

## Michelle Moser

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**From:** Alicia Williamson  
**Sent:** Tuesday, July 01, 2008 4:12 PM  
**To:** Michelle Moser  
**Subject:** FW: NAPS Unit 3 COL Application - NRC's Environmental Review Supplemental Information Need #3 (Virginia transmission line regulatory information) - 06/27/08 E-mail 2 of 2  
**Attachments:** Attachment 2 MOA SCC 07-30-03.pdf

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**From:** Tony.Banks@dom.com [mailto:Tony.Banks@dom.com]  
**Sent:** Friday, June 27, 2008 2:11 PM  
**To:** Alicia Williamson; Laura Quinn; Sandusky, William F III  
**Cc:** Thomas Kevern; Joseph.Hegner@dom.com; Regina.Borsh@dom.com; Joyce.Livingstone@dom.com; Tony.Banks@dom.com  
**Subject:** Fw: NAPS Unit 3 COL Application - NRC's Environmental Review Supplemental Information Need #3 (Virginia transmission line regulatory information) - 06/27/08 E-mail 2 of 2

On May 16, 22, and 29, 2008, NRC staff and its contractor, Pacific Northwest National Laboratory (PNNL), held conference calls with representatives from Dominion to discuss a number of supplemental "information needs" to support the North Anna Power Station Unit 3 (NAPS) combined license application environmental review. Several of these information needs were identified during the environmental site audit conducted the week of April 14, 2008. Others were identified by subject matter reviewers following the audit.

This e-mail provides some of the requested information listed in NRC's June 16, 2008 letter, which included a total of 35 items. In certain instances, the file size may dictate that more than one e-mail will be needed to transmit the information. In those instances, the e-mail will clearly be identified as "x of y" to ensure accountability.

Please note that Dominion will respond to some of the information needs via e-mail, and to others by letter. In every case, Dominion's goal is to provide complete and accurate information in a timely manner. The use of both e-mail and letters to achieve this goal has been discussed with the NRC project managers.

To ensure that you have received the information, please acknowledge receipt of this transmission.

I can be contacted at (804) 273-2170 or ([tony.banks@dom.com](mailto:tony.banks@dom.com)) if there are questions.

Thank you -

Tony Banks, MPH, CHMM  
Dominion  
ESP/COL Project  
Environmental Lead

### **Information Need Request #3 (Virginia transmission line regulatory information)**

*Provide a copy of, or website address for, the State Licensing process for the transmission line*

*installation, including the procedures and commitments involved that will cover wetlands and T&E species in the corridor.*

**Dominion Response**

The following completes the response to Information Need #3 (Virginia transmission line regulatory information):

In addition, Section 62.1-44.15:21 D 2 of the Code of Virginia requires the State Water Control Board and the State Corporation Commission to “develop a memorandum of agreement pursuant to §§56-46.1, 56-265.2, 56-265.2:1 and 56-580 [of the Code] to ensure that consultation on wetland impacts occurs prior to siting determinations” by the Commission. Section 62.1-44.15:21 D 2 can be found at:

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+62.1-44.15C21>

The memorandum of agreement (MOA) regarding the consultation on wetland impacts occurs prior to siting determinations is also attached.

**Attachment 2 – Memorandum of Agreement, State Corporation Commission, July 30, 2003.**

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COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

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RECEIVED

AT RICHMOND, JULY 30, 2003

IN THE MATTER OF

LEGAL SERVICES

Receiving comments on a draft memorandum of agreement between the State Water Control Board and the State Corporation Commission

CASE NO. PUE-2003-00114

ORDER DISTRIBUTING MEMORANDUM OF AGREEMENT

Section 62.1-44.15:5 D 2 of the Code of Virginia ("Code") requires the State Water Control Board ("Board") and the State Corporation Commission ("Commission") to "develop a memorandum of agreement pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1 and 56-580 [of the Code] to ensure that consultation on wetland impacts occurs prior to siting determinations" by the Commission. The Department of Environmental Quality ("Department") is acting on behalf of the Board for this matter. On March 18, 2003, on behalf of the Department and the Commission, the Commission issued an Order inviting interested persons or entities to submit comments on a draft memorandum of agreement, which was affixed to the Order as Attachment A. The Order also noted that the Department and the Commission would consider such comments and enter into a final memorandum of agreement.

