

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

In Reply Refer To:
OEP/DG2E/Gas 4
Atlantic Coast Pipeline, LLC
Atlantic Coast Pipeline
Dominion Transmission Inc.
Supply Header Project
Docket Nos. CP15-554-000
CP15-554-001
CP15-555-000

VIA Electronic Mail

February 10, 2020

Spencer Simon, Deputy Assistant Regional Director
U.S. Fish and Wildlife Service
Ecological Services – Northeast Region
spencer_simon@fws.gov

Re: Endangered Species Act Consultation

Dear Mr. Simon:

The purpose of this letter is to convey the status of Endangered Species Act (ESA) consultation for the Atlantic Coast Pipeline and Supply Header Projects (together, “Project”), sponsored by Atlantic Coast Pipeline, LLC (Atlantic) and Dominion Energy Services, Inc. (Dominion), respectively. On July 21, 2017, the Federal Energy Regulatory Commission (FERC) initiated formal consultation with the U.S. Fish and Wildlife Service (FWS) under Section 7 of the ESA¹. On October 16, 2017, the FWS transmitted its Biological Opinion (BO) and Incidental Take Statement (ITS) for the Project, which was vacated by the U.S. Court of Appeals for the Fourth Circuit on May 15, 2018. The FWS issued a revised BO and ITS (2018 BO) on September 11, 2018. The 2018 BO was vacated by the U.S. Court of Appeals for the Fourth Circuit on July 26,

¹ FERC’s Biological Assessment for the Project was conveyed via the draft environmental impact statement as well as additional technical information, such as biological survey reports and other supplemental materials provided by the project sponsors.

2019. As a result of the BO vacatur decision, formal consultation, including a new Biological Assessment (BA) and a BO, will be required for the Project to proceed.

Informal consultation with the FWS for the Project has been ongoing, with the ultimate goal of an updated BA, BO, and ITS. FERC staff attended a meeting with Atlantic, Dominion, and FWS representatives on October 22, 2019, to discuss survey and technical needs for the BA. On October 25, 2019, Atlantic and Dominion requested specific information from the FWS regarding species that will be covered in the BO and ITS. FERC staff also participated in a December 16, 2019 call with Atlantic, Dominion, and FWS representatives to discuss the status of the BA.

The FWS states that new information, (e.g., occurrence records; location of specific populations relative to construction areas) about some of the species covered in the BO, is available. Accordingly, and based on 50 CFR 402.16(a), we are requesting reinitiation of formal consultation so that impacts related to the species covered in the BO can be properly assessed.

If you have any questions, please call me at (202) 502-6173.

Sincerely,

David Swearingen, Chief
Gas Branch 4
Division of Gas – Environment and
Engineering

cc: VIA Electronic Mail

Cindy Schultz
Field Supervisor – Virginia Ecological Services
U.S. Fish and Wildlife Service
Cindy_schulz@fws.gov

John E. Schmidt
Field Supervisor – West Virginia Field Office
U.S. Fish and Wildlife Service
john_schmidt@fws.gov

Document Content(s)

ACP status of ESA consultation.PDF.....1-2