

# SOUTHERN ENVIRONMENTAL LAW CENTER

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July 17, 2020

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

**Re: Comment on Atlantic Coast Pipeline, LLC & Dominion Energy  
Transmission, Inc. Modification of Request for Extension of Time,  
Dockets CP15-554 & CP15-555**

Dear Secretary Bose:

On June 16, 2020, Atlantic Coast Pipeline, LLC (“Atlantic”) and Dominion Energy Transmission, Inc. (“DETI”) filed a request with the Commission for a two-year extension of time to construct and place into service the Atlantic Coast Pipeline (“ACP”) and Supply Header Project (“SHP”).<sup>1</sup> Conservation Intervenors<sup>2</sup> timely intervened in the extension request proceedings and submitted comments in opposition to the request.<sup>3</sup> On July 5, 2020, Atlantic announced that it was canceling the ACP and would no longer move forward with the project.<sup>4</sup> On July 10, 2020, Atlantic and DETI filed a request to

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<sup>1</sup> Letter from Matthew R. Bley, Dominion Energy Transmission, Inc., to Kimberly D. Bose, FERC, Dkt. Nos. CP15-554 et al. (June 16, 2020) (eLibrary No. 20200616-5174).

<sup>2</sup> Conservation Intervenors are Alliance for the Shenandoah Valley, Appalachian Voices, Chesapeake Bay Foundation, Inc., Chesapeake Climate Action Network, Cowpasture River Preservation Association, Friends of Buckingham, Friends of Nelson, Highlanders for Responsible Development, Piedmont Environmental Council, Shenandoah Valley Battlefields Foundation, Sierra Club, Sound Rivers, Inc., Virginia Wilderness Committee, Wild Virginia, Inc., and Winyah Rivers Foundation.

<sup>3</sup> Joint Mot. to Intervene and Comments in Opp’n to Req. for Extension of Time, Dkt. Nos. CP15-554 et al. (July 2, 2020) (eLibrary No. 20200702-5309) (“Extension Opposition Comments”).

<sup>4</sup> *Dominion Energy and Duke Energy Cancel the Atlantic Coast Pipeline*, Atlantic Coast Pipeline (July 5, 2020), <https://bit.ly/38NZNJd>; *see also Dominion Energy and Duke Energy Cancel the Atlantic Coast Pipeline*, Dominion Energy (July 5, 2020),

Kimberly D. Bose, Secretary  
 July 17, 2020  
 Page 2

modify the June 16 extension request.<sup>5</sup> Specifically, (1) Atlantic and DETI request a one-year extension of the construction deadline<sup>6</sup> for the ACP, to allow for construction that may be necessary for abandonment and restoration of the right-of-way and (2) DETI reaffirms its request for a two-year extension of time to construct and place portions of the SHP into service, while evaluating options for potential use of some or all of the SHP.<sup>7</sup>

For the reasons discussed below, the Commission must (1) provide an additional intervention and public comment period of at least 30-days to allow stakeholders to address Atlantic and DETI's modified request to extend the ACP's construction deadline, particularly, issues related to restoration of the project areas and (2) deny DETI's request for a two-year extension to complete and place into service the SHP because the request fails to meet the Commission's standard for granting extensions. Additionally, to the extent DETI decides to move forward with the SHP absent the ACP, DETI must seek additional authorization from the Commission in a new proceeding.

**1. The Commission cannot act on the modified extension request for the ACP without providing an opportunity for additional intervention and public comment to address important questions regarding Certificate Order authority during restoration.**

Atlantic and DETI request a one-year extension for construction activities, which they assert may be necessary for abandonment and restoration of the ACP project areas.<sup>8</sup> There may be good reason for this extension,<sup>9</sup> but Atlantic has provided little explanation

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<https://bit.ly/2ZS94Mm>; *Dominion Energy and Duke Energy Cancel the Atlantic Coast Pipeline*, Duke Energy (July 5, 2020), <https://bit.ly/2CkEjHO>

<sup>5</sup> Letter from Matthew R. Bley, DETI, to Kimberly D. Bose, FERC, Dkt. Nos. CP15-554 et al. (July 10, 2020) (eLibrary No. 20200710-5088) ("Modified Extension Request").