Written comments were filed jointly by Virginia Electric and Power Company and Dominion Transmission, Inc. (collectively, "Dominion Companies"), and by Old Dominion Electric Cooperative ("Old Dominion"). The final memorandum of agreement entered into by the Department and the Commission is attached to today's Order. On behalf of the Department and the Commission, this Order discusses certain issues raised in the comments and the modifications reflected in the final memorandum of agreement attached hereto.

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Paragraph 4 of the memorandum of agreement requires the Department to submit certain information to the Commission no later than sixty (60) days after receipt of the complete wetland impacts analysis information from the applicant. The Dominion Companies request that this time period be clarified as sixty (60) "calendar" days. This change is reflected in the final memorandum of agreement.

Pursuant to paragraph 3 of the memorandum of agreement, the Appendix to the agreement is a Guidance Document that provides guidance on the information the Department has determined it may need in order to conclude its Wetland Impacts Consultation. The Dominion Companies request that the Guidance Document be clarified to apply specifically to alternatives "considered by the applicant." The Dominion Companies state that this would ensure the Department considers only alternatives offered by the applicant, resulting in a more efficient and cost effective consultation process. This change is reflected in the Guidance Document.

The Dominion Companies support reviewing wetlands for the applicant's proposed alternatives using the desktop tools described in the Guidance Document. The Guidance Document, however, also states that the applicant may be asked by the Department to "field verify" certain areas for one or more of the proposed alternatives. The Dominion Companies assert that they typically do not have access to the properties under consideration and, thus, recommend that the Department not require field verification under any circumstances. In this regard, the Guidance Document has been modified to reflect that the Department will request field verification only if appropriate and feasible.

The Guidance Document also requires the applicant to provide a "field delineation" of wetlands and streams for the applicant's preferred alternative. The Dominion Companies state,

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however, that field delineation should not be required until after the Commission has approved the construction of the facilities. The Dominion Companies contend that utilities typically do not have access to the properties under consideration, and the process of obtaining access through the Circuit Court would be lengthy and expensive and also would cause the owner anxiety for a route that ultimately may not be approved by the Commission. In this regard, the Guidance Document has been modified to require the same level of information for the preferred alternative as for the other alternatives, i.e., a desktop evaluation with field verification only if appropriate and feasible.

In addition, the Guidance Document requires the applicant to submit, for its preferred alternative, documentation from the Department of Game and Inland Fisheries, the Department of Conservation and Recreation Natural Heritage Program, and the Department of Historic Resources. The Dominion Companies argue that this information should not be required as part of the Wetland Impacts Consultation. The Department, however, requires this information to prepare a complete evaluation of the permitting necessary for the preferred alternative for purposes of the Wetland Impacts Consultation. Thus, the Guidance Document has not been modified in this regard.

The Guidance Document also states that documentation from either the affected localities or directly from the Chesapeake Bay Local Assistance Department regarding any potential impacts to Chesapeake Bay Resource Protection Areas or Resource Management Areas must be submitted if applicable. The Dominion Companies assert that there are no standards provided to assess whether such potential impacts would be relevant to the Wetland Impacts Consultation and, thus, the Department should not accept such documentation. The Department, however, is required to consult with the Chesapeake Bay Local Assistance Department when a proposed

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activity could impact a designated Chesapeake Bay Protection Area. The Department also requires this information to prepare a complete evaluation of the permitting necessary for the preferred alternative for purposes of the Wetland Impacts Consultation. The Guidance Document further notes that, based on the information provided in this regard, the Department may consult with and consider the comments of the Norfolk District Corps of Engineers and the U.S. Fish and Wildlife Service. In addition, public utility projects, in general, may be exempt from many local Chesapeake Bay ordinances. Thus, the Guidance Document has been clarified to require the above information only if local ordinances are applicable to the project under consideration.

