corps’ April 5, 2016, letter to ACHP, as well as Dominion’s June 28, 2016, letter to the Corps related to ACHP’s comments. Those documents demonstrate that the Corps has faithfully and robustly complied with the Section 106 regulations, and completed all of the steps thereunder, while always permitting consulting parties to continue to discuss issues under completed steps.</p> <p>The Corps has offered opportunities for public comment and held consulting party meetings on</p>

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			each of the four steps. In each of these meetings and comment periods the consulting parties have chosen to address other steps.

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