<sup>6</sup> Atlantic and DETI no longer request an extension of the October 13, 2020 deadline for making ACP facilities available for service due to cancellation of the ACP. *See id.*

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

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

<sup>9</sup> Indeed, restoration of the right-of-way is required where a developer abandons the project. *See Atl. Coast Pipeline, LLC*, 163 FERC ¶ 61,098, at ¶ 7 (2018) (denying stay and finding landowners failed to demonstrate irreparable harm because Commission has authority to require Atlantic and DETI to "undertake remediation" should the project not move forward.); *see also* Reh'g En Banc Br. of FERC at 48, *Allegheny Def. Project v. FERC*, No. 17-1098 (D.C. Cir. June 30, 2020), 2020 WL 635749, at \*48 (recognizing

Kimberly D. Bose, Secretary

July 17, 2020

Page 3

for the Commission's authority to grant this request and has left unaddressed details that will be important to the public. The public could not have anticipated the need to address restoration of the now abandoned right-of-way during the initial extension comment period, before Atlantic and DETI announced the cancellation of the ACP. To "further increase transparency and durability of Commission orders"<sup>10</sup> and to "improve affected landowners' access to a fair and transparent process" the Commission must, at minimum, provide an additional intervention and comment period of at least 30 days to allow the public to weigh in on Atlantic's modified request, including issues related to restoration and eminent domain.

For example, given the eminent domain authority that comes with a Certificate Order and the hundreds of properties affected by the project, the public, and landowners in particular, will be interested in the status of Atlantic's easements and eminent domain authority during the restoration period and the landowners' associated rights to their property during this time. To provide certainty and clarification to the landowners, conservation groups, and other stakeholders affected by the project, any extension of the construction deadline must include conditions limiting Atlantic's authority under the Certificate Order, and public comment is necessary to identify what conditions would be appropriate. Specifically, if the Commission grants the extension of time for construction activities, it must, at a minimum, address the following issues:

- Limiting Atlantic's activities to only those necessary for restoration of the right-of-way and abandonment of the pipeline and vacating the remainder of the Certificate Order, in turn removing Atlantic's eminent domain authority over the pipeline right-of-way.
- Identifying the mechanisms by which affected landowners will communicate specific restoration requirements to Atlantic.
- Requiring Atlantic to immediately commence consultation with all relevant state and federal agencies to promptly establish appropriate standards for completing restoration of the right-of-way.

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that if certificate is vacated and pipeline does not go forward, the pipeline company "would be liable to the landowner for the time it occupied the land and for any damages resulting to the land and to fixtures and improvements, or for the cost of restoration.") (quoting *E. Tenn. Nat. Gas Co. v. Sage*, 361 F.3d 808, 826 (4th Cir. 2004).

<sup>10</sup> *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at ¶ 39 (2020).

Kimberly D. Bose, Secretary

July 17, 2020

Page 4

- Identifying how the Commission and other state and federal agencies will monitor restoration activities and associated environmental impacts. Monitoring could include a requirement that Atlantic continue to submit regular status reports and environmental compliance monitoring reports during the restoration period.
- Requiring Atlantic to promptly contact all landowners where a right-of-way easement exists and inform them that (i) Atlantic will release the right-of-way easement within 90 days of a written request from an affected landowner, (ii) Atlantic will provide the affected landowner with the proposed written release of the right-of-way easement, (iii) Atlantic will pay the reasonable attorneys' fees of the affected landowner in reviewing and negotiating changes to the proposed written release of the right-of-way easement, and (iv) Atlantic will file the final, executed written release of the right-of-way easement in the land records of the appropriate jurisdiction. Atlantic has already committed that landowners will keep the easement compensation they have received.<sup>11</sup>

These are only a few of the important and complex issues that the Commission must resolve and that the public must be permitted to address to help inform the Commission's decision.