Old Dominion's primary concern relates to the length of time that may be required for the Department to complete the Wetland Impacts Consultation. Old Dominion states that this time could be better used for direct coordination of issues between the applicant and the Department. Similarly, the Dominion Companies express concern regarding potential delays in the Department's development of the Wetland Impacts Consultation. The Department's completion of the Wetland Impacts Consultation may be delayed if the Department does not receive necessary information. The applicant may facilitate this process by working closely with the Department before and after an application is filed with the Commission. Indeed, the Dominion Companies recommend that the memorandum of agreement include a provision allowing the applicant to begin consultation with the Department prior to filing an application with the Commission. We agree with the Dominion Companies that such a procedure should assist the parties and help expedite the Department's review process. Although the draft memorandum of agreement does not prohibit the applicant from working with the Department prior to filing an

application with the Commission, the final agreement explicitly references this option as requested by the Dominion Companies.

Finally, Old Dominion states it should be made clear that the process developed under the memorandum of agreement is to be applied to the application for certification of a particular facility, and not to other supporting facilities owned and operated by entities other than the applicant. Section 62.1-44.15:5 D 2 of the Code requires development of the memorandum of agreement "pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1 and 56-580 [of the Code] to ensure that consultation on wetland impacts occurs prior to siting determinations" by the Commission for "[f]acilities and activities of utilities and public service companies." Paragraphs 2 and 3 of the memorandum of agreement recognize that the Department's consultation is triggered when the Commission receives an application for certification of facilities pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1 or 56-580 of the Code. The siting determination by the Commission is limited to the facilities requested by the applicant for approval. Likewise, the Wetland Impacts Consultation by the Department also will be limited to the facilities requested by the applicant for approval.

Accordingly, this matter is now closed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

Robert G. Burnley, Director, Virginia Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009; Jill C. Nadolink, Esquire, Dominion Virginia Power, P.O. Box 26532, Richmond, Virginia 23261; James S. Copenhaver, Esquire, Senior Attorney, Columbia Gas of Virginia, 1809 Coyote Drive, Chester, Virginia 23235; John A. Pirko, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Ellen Gilinsky, Virginia Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-

0009; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Energy Regulation, Public Utility Accounting, and Economics and Finance.

A True Copy  
Tester

*Joel H. R.*  
Clerk of the  
State Corporation Comm.



## MEMORANDUM OF AGREEMENT

The Department of Environmental Quality ("Department"), on behalf of the State Water Control Board ("Board"), and the State Corporation Commission ("Commission") enter into this memorandum of agreement ("Agreement"), pursuant to § 62.1-44.15:5 D 2 of the Code of Virginia ("Code"), regarding consultation on wetland impacts ("Wetland Impacts Consultation").

1. Section 62.1-44.15:5 D 2 of the Code requires the Board and the Commission to "develop a memorandum of agreement pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1 and 56-580 [of the Code] to ensure that consultation on wetland impacts occurs prior to siting determinations" by the Commission for "[f]acilities and activities of utilities and public service companies."
2. When the Commission receives an application for certification of facilities under §§ 56-46.1, 56-265.2, 56-265.2:1 or 56-580 of the Code, the Department will consult with appropriate governmental agencies, prepare a Wetland Impacts Consultation including a summary of findings and any recommendations for the Commission's consideration that resulted from the Department's consultation, and provide the Wetland Impacts Consultation to the Commission pursuant to this Agreement. Although not required, the applicant may initiate consultation with the Department prior to filing an application with the Commission.
3. The Commission's Staff will notify the Department in writing within five (5) business days of receiving an application for certification of facilities pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1 or 56-580 of the Code. No later than ten (10) business days after receipt of the wetland impact analysis information contained in the application, the Department will advise the Commission's Staff and the applicant in writing as to:
  - A. the completeness of the information received necessary to conclude the Wetland Impacts Consultation (the Appendix to this Agreement provides guidance on the information the Department has determined it may need in order to conclude the Wetlands Impacts Consultation); and
  - B. the estimated length of time required to conclude the Wetland Impacts Consultation.If the Department determines the wetland impacts analysis information contained in an application is incomplete, within ten (10) business days of notifying the applicant the Department will notify the Commission's Staff in writing and include a listing of the information needed to initiate the Wetland Impacts Consultation. The Department and the Commission's Staff may confer from time to time on these matters.
4. In accordance with the above:
  - A. No later than sixty (60) calendar days after receipt of the complete wetland impacts analysis information contained in the application, the Department will submit to the Commission's Staff in writing:

- (i) a notification that the Wetland Impacts Consultation has been completed; or
- (ii) a notification that the Wetland Impacts Consultation has been suspended due to matters discovered during the review. The notification will include a description of the information needed to resume the review.

