

**ATLANTIC COAST PIPELINE, LLC  
ATLANTIC COAST PIPELINE**

**and**

**DOMINION ENERGY TRANSMISSION, INC.  
SUPPLY HEADER PROJECT**

**Request for Limited Notice to Proceed  
December 15, 2017**

**ATTACHMENT A**

## ATTACHMENT A

## Summary

Agency/Contact Name(s)	Date of Correspondence	Format	Description
<b>FEDERAL AGENCIES</b>			
<b>U.S. Army Corps of Engineers (USACE) – Pittsburgh District</b> Josh Shaffer	10/16/17	Emails	Confirmation that the USACE – Pittsburgh District does not regulate tree felling in upland areas.
<b>U.S. Army Corps of Engineers (USACE) – Huntington District</b> Adam Fanin	10/16/17 & 10/18/17	Emails	Confirmation that the USACE – Huntington District does not regulate tree felling in upland areas.
<b>U.S. Army Corps of Engineers (USACE) – Norfolk District</b> Peter Kube	10/16/17 & 10/20/17	Emails	Confirmation that the USACE – Norfolk District does not regulate tree felling in upland areas.
<b>U.S. Army Corps of Engineers (USACE) – Wilmington District District</b> Samantha Dailey	12/6/17	Email	Confirmation that the USACE – Wilmington District does not regulate tree felling in upland areas.
<b>STATE/COMMONWEALTH AGENCIES</b>			
<b>West Virginia Department of Environmental Protection (WVDEP)</b> Nancy Dickson	10/16/17 & 10/17/17	Emails	Confirmation that the WVDEP does not regulate tree felling in upland areas.
<b>Virginia Department of Environmental Quality (VDEQ)</b> Lames Golden	10/16/17 & 12/14/17	Emails	Confirmation that the VDEQ does not regulate tree felling in upland areas.
<b>Virginia Marine Resources Commission (VMRC)</b> Randy Owen	10/16/17	Emails	Confirmation that the VMRC does not regulate tree felling in upland areas.
<b>North Carolina Department of Environmental Quality (NCDEQ)</b> Jennifer Burdette, Karen Higgings	10/18/17	Emails	Confirmation that the NCDEQ does not regulate tree felling in upland areas.

## **Federal Agencies**

**U.S. Army Corps of Engineers – Pittsburgh District**

## Spencer Trichell (Services - 6)

---

**From:** Shaffer, Joshua D CIV USARMY CELRP (US) <Joshua.D.Shaffer@usace.army.mil>  
**Sent:** Monday, October 16, 2017 1:42 PM  
**To:** Spencer Trichell (Services - 6)  
**Cc:** Fannin, Adam E CIV USARMY CELRH (US); nancy.j.dickson@wv.gov; Richard B Gangle (Services - 6); Shaffer, Joshua D CIV USARMY CELRP (US)  
**Subject:** [External] RE: ACP - Tree Felling in Uplands  
**Importance:** High

10-16-2017

Spencer:

You are correct in your assessment below. The Pittsburgh District does not regulate tree felling in uplands under either Corps permitting authority (i.e. Section 404 CWA or Section 10 RHA). As a result, we have no objection to work in the uplands as noted below.

Regards,  
Josh

Josh Shaffer  
Senior Regulatory Specialist  
Regulatory Branch  
U.S. Army Corps of Engineers - Pittsburgh District  
1000 Liberty Avenue  
Pittsburgh, PA 15222  
O - (412) 395-7121  
C - (412) 295-2567

-----Original Message-----

From: Spencer Trichell [<mailto:Spencer.Trichell@dominionenergy.com>]  
Sent: Monday, October 16, 2017 1:32 PM  
To: Shaffer, Joshua D CIV USARMY CELRP (US) <[Joshua.D.Shaffer@usace.army.mil](mailto:Joshua.D.Shaffer@usace.army.mil)>  
Cc: Fannin, Adam E CIV USARMY CELRH (US) <[Adam.E.Fannin@usace.army.mil](mailto:Adam.E.Fannin@usace.army.mil)>; [nancy.j.dickson@wv.gov](mailto:nancy.j.dickson@wv.gov); Richard B Gangle <[richard.b.gangle@dominionenergy.com](mailto:richard.b.gangle@dominionenergy.com)>  
Subject: [EXTERNAL] ACP - Tree Felling in Uplands

Josh,

Atlantic plans to begin tree felling on November 16, 2017, in order to comply with agency-recommended time of year restrictions associated with migratory birds and protected bats and minimize adverse effects to these species. Tree felling would occur by hand and only in those areas outside of waters of the U.S. (i.e., uplands).

