



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

February 10, 2021

Mr. Randy Steffey  
U.S. Army Corps of Engineers  
Norfolk District  
803 Front Street  
Norfolk, Virginia 23510-1096

RE: Dominion Energy's Surry-Skiffes Creek-Wheaton Aerial Transmission Line Project Draft Environmental Impact Statement

Dear Mr. Steffey:

In accordance with the National Environmental Policy Act (NEPA) of 1969, Section 309 of the Clean Air Act, and the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR 1500-1508), the U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS or Study) for the Virginia Electric Power Company (Dominion) project known as Surry-Skiffes Creek-Wheaton Aerial Transmission Line (Project), prepared by the U.S. Army Corps of Engineers (USACE or Corps). Thank you for providing the Study for our review. We are providing comments for your consideration in developing the Final Environmental Impact Statement (FEIS).

The Project consists of a 7.76-mile 500 kilovolt (kV) overhead transmission powerline, a switching station on 51 acres in James City County, and 20.2 miles of 230kV overhead powerline on an existing right of way to the Wheaton substation in Hampton, Virginia. As detailed in the DEIS, the USACE issued permits and prepared an environmental assessment (EA) for the Project in July 2017. Dominion constructed the Project and it was electrically energized on February 26, 2019. The permit was challenged, and the USACE was directed to prepare an EIS pursuant to NEPA. EPA provided scoping comments for the EIS on September 3, 2019.

As outlined in the DEIS and the 2017 Memorandum of Agreement (MOA) developed in accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA), the Project has adverse impacts on nationally important cultural resources in the "Historic Triangle" defined by Jamestown, Colonial Williamsburg, and Yorktown. This area contains historic properties significant for their contributions to the nation's pre- and post-contact cultural heritage. The Advisory Council on Historic Preservation stated "the area is the setting for the first enduring English occupation in North America, the development of the Virginia Colony, plantation sites from the 18<sup>th</sup> and 19<sup>th</sup> centuries, military activity associated the Civil War, and thousands of years of indigenous Native American occupation." The National Park Service described the resources affected as "crucial to the foundations of our modern nation." Many commenters have stated that the preservation of the view of the James River experienced over 400 years ago truly made history come alive. While the DEIS indicates that the Regional Transmission Operator (PJM Interconnection, L.L.C.) identified the project as the preferred and most effective solution to address the expected grid reliability criteria violations in the system, the

consequences of impacting nationally significant cultural resources that are valued by so many Americans must be carefully weighed.

The DEIS focuses on describing the framework to assess impacts under Section 106 of the NHPA and lists the affected resources. We recognize that the USACE has included a substantial amount of information in the appendices and on the project website. However, we note that in emphasizing the process and history of the Project, the DEIS may be perceived as not fully acknowledging the significance of the affected historic resources. Therefore, we recommend that the discussion of the “unique characteristics of the historic and archaeological resources” be highlighted in Section 3.3.5 (Cultural Resources). Overall, we recommend that the FEIS clearly state the findings of impacts to each resource, indicate the information/studies used to make the determination, and link to the supporting information.

EPA agrees it is appropriate to consider a full range of alternatives, particularly options that would avoid the visual impacts to nationally important resources. The environmental consequences associated with the construction and development of the Project and Chickahominy Alternative were evaluated in the DEIS. We concur with the finding that the Chickahominy Alternative would likely have adverse impacts to a number of biological resources as it would impact substantially more forested land and wetlands, and it would create more habitat fragmentation than the Project. We recommend that the USACE’s findings that the other alternatives do not meet the purpose and need or are not practicable be clearly addressed in the FEIS. Please see several questions and comments regarding the alternatives analysis and other topics in the attached enclosure.

The MOA was a key component of the permit issued in 2017. It required a number of actions, including mitigative projects, studies, and reports. EPA recommends clearly addressing the status of activities outlined in the MOA in the FEIS, including which mitigation has been completed, what is planned, and where the reports and studies can be accessed. This information could potentially be used to assess the need for additional permit conditions or mitigation.