Public comment on Atlantic and DETI's modified extension request, while necessary, should only be the first step in developing a restoration plan for the ACP project areas. The public comment period will serve to highlight the concerns of landowners, conservation groups, and other stakeholders. But because Atlantic and DETI did not include any details in their modified extension request on what restoration may require or look like, the public will be limited in its ability to weigh in. Accordingly, following a public comment period on Atlantic and DETI's modified extension request, the Commission must require Atlantic to develop and submit a restoration plan informed by those comments, on which the public will have an additional opportunity to comment.

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<sup>11</sup> See Michael Martz, *Landowners hopeful, but wary after cancellation of Atlantic Coast Pipeline*, Richmond Times Dispatch (July 7, 2020), <https://bit.ly/3h2TRPq> (quoting Atlantic spokesperson Aaron Ruby that landowners "will, of course, keep any compensation they've received.").

Kimberly D. Bose, Secretary  
 July 17, 2020  
 Page 5

**2. The Commission must deny DETI's modified extension request for the SHP because it fails to meet the Commission's standard for granting an extension.**

DETI reaffirms its June 16 request for a two-year extension of time to construct and place the SHP into service while it evaluates options for use of some or all of the SHP. But DETI's request fails to establish good cause for granting the request and fails to offer evidence showing the Commission's need determination and environmental analysis have not gone stale.<sup>12</sup>

First, DETI has not shown that there is good cause to grant its extension request. DETI requests an extension not necessarily to complete the SHP and place it into service, but only to potentially do so after "evaluating options for use of some or all of the SHP."<sup>13</sup> The Commission has never, to Conservation Intervenor's knowledge, granted an extension request while a project applicant evaluates whether or not to actually complete or use the proposed project.<sup>14</sup>

Second, with the cancellation of the ACP, the Commission's determination that the SHP is required by the public convenience and necessity has plainly gone stale. DETI's request provides no evidence to the contrary. DETI's application for the SHP explained that DETI "executed a [single] binding precedent agreement ... with Atlantic, ... [and] [n]o other entity contracted with [DETI] for firm capacity on the SHP."<sup>15</sup> The Certificate Order authorizing the ACP and SHP similarly states that the SHP "is designed to provide ... natural gas transportation service from supply areas on the DETI system *to the proposed ACP Project*."<sup>16</sup> Based on the record before the Commission, there is no

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<sup>12</sup> See e.g., *PennEast Pipeline Co., LLC*, 170 FERC ¶ 61,138, at ¶¶ 16-17 (2020) (decision to grant extension request requires Commission to consider whether good cause exists and whether certificate order's findings have become stale).

<sup>13</sup> Modified Extension Request.

<sup>14</sup> Cf. *PennEast*, 170 FERC ¶ 61,138, at ¶¶ 7, 13 (finding good cause to grant extension where developer demonstrated "good faith efforts to meet its deadline" by making "reasonable efforts to move the project forward."); *Algonquin*, 170 FERC ¶ 61,144, at ¶ 32 ("providing more time for a project applicant to obtain necessary permits can be an appropriate basis for granting an extension of time").

<sup>15</sup> *Dominion Transmission, Inc.*, Abbreviated Appl. for a Certificate of Public Convenience & Necessity 8, Dkt. Nos. CP15-554 et al. (Sept. 18, 2015) (eLibrary No. 20150918-5215).

<sup>16</sup> *Atl. Coast Pipeline, LLC*, 161 FERC ¶ 61,042, ¶ 2 (2017) ("Certificate Order").

Kimberly D. Bose, Secretary  
July 17, 2020  
Page 6

need for the SHP without the ACP. Indeed, both the Commission and DETI have previously recognized that the SHP does not have independent utility without the ACP.<sup>17</sup> Given the significant change that has occurred since the Commission issued the Certificate Order authorizing the SHP—specifically, that Atlantic has abandoned the sole identified purpose for the SHP—the Commission cannot reasonably conclude, based on a single paragraph in DETI’s letter stating the construction status and location of the SHP, that its public convenience and necessity determination remains valid.