I am requesting confirmation that the Pittsburgh District USACE does not regulate tree felling in upland areas under your Section 404 regulatory program. Thanks in advance for your prompt response.

Regards,

Spencer Trichell

Environmental Consultant - Atlantic Coast Pipeline

Dominion Energy Services, Inc.

5000 Dominion Blvd

Glen Allen, VA 23060

O:(804)-273-3472 M:(804)-263-5980

[spencer.trichell@dominionenergy.com](mailto:spencer.trichell@dominionenergy.com)

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**U.S. Army Corps of Engineers – Huntington District**

## Spencer Trichell (Services - 6)

---

**From:** Fannin, Adam E CIV USARMY CELRH (US) <Adam.E.Fannin@usace.army.mil>  
**Sent:** Wednesday, October 18, 2017 12:31 PM  
**To:** Spencer Trichell (Services - 6)  
**Cc:** Shaffer, Joshua D CIV USARMY CELRP (US); nancy.j.dickson@wv.gov; Richard B Gangle (Services - 6)  
**Subject:** [External] RE: ACP - Upland Tree Felling

Spencer,

You've requested confirmation that the Huntington District does not regulate tree felling in upland areas under the Section 404 program.

The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328 and 33 CFR 329. Under Section 10 of the Rivers and Harbors Act of 1899, and Section 404 of the Clean Water Act, the Corps has regulatory authority over construction, excavation, or deposition of materials in, over, or under navigable waters of the United States. Under Section 404 of the Clean Water Act, the Corps regulates the discharge of dredged or fill material into waters of the United States, including freshwater wetlands. Certain types of activities, such as land clearing using mechanized equipment and/or sidecasting, in a jurisdictional water would likely be regulated under Section 404 of the Clean Water Act. The Corps does not regulate activities that occur outside waters of the United States (i.e. uplands).

You have indicated the activities would occur solely within upland areas and would not be associated with the discharge of dredged and/or fill material into waters of the United States. Based on the limitations of the Corps' jurisdictional authorities, the Corps would not regulate the described activities.

Adam Fannin  
Regulatory Project Manager  
Energy Resource Branch  
USACE, Huntington District, CELRH-RD-E  
502 8th Street  
Huntington, WV 25701  
304-399-6901  
304-399-5085 (fax)  
[adam.e.fannin@usace.army.mil](mailto:adam.e.fannin@usace.army.mil)

-----Original Message-----

From: Spencer Trichell [<mailto:Spencer.Trichell@dominionenergy.com>]  
Sent: Monday, October 16, 2017 1:32 PM  
To: Fannin, Adam E CIV USARMY CELRH (US) <[Adam.E.Fannin@usace.army.mil](mailto:Adam.E.Fannin@usace.army.mil)>  
Cc: Shaffer, Joshua D CIV USARMY CELRP (US) <[Joshua.D.Shaffer@usace.army.mil](mailto:Joshua.D.Shaffer@usace.army.mil)>; [nancy.j.dickson@wv.gov](mailto:nancy.j.dickson@wv.gov); Richard B Gangle <[richard.b.gangle@dominionenergy.com](mailto:richard.b.gangle@dominionenergy.com)>  
Subject: [EXTERNAL] ACP - Upland Tree Felling

Adam,



Atlantic plans to begin tree felling on November 16, 2017, in order to comply with agency-recommended time of year restrictions associated with migratory birds and protected bats and minimize adverse effects to these species. Tree felling would occur by hand and only in those areas outside of waters of the U.S. (i.e., uplands).

I am requesting confirmation that the Huntington District USACE does not regulate tree felling in upland areas under your Section 404 regulatory program. Thanks in advance for your prompt response.

Regards,

Spencer Trichell

Environmental Consultant - Atlantic Coast Pipeline

Dominion Energy Services, Inc.