As stated, the decision before the USACE is whether the permit should be reissued to authorize the Project as currently constructed and operating, issued with modifications, or denied. If the USACE finds the Project to be the preferred alternative, we recommend evaluating permit modifications or including conditions that would provide additional avoidance, minimization, and/or mitigation measures in consultation with appropriate agencies and nongovernmental organizations. Such measures could include further mitigation for the existing viewshed impacts, measures to prevent potential cumulative impacts from additional modern intrusions, a commitment to develop other solutions for the North Hampton Roads Load Area (NHRLA) as technology advances, or a more robust re-evaluation of the project as a long-term but interim solution, as contemplated in the MOA.

We also recommend that the USACE include a discussion in the FEIS whether any additional consultation in accordance with Section 106 of the NHPA will be conducted. Given that six tribes in Virginia were federally recognized after the MOA was signed, we encourage the USACE to re-engage the tribes in effective tribal consultation and coordination.

Thank you for the opportunity to review this project and for considering our comments. We would be happy to discuss these comments at your convenience. Please feel free to contact me at 215-814-3402 or [Nevshehirlian.Stepan@epa.gov](mailto:Nevshehirlian.Stepan@epa.gov). The staff contact for this project is Carrie Traver; she can be reached at 215-814-2772 or [Traver.carrie@epa.gov](mailto:Traver.carrie@epa.gov).

Sincerely,

Stepan Nevshehirlian  
Environmental Assessment Branch Chief  
Office of Communities, Tribes & Environmental  
Assessment

Enclosure

## **Enclosure**

### Dominion Power Surry-Skiffes Creek-Whealton Aerial Transmission Line DEIS

#### **General**

Given the long history, complex consultation, and many documents, we note that it is difficult to navigate and locate information in the multi-part appendices that are used to support the findings stated in the DEIS. A master table of contents (preferably with links) that clearly indicates where the appendices, reports, and figures can be found would be helpful in reviewing the materials and understanding the conclusions presented in the DEIS. Where the narrative relies on underlying analyses in an appendix, we recommend linking directly to this information and/or clearly stating in which section of the appendices it can be found. Page numbers would also be helpful.

Section 1.5.3 indicates that Chapter 3 defines the significant resources and the resources that are not analyzed in detail. We did not find a discussion of resources that were dismissed from detailed consideration in Chapter 3 and recommend that this be added.

As the Project has been constructed, assessing baseline conditions is a challenge. The USACE evaluated the alternatives as if the permit had not been issued and the Project had not been constructed. However, some current conditions were used to inform the Study (i.e. the passage of the Virginia Clean Economy Act). While we generally understand this approach, it complicates the assessment of impacts and alternatives as it requires selecting which existing conditions are considered and which are not. In some cases, the existing conditions may better inform the impacts in the FEIS; therefore, we recommend that the USACE clearly describe this decision-making process in the applicable sections.

#### **Alternatives**

EPA appreciates that the USACE evaluated the load growth assumptions. While it is not within the expertise of the Environmental Assessment Branch to provide comments on the appropriate estimate for electric demand, it was clear in the DEIS that the USACE had independently evaluated this critical factor. We recommend that the FEIS include additional narrative explanation to clearly indicate how the Corps assessed the viability of the 29 alternatives, including:

- The Chickahominy Generation alternative was not carried forward because the proposed generation is located outside the NHRLA. While addressed further in Dominion's Alternatives Analysis, we recommend that Section 2.3 clearly explain why this alternative could not provide electrical transmission capacity into the NHRLA.
- It is unclear how the existing conditions impact the consideration of the required in-service date for the alternatives. In Section 2.2.2, it is stated that the USACE selected 2030 as the long-term compliance date based on the most recent PJM regional transmission expansion planning evaluation. Alternatives that would not be in service by 2030 were eliminated as not meeting the project need because they would not minimize the amount of time of noncompliance with the North American Electric Reliability Corporation (NERC) Reliability Standards. However, Section 2.2.2 also states that "the Courts have allowed the Project to operate until the Corps or the Courts subsequently rule it must be de-energized and decommissioned... In this case, the Project effectively serves as an interim RAS [Remedial Action Scheme], which means no NERC reliability standards violations will occur until and unless the Project is ordered to be decommissioned before an alternate solution is constructed." This appears to suggest that the

time for implementation of alternatives is not a critical consideration. We recommend that the FEIS clarify why the 2030 compliance date is appropriate for the current analysis.

- Additionally, if additional information comes to light regarding alternatives, we recommend that it be evaluated in the FEIS.