B. Enclosed in the written notification described in 4.A.(i), above, for all completed Wetland Impacts Consultations the Department will submit a written report to the Commission which includes:

- (i) the Wetland Impacts Consultation, a summary of findings, and any recommendations for the Commission's consideration which resulted from the review; and
  - (ii) a list of any Virginia Water Protection permits and approvals required for the proposed facility, in accordance with § 62.1-44.15:5 of the Code, which were identified during the Wetland Impacts Consultation.
5. Consistent with § 62.1-44.15:5 of the Code, the Department and the Board may request assistance from agencies of the Commonwealth, including the Department of Game and Inland Fisheries, the Department of Conservation and Recreation, the Virginia Marine Resources Commission, the Department of Health, the Department of Historic Resources, and any other interested and affected parties, as well as federal agencies including the Norfolk District Corps of Engineers and the U.S. Fish and Wildlife Service, as needed to complete the Wetland Impacts Consultation.
6. If requested by the Commission's Staff, one or more members of the Department's Staff will appear as a witness at the Commission's evidentiary hearing to testify regarding the activities of the Department with respect to the Wetland Impacts Consultation.
7. If requested by the Commission's Staff, the Department will endeavor to provide, or seek to coordinate from other governmental entities, expert assistance to the Commission's Staff on issues regarding the Wetland Impacts Consultation.



Robert G. Burnley, Director  
Department of Environmental Quality

7/15/03

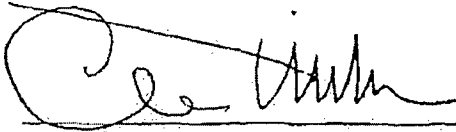
Date



Hullahen Williams Moore, Chairman  
State Corporation Commission

7/11/03

Date



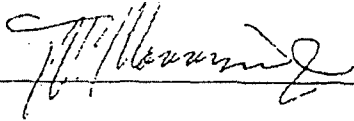
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Clinton Miller, Commissioner  
State Corporation Commission

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7/11/03

Date



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Theodore V. Morrison, Jr., Commissioner  
State Corporation Commission

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7/11/03

Date

APPENDIX  
GUIDANCE DOCUMENT

The following provides guidance on the information that will need to be submitted to the Department of Environmental Quality ("DEQ") in order for the DEQ to conclude the Wetland Impacts Consultation.

For all alternatives under consideration by the applicant:

A desktop survey of actual and potential impacts to wetlands and streams must be conducted for all proposed routes and facility locations. Reference materials to be consulted include aerial photographs (infrared if available), U.S.G.S. topographic maps, USFWS National Wetland Inventory Maps, NRCS Soil Surveys, and any other pertinent available information. For each alternative, the type and extent of wetland and stream impacts, both permanent and temporary, should be summarized in the text of the report, and shown on maps. Based on the information provided, the applicant may be asked to field verify certain areas for one or more alternatives only if appropriate and feasible. A summary of why the proponent selected the preferred alternative and why the other alternatives were dismissed should be included.

Additional information for the preferred alternative only:

In addition to the above information, documentation from the Department of Game and Inland Fisheries and the Department of Conservation and Recreation Natural Heritage Program concerning potential impacts to federal or state listed threatened or endangered species must be submitted, to include any recommendations for surveys that should be conducted. Documentation from the Department of Historic Resources concerning any historic properties that could be impacted must be submitted, to include any recommendations for surveys that should be conducted. Documentation from either the affected locality(ies) or directly from the Chesapeake Bay Local Assistance Department regarding any potential impacts to Chesapeake Bay Resource Protection Areas or Resource Management Areas, must be submitted only if the Chesapeake Bay ordinances of the affected

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locality(ies) are applicable to the project under consideration. Based on the information provided, DEQ may consult with and consider the comments of the Norfolk District Corps of Engineers and the U.S. Fish and Wildlife Service.

DEQ, in consultation with other federal and state resource agencies as appropriate, will provide recommendations to the proponent as to any additional avoidance and minimization measures that should be explored and their preliminary comments on the proponent's preferred alternative.