Third, the Commission’s environmental analysis for the SHP is based on outdated information. Conservation Intervenor’s detailed in their comments opposing Atlantic and DETI’s June 2016 extension request the significant new information relevant to the environmental impacts of the ACP and SHP, many of which remain relevant to the SHP even absent the ACP.<sup>18</sup> Thus, as explained in Conservation Intervenor’s earlier comments, the Commission’s determination that the SHP, like the ACP, is an environmentally acceptable project has gone stale.

For these reasons, the Commission must deny DETI’s request for a two-year extension to construct the SHP and place it into service.

**3. A request to proceed with only the SHP would require additional proceedings and a new authorization from the Commission.**

To the extent DETI concludes its pending evaluation of the SHP by deciding to move forward with the project, absent the ACP, this would be an entirely different project from the one authorized by the Certificate Order.<sup>19</sup> An extension of the construction and in-service deadline condition would not be sufficient to authorize a wholesale rewrite of

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<sup>17</sup> See Email from Kevin Bowman, FERC, to Elizabeth Stout, FWS (Aug. 9, 2017) (“ACP and SHP do not have independent utility. In order [sic] words, both projects must [move] forward together; neither project can proceed without the other.”) (**Exhibit 1**); ACP, U.S. Army Corps of Eng’rs Meeting Minutes 3 (Apr. 30, 2015) (“Dominion stated that the SHP does not have independent utility and would not be built without construction of the ACP.”) (**Exhibit 2**).

<sup>18</sup> See, e.g., Extension Opposition Comments 38-64 (discussing water quality impacts from changes in regulatory protections, consideration of greenhouse gas emissions based on outdated science, cumulative impacts analysis considered impacts only through 2019, and failure to consider impact of exposed pipes on integrity of pipes).

<sup>19</sup> See Certificate Order ¶ 2. To the extent DETI concludes its evaluation of the SHP by deciding to abandon the project, an extension of the construction deadline for restoration purposes may be appropriate.

Kimberly D. Bose, Secretary

July 17, 2020

Page 7

the approved project. Rather, as Conservation Intervenor explained the last time DETI attempted to propose construction of the SHP without the ACP,<sup>20</sup> such a proposal constitutes a new project and requires DETI to apply for and receive new Commission approval concluding that the project is required by the public convenience and necessity.<sup>21</sup> The public must be permitted to intervene and comment on any request to build and operate only the SHP, including commenting on the need for the SHP, the proposed use of gas transported by the SHP, modifications that may be required to connect the SHP to other facilities, and reasonable alternatives to completing the SHP.<sup>22</sup> In addition, newly proposed use of gas transported by the SHP, modifications to proposed facilities, or newly proposed construction would require analysis under the National Environmental Policy Act.

#### 4. Conclusion

In sum, the Commission must provide an additional intervention and comment period of at least 30 days for Atlantic and DETI's modified extension request for the ACP and must deny DETI's modified extension request for the SHP. Any subsequent approval of the SHP, without the ACP, would require new authorization by the Commission.

Sincerely,

/s/ Gregory Buppert

Gregory Buppert

Mark Sabath

Emily C. Wyche

SOUTHERN ENVIRONMENTAL LAW CENTER\

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<sup>20</sup> See Letter from Matthew R. Bley, DETI, to Kimberly D. Bose, FERC, Dkt. Nos. CP15-554 et al. (Aug. 13, 2018) (eLibrary No. 20180813-5065).

<sup>21</sup> See Letter from Gregory Buppert, SELC, to Kimberly D. Bose, FERC, 3, Dkt. Nos. CP15-554 et al. (Aug. 15, 2018) (eLibrary No. 20180815-5058).

<sup>22</sup> See, e.g., PennEast Pipeline Co., LLC, Abbreviated Appl. for Amendment to Certificate of Public Convenience and Necessity, Dkt. No. CP20-47 (Jan. 30, 2020) (eLibrary No. 20200130-5196) (creating new docket, proceeding, and comment period for proposed changes to PennEast Pipeline project).