### **Cultural Resources**

As indicated above, it would be helpful if the FEIS clearly explains the specific impacts to the nationally important historic resources, including Carters Grove National Historic Landmark, Colonial National Historic Park/Colonial Parkway Historic District, Hog Island Wildlife Management Area, Jamestown National Historic Site/Jamestown Island/Jamestown Island Historic District, the “Eligible Historic District” (Jamestown Island-Hog Island-Captain John Smith Trail Historic District), the Battle of Yorktown, and Fort Crafford, and how mitigation has or will offset the impacts to these resources. It would be helpful to clarify if additional NHPA coordination or consultation will be done for the Study.

Section 1.3.2.4.3 (National Historic Preservation Act) briefly lists key mitigative measures taken in accordance with the MOA. We recommend clearly addressing the status of activities outlined in the MOA, including what mitigation has been completed, what is planned, and where the reports and studies can be accessed and/or how they will be used.

The Ethnographic Analysis provided in Appendix D is a summary of indigenous cultures historically present; the DEIS does not highlight the specific importance of the project area to tribes. Further consultation and coordination with tribes could enhance this analysis.

We recommend that the FEIS more specifically address visual impacts during both day and nighttime. Section 4.3.6 indicates that the Visual Impacts Analysis prepared by the Applicant’s consultant for the June 2020 Alternatives Analysis considers historic properties and additional visual resources and Sections 4.3.3.2.1 and 4.3.3.2.2 of the DEIS reference “visual impacts (including lighting on towers at night),” but there is little discussion of the specific impacts. We recommend that 4.3.6.1 further explain the impacts on visual quality and link to the specific section of the appendices.

### **Air Quality – General Conformity**

As described in Section 3.1.3, the affected environment is located within the State Capital (Counties of Charles City and Surry) and Hampton Roads (Cities of Hampton, Newport News and Williamsburg, and Counties of York and James City) Air Quality Control Regions. This section states that all counties and cities within the affected environment meet the National Ambient Air Quality Standards for criteria pollutants.

Although these areas are currently in attainment, both the Hampton Roads Area (which includes the cities of Hampton, Newport News, and Williamsburg and Counties of York and James City) and the Richmond-Petersburg Area (which includes Charles City County) are designated as marginal maintenance areas for the 1997 ozone NAAQS. Maintenance areas must maintain and demonstrate compliance with the NAAQS for at least 20 years after their redesignation to attainment; both the Hampton Roads Area and the Richmond-Petersburg Area were redesignated to attainment for the 1997 ozone NAAQS in June 2007. [<https://www.federalregister.gov/documents/2007/06/01/E7-10581/approval-and-promulgation-of-air-quality-implementation-plans-virginia-redesignation-of-the-hampton> ; <https://www.federalregister.gov/documents/2007/06/01/E7-10582/approval-and-promulgation-of-air-quality-implementation-plans-virginia-redesignation-of-the>]. Federal agency

projects within maintenance areas must conduct general conformity and transportation conformity determinations as part of the demonstration of continued maintenance of the NAAQS. We recommend that the FEIS include a conformity applicability analysis or determination in line with conformity requirements, including an estimate of annual emissions of ozone precursors for construction of the Project.

### **Waste and Hazardous Sites**

We recommend the potential presence or generation of hazardous materials for the Project or practicable alternatives be evaluated in the FEIS. Specifically, we suggest including a discussion of the potential for construction to mobilize contaminants or to impact remediation efforts. For example, the Project crosses property owned by the BASF Corporation in James City County, where investigations and remediation of soil and groundwater have occurred and may be ongoing. Contaminants of concern include benzene, 1-dichloroethene, 4-dioxane, cis-1, 2- dichloroethene, perchloroethylene, vinyl chloride, and zinc. It would be helpful for the FEIS to indicate whether any potential earth disturbance has or would occur on known contaminated properties.

### **Surface Water Resources**

Section 4.1.5.1.1 indicates that stormwater runoff and potential indirect impacts to aquatic resources associated with the construction of the Skiffes Creek Switching Station would be mitigated via state and local agency permits. We recommend that additional information regarding the construction of stormwater management facilities to prevent and reduce impacts be included in the FEIS.

### **Cumulative Effects**

In accordance with the MOA, a number of additional projects were required to mitigate impacts, including water quality improvement projects. Some of these may have associated construction impacts. We recommend that the status of these mitigative efforts and their effects also be evaluated in the FEIS.

As described in Section 4.3.5.3.4, the combination of the Project's impacts with past development would result in an overall adverse cumulative impact. Further, introducing industrial infrastructure may present an opportunity for additional modern facilities to continue to be added into the landscape of the James River. Conservation efforts and preservation measures may reduce the potential for future development that could add to cumulative impacts. It would be helpful to discuss the specific measures that may be existing or that could be enacted to reduce future impacts.

### **Environmental Justice**

Data is presented in Section 4.3.4.1 regarding the presence of 25 census block groups intersected by the Project that may be potential Environmental Justice (EJ) communities (Table 4-9), but the narrative does not appear to include further analysis of potential effects. Tables listing Environmental Justice Demographic Indicators are included in Appendix G (Part 12 of Appendix C) and figures of block groups are included in Appendix A-6. Section 3.3.4.2 states that property values, community aesthetics, and access to recreational lands were assessed in relation to EJ, but it is unclear where this information can be found.

We recommend that the FEIS include an evaluation of impacts to the potential EJ communities, including property values and employment, and assess whether there may be disproportionate effects. For example, Section 4.3.4.5.1 (Property Tax Devaluation) indicates that approximately 26 residences are within 200 feet of a new 500 kV line within the existing corridor and Appendix B indicates a total of 444 residences within 200 feet of the Project. We recommend addressing how many of these residences

are within potential EJ communities and discussing the expected devaluation for these properties. If further analyses and data are included in the appendices, we recommend indicating where they can be found.

### **Socioeconomic Impacts**

The discussion regarding impacts on tourism and jobs in the DEIS appears to rely on reports in the appendices that are not easily accessible. The hyperlink provided to the 2016 report on heritage tourism links to the Project website, where the document is not visible. Further, Section 4.3.4.6 states that information from the updated heritage tourism memorandum that show that the Project has not negatively impacted tourism is included in Appendix C. However, it is unclear where this data can be found in the 9-part Appendix C. As these reports are used to support the findings, we recommend making both reports readily accessible.

### **Mitigation**

As previously indicated, if the Corps finds that the Project is the preferred alternative, additional mitigation measures may be appropriate. Such measures could include a permit condition that strengthens the need for Dominion to re-evaluate energy needs and solutions to replace the river crossing and associated infrastructure on a regular basis.

- We note that Section IV of the MOA (“AVOIDANCE AND MINIMIZATION OF POTENTIAL FUTURE AND CUMULATIVE EFFECTS WITHIN THE DIRECT AND INDIRECT APE OF THE RIVER CROSSING”) states that Dominion shall examine the ongoing need for the river crossing at ten year increments, and “If, at any time prior to the conclusion of the project’s life span of fifty (50) years from energizing, Dominion determines that the river crossing is no longer needed, Dominion shall remove all river crossing and associated terrestrial based infrastructure and return the land-side area within the indirect APE [area of potential effects] of the river crossing to its pre-project condition.” Also, if the project is still needed at the conclusion of the project’s life span in 50 years, Dominion will replace the overhead river crossing with a submerged crossing “if industry accepted technology is available and required regulatory approvals are received.”
- The MOA also required Dominion to develop a Historic American Landscapes Survey (HALS) of adversely effected properties. The MOA stated that this information could be used for preservation, educational, investigative, and interpretive activities to enhance the relevant historic properties. Reports and studies such as HALS may be useful to inform additional mitigation projects.
- We recommend that the FEIS and Record of Decision include a specific discussion of all mitigative measures that will be taken to reduce impacts, including permit conditions.

Section 4.6.1.1 states that Dominion would provide compensatory mitigation for the wetland conversion impacts at a 1:1 ratio through the purchase of wetland mitigation credits from a Corps-approved mitigation bank authorized to serve the Lower James River and the Lynnhaven-Poquoson Watersheds. We recommend that the mitigation banks be identified. For the Chickahominy Alternative, we recommend assessing whether sufficient credits exist in mitigation banks within the impacted watersheds to offset the potential conversion of 20.92 acres of non-tidal and 13.45 acres of tidal palustrine forested (PFO) wetlands.