Kimberly D. Bose, Secretary

July 17, 2020

Page 8

*On behalf of Alliance for the Shenandoah Valley, Cowpasture River Preservation Association, Friends of Buckingham, Friends of Nelson, Highlanders for Responsible Development, Piedmont Environmental Council, Shenandoah Valley Battlefields Foundation, Virginia Wilderness Committee, Sound Rivers, Inc., and Winyah Rivers Foundation*

/s/ Benjamin A. Lockett

Benjamin A. Lockett

APPALACHIAN MOUNTAIN ADVOCATES

*On behalf of Appalachian Voices, Chesapeake Climate Action Network, Sierra Club, and Wild Virginia, Inc.*

/s/ Jon A. Mueller

Jon A. Mueller

CHESAPEAKE BAY FOUNDATION, INC.

*On behalf of Chesapeake Bay Foundation, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated July 17, 2020.

/s/ Gregory Buppert  
Gregory Buppert  
SOUTHERN ENVIRONMENTAL LAW CENTER  
201 West Main Street, Suite 14  
Charlottesville, VA 22902  
(434) 977-4090  
gbuppert@selcva.org

# Exhibit 1



Stout, Elizabeth <[elizabeth\\_stout@fws.gov](mailto:elizabeth_stout@fws.gov)>

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## ACP + SHP

1 message

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**Kevin Bowman** <[Kevin.Bowman@ferc.gov](mailto:Kevin.Bowman@ferc.gov)>  
To: "elizabeth\_stout@fws.gov" <[elizabeth\\_stout@fws.gov](mailto:elizabeth_stout@fws.gov)>

Wed, Aug 9, 2017 at 2:05 PM

ACP and SHP do not have independent utility. In order words, both projects must forward together; neither project can proceed without the other. One should expect a single FERC Order addressing both projects.

I see that our consult letter broke the projects out separately, but I'm guessing that happened so it wasn't interpreted as saying that, for example, the SHP by itself was LAA on the Madison Cave isopod. I believe it was listed that way for clarity, only. I'm not wedded to any particular way of presentation, so if you need to respond by saying "The Projects" "the action" or something similar that's inclusive of both, we'd understand that. Hope this makes sense.

Kevin Bowman

Environmental Protection Specialist

Federal Energy Regulatory Commission

202-502-6287

# Exhibit 2

# ATLANTIC COAST PROJECT

## DRAFT PROJECT MEETING MINUTES




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MEETING WITH (COMPANY/AGENCY):

U.S. Army Corps of Engineers (USACE) – ACP/SHP Project Coordination

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DATE:

April 30, 2015

LOCATION:

USACE Norfolk District Office, Norfolk, VA

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ATTENDEES AND THEIR AFFILIATION:

Colonel Paul B. Olsen, District Commander – USACE Norfolk District  
 James (Jim) Haggerty, Regulatory Program Manager – USACE North Atlantic Division  
 Tom Walker, Chief, Regulatory Branch - USACE Norfolk District  
 Mark Haviland, Chief, Public Affairs - USACE Norfolk District  
 Jean Gibby, Chief, Raleigh Regulatory Field Office – USACE Wilmington District  
 Dale Beter, Chief, Wilmington Regulatory Field Office – USACE Wilmington District  
 Peter Kube, Chief, Eastern Virginia Regulatory Section (EVRS) - USACE Norfolk District  
 Jennifer Frye, Chief, Western Virginia Regulatory Section (WVRS) - USACE Norfolk District  
 Adam Fannin, Regulatory Project Manager, Energy Resource Branch – USACE Huntington District  
 Alani Taylor, Regulatory Specialist – USACE Pittsburgh District  
 Craig Brown, Regulatory Specialist (Raleigh) – USACE Wilmington District  
 Steve Gibson, Regulatory Specialist, EVRS, Project Manager, ACP – USACE Norfolk District  
 Emily Greer, Regulatory Specialist – USACE Wilmington District  
 Todd Miller, Environmental Scientist, Richmond Regulatory Field Office – USACE Norfolk District  
 Josh Shaffer, Senior Regulatory Specialist - USACE Pittsburgh District  
 Kevin Bowman, Environmental Protection Specialist - FERC  
 Gertrude Johnson, Mechanical Engineer - FERC  
 Leslie Hartz, Vice President, Pipeline Construction – Dominion  
 Brian Wilson, Director, Natural Gas Infrastructure - Dominion  
 Robert Bisha, Director, Environmental ACP – Dominion  
 Carole McCoy, Director, Engineering Services – Dominion  
 Bill Scarpinato, Manager, Environmental ACP - Dominion  
 Brittany Moody, Manager, Pipeline Engineering ACP - Dominion  
 Greg Park, Manager, Construction ACP – Dominion  
 Molly Plautz, Manager, Federal Affairs - Dominion  
 Ann Loomis, Senior Policy Advisor, Federal Affairs - Dominion  
 Angela Woolard, Certificates Project Manager ACP – Dominion  
 Sandy Williams, Environmental Projects Advisor ACP – Dominion  
 Jennifer Broush, Project Manager Supply Header – Dominion contractor  
 Spencer Trichell, ACP Permitting – NRG – Dominion contractor  
 Wade Hammer, ACP Permitting – NRG – Dominion contractor  
 Linda Morrison, Senior Advisor, USACE Corps Process – Dawson & Associates, Inc. -  
 Dominion contractor

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PREPARED BY:

S. Williams, M. Plautz

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MEETING MINUTES:

**Introduction:**

The meeting began at 10:36 with an opening welcome by Colonel Olsen. He identified the Atlantic Coast Pipeline (ACP) project as a very exciting and important megaproject, involving four Corps District and three Divisions providing power to the nation helping to make the community, state, region and the country great. He mentioned that Governor McAuliffe supports the project as does the U.S. Army Corps of Engineers (USACE) moving to clean energy, relaying the Governor's main concern that the regulators take all of the natural and cultural resources into consideration as we

*USACE Coordination Meeting*

April 30, 2015

Page 2 of 4

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move forward. Additionally, he pointed out that minimizing impacts is important to the state and asked that we invite the state to the next meeting.

**Project Status:**

Brian Wilson presented a brief overview and the current status of the ACP with a presentation (attached).

**FERC Process Update:**

Kevin Bowman outlined the FERC process and the current status of the pre-filing activities on the ACP/SHP. He described the 12 Resource Reports that will be filed with his agency and the opportunity for review and coordination with the USACE. These reports will be used for the preparation of the Draft Environmental Impact Statement (DEIS), which will be prepared by a third party for FERC. The Resource Reports undergo an initial review for completion of statutory elements, but FERC relies on the agencies for specific review. Coordination is expected through scheduled calls with cooperating parties. Cooperating agencies include, at this time, US Forest Service (Monongahela, George Washington and Jefferson National Forests), US Fish and Wildlife Service (Great Dismal Swamp), USACE, and perhaps the Bureau of Land Management (BLM) if the Great Dismal Swamp National Wildlife Refuge is crossed. Several state and local regulatory agencies have requested status, but the final determination has not been made. Kevin mentioned that, in cooperation with all of the agencies, including the Forest Service, the comment period for the DEIS may be 90 days. Approximately 1 to 4 months following the comment period, Kevin indicated that a Record of Decision (ROD) could be issued. Following a question, Kevin theorized that the Preliminary DEIS could be distributed to cooperating agencies by the end of 2015.

**Field Survey:**

Spencer Trichell provided an overview of field survey and wetland verification in Virginia and North Carolina.

**Coordination:**

Steve Gibson mentioned that he has spoken with the Virginia SHPO and they were unaware of the project. In reply, Bob Bisha advised that Dominion had contacted all the SHPOs early on but would re-engage with them now. Steve also said he wanted to ensure that no stakeholders felt that they were shortchanged due to lack of survey due to inaccessibility to their property. In response to a question about how cooperating agencies will work with FERC and if there is a formalized process, Kevin indicated that a single point of contact from the lead District is appropriate. Formal letters were not generated due to the Federal Reduction in Paperwork Act, and that cooperating agencies and lead status were formalized in the Notice of Intent (NOI).

Jim Haggerty advised that a Project Management Plan (PMP) and a Project Delivery Team (PDT) will be formed for this project. This team will be established to support the entire application throughout the application evaluation process. The specifics of how the PDT will work are developed on a case-by-case basis accounting for specific project conditions. A PMP will be developed internally outlining the coordination process between the Corps Districts and Divisions as the Corps has discussions to determine the most effective permitting vehicle. At this point, coordination should continue through Sandy Williams and Steve Gibson until the PMP is completed. Ultimately, these conversations will lead to formalization of the process and identification of the lead district for the project. The District Commanders and possibly Division will need to agree with the process that is developed. Jim indicated that he will move the process forward as quickly as he can.

Linda Morrison advised that Dominion is currently assessing the permit application options for the project internally and would like to submit an assessment with a proposed recommendation in a few weeks to the Corps for consideration in its decision on how best to proceed with the permit application(s). Jim advised that that would be fine and they would review the information provided from Dominion.

In response to Peter Kube's question regarding whether the SHP would be constructed without the ACP, there was a brief discussion of a separate application for the SHP. Sandy Williams from

*USACE Coordination Meeting*

April 30, 2015

Page 3 of 4

Dominion stated that the SHP does not have independent utility and would not be built without construction of the ACP. The Corps will be looking at the Resource Reports to identify application and processing options.

Steve Gibson requested information on how other pipeline projects have been permitted. He was not aware of any other pipelines this size in Virginia. Bill Scarpinato pointed out the Transcontinental pipeline recently installed is 42". Steve continued that he wants to see collocation options and stressed that he continues to hear from citizens who say that Dominion is not responsive to their issues. Regarding collocation, Bob Bisha advised that Dominion has fully evaluated this issue and that Resource Report #10 fully evaluates collation options. Bob also requested that when Steve is contacted by the public, that he advise Dominion in order that Sandy Williams can make contact with them to address their questions. Steve also said that he was also concerned about the seasonality of the resources in the Coastal Plain as field work continues on the lateral line in Chesapeake. He also talked about recent pipeline requests to provide gas to the Brunswick and Greenville power stations. He asked for Dominion to be upfront if Dominion has any plans to export natural gas from the Hampton Roads area overseas (he heard that this may be planned at the Chesapeake Energy Center in Chesapeake). Brian Wilson responded that this pipeline will not be exporting natural gas at any location.

**Interpolation of missing field data:**

Spencer Trichell addressed the fact that there will be gaps in resource data due to denial of parcel access. Utilizing National Wetland Inventory (NWI) maps developed by the US Fish and Wildlife Service, recent LIDAR data, color infrared photography and nearby field delineated areas, a desktop analysis will be used to fill in these data gaps for application submission. Jim Haggerty indicated that this will be discussed with the PDT. Jim Haggerty mentioned that utilizing remote sensing data has been employed in New York District, but data will be required when parcel access is granted. He indicated that this method was likely acceptable but the PDT would make the final decision. Linda Morrison asked Jim if Dominion could submit a proposed approach for interpolation of missing field data for consideration by the Corps, and Jim advised that they would review the information.

**Section 408:**

Bob Bisha asked if the crossing under the S. Elizabeth River would be coordinated under Section 408. Jim Haggerty indicated that it was actually Section 14 of the Rivers and Harbors Act and that it applies to any Federal project. The activity would be coordinated through a concurrent review process developed in the Norfolk District. 408 decisions are reviewed by the District Commander. The PDT will also evaluate this issue.

**Mitigation Criteria:**

Sandy Williams also asked that the PDT consider mitigation requirements for conversion on the project. Jim Haggerty recognized that Dominion needs clarity on the mitigation approach for the permit application and would be addressed by the PDT. Additionally, the actual type of permit application to be submitted would need to be determined as well Jim said.

Jim Haggerty closed the meeting by committing to start discussions with his counterparts in Atlanta and Cincinnati on Friday and early next week and then pull in District Project Managers next week to make this application evaluation process as expeditious as possible. Jim advised that Dominion should continue to work with Steve Gibson for now on day to day issues, but for higher level/regional issues/concerns work with him.

*USACE Coordination Meeting*

April 30, 2015

Page 4 of 4

ACTION ITEMSACTION REQUIRED:BY WHOM:

- |   |              |
|---|--------------|
| 1. PDT formation and PMP development  | USACE        |
| 2. Assessment of permit options for ACP for consideration and decision by USACE (provided May 15, 2015) | Dominion/ACP |
| 3. Proposed approach for interpolation of field data to USACE PDT for consideration                     | Dominion/ACP |
| 4. SHPO updates on ACP  | Dominion/ACP |
| 5. Draft Resource Reports to cooperating agencies for review and comment (scheduled by end of May 2015) | FERC/USACE   |
| 6. State representatives invited to next meeting  | USACE        |
| 7. Mitigation approach developed and provided to Dominion   | USACE PDT    |
| 8. Provide Point of Contact (POC) for public inquiries to USACE   | Dominion/ACP |

cc: Project Files

Attachments: Meeting handouts

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**From:** Sara Thronson  
**Sent:** Wednesday, July 01, 2015 6:07 PM  
**To:** 'Ewing, Amy (DGIF)'; Smith, Kimberly (kimberly\_smith@fws.gov); brian.watson@dgif.virginia.gov; Kirk, Dawn -FS  
**Cc:** 'William A Scarpinato (Services - 6)'; Robert M Bisha (Services - 6) (robert.m.bisha@dom.com); Spencer Trichell; Sandra.H.Williams@dom.com; jennifer.c.broush@dom.com; Doug Lake; Patrick Robblee  
**Subject:** ACP - Revised Virginia Mussel Study Plan - Part 1  
**Attachments:** 150629 ACP FWS Cover Letter Revised Mussel Study Plan.pdf; 150629 ACP VDGIF Cover Letter Revised Mussel Study Plan.pdf; 150629 Revised ACP Virginia Mussel Study Plan.pdf

email 1 of 2 (the second half of the map set will follow in the next email due to file size, a hard copy will also be mailed)

Dear Ms. Smith and Ms. Ewing,

On behalf of the Atlantic Coast Pipeline (ACP) Project, Dominion Transmission Inc.(DTI) requests your review and concurrence of the attached revised plan, which describes the scope and methods the ACP Project will implement to address protected mussels in Virginia.

The attached plan is a revised version of the plan that was submitted for your review and comment on May 20, 2015. Dominion received comments from the US Fish and Wildlife Service (FWS) and Virginia Department of Game and Inland Fisheries (VDGIF). The attached cover letters summarize the comments that have been addressed in this revised plan.

DTI anticipates surveys for mussels will be initiated in July 2015. DTI looks forward to continued coordination with you on this project. Please contact Mr. William A. Scarpinato at (804) 273-3019 or [William.A.Scarpinato@dom.com](mailto:William.A.Scarpinato@dom.com), or Ms. Sara Thronson at (612) 347-7113 or [sara.thronson@nrg-llc.com](mailto:sara.thronson@nrg-llc.com) if there are questions regarding this study plan.

Thank you, Sara



**Sara Thronson**  
[sara.thronson@nrg-llc.com](mailto:sara.thronson@nrg-llc.com)  
(612) 347-7113 Direct  
(612) 716-7812 Cell  
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Document Content(s)

ASV et al. Letter re Modified Extension Request.PDF.....1-9

Exhibit 1.PDF.....10-11

Exhibit 2.PDF.....12-17