5000 Dominion Blvd

Glen Allen, VA 23060

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[spencer.trichell@dominionenergy.com](mailto:spencer.trichell@dominionenergy.com)

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**U.S. Army Corps of Engineers – Norfolk District**

## Spencer Trichell (Services - 6)

---

**From:** Kube, Peter R CIV USARMY CENAO (US) <Peter.R.Kube@usace.army.mil>  
**Sent:** Friday, October 20, 2017 8:42 AM  
**To:** Spencer Trichell (Services - 6); Gibson, Steven W CIV USARMY CENAO (US)  
**Cc:** Richard B Gangle (Services - 6)  
**Subject:** [External] RE: ACP - Upland Tree Felling

Spencer,

While the Norfolk District does not regulate tree felling in uplands outside our jurisdiction and/or scope of analysis under either Corps permitting authority (i.e. Section 404 CWA or Section 10 RHA); there are a number of agencies, Federal, state and local authorities claiming jurisdiction-interest. Dominion will need to comply with conditions and requirements, (including the timing of tree felling) resulting from these review processes, (i.e. Section 7 and Section 106). It is imperative to have FERC coordinate this request to all agencies, state and local authorities before Dominion starts significantly disturbing existing corridor conditions.

Thanks.

Peter Kube, Chief  
Eastern Virginia Regulatory Section  
US Army Corps of Engineers  
803 Front Street  
Norfolk, VA 23510

Phone (757) 201-7504

The Norfolk District is committed to providing the highest level of support to the public. In order for us to better serve you, we would appreciate you completing our Customer Satisfaction Survey located at <http://per2.nwp.usace.army.mil/survey.html>. We value your comments and appreciate your taking the time to complete the survey.

-----Original Message-----

From: Spencer Trichell [mailto:Spencer.Trichell@dominionenergy.com]  
Sent: Friday, October 20, 2017 8:15 AM  
To: Kube, Peter R CIV USARMY CENAO (US) <Peter.R.Kube@usace.army.mil>; Gibson, Steven W CIV USARMY CENAO (US) <Steven.W.Gibson@usace.army.mil>  
Cc: Richard B Gangle <richard.b.gangle@dominionenergy.com>  
Subject: [EXTERNAL] RE: ACP - Upland Tree Felling

Thanks Peter. I do have a follow up question...if FERC were to allow us to tree fell in uplands without any land disturbance, do you agree with the other Districts who have opined that Section 404 does not regulate this activity thus could be carried out without Section 404 authorization?

Thanks,

Spencer

-----Original Message-----

From: Kube, Peter R CIV USARMY CENAO (US) [mailto:Peter.R.Kube@usace.army.mil]

Sent: Friday, October 20, 2017 7:58 AM

To: Spencer Trichell (Services - 6); Gibson, Steven W CIV USARMY CENAO (US)

Cc: Richard B Gangle (Services - 6)

Subject: [External] RE: ACP - Upland Tree Felling

Spencer,

FERC, as the lead Federal agency, is coordinating Section 7 and Section 106 reviews for this project. Tree felling in the Action Area (ESA) and the Area of Potential Effect (NHPA) will likely be addressed as part of FERC's on-going consultations with the USF&WS and VDHR. Therefore, please contact FERC regarding any questions about tree felling.

Thanks.

Peter Kube, Chief  
Eastern Virginia Regulatory Section  
US Army Corps of Engineers  
803 Front Street  
Norfolk, VA 23510

Phone (757) 201-7504

The Norfolk District is committed to providing the highest level of support to the public. In order for us to better serve you, we would appreciate you completing our Customer Satisfaction Survey located at [Blockedhttp://per2.nwp.usace.army.mil/survey.html](http://per2.nwp.usace.army.mil/survey.html). We value your comments and appreciate your taking the time to complete the survey.

-----Original Message-----

From: Spencer Trichell [mailto:Spencer.Trichell@dominionenergy.com]

Sent: Monday, October 16, 2017 11:58 AM

To: Gibson, Steven W CIV USARMY CENAO (US) <Steven.W.Gibson@usace.army.mil>

Cc: Kube, Peter R CIV USARMY CENAO (US) <Peter.R.Kube@usace.army.mil>; Richard B Gangle <richard.b.gangle@dominionenergy.com>

Subject: [EXTERNAL] ACP - Upland Tree Felling

Steve,

Atlantic plans to begin tree felling on November 16, 2017 in order to comply with agency-recommended time of year restrictions associated with migratory birds and protected bats and minimize adverse effects to these species. Tree felling would occur by hand and only in those areas outside of waters of the U.S. (i.e., uplands).

I am requesting confirmation that the Norfolk District USACE does not regulate tree felling in upland areas under your Section 404 regulatory program. Thanks in advance for your prompt response.

Regards,

Spencer Trichell

Environmental Consultant - Atlantic Coast Pipeline

Dominion Energy Services, Inc.

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**U.S. Army Corps of Engineers – Wilmington District**

## Spencer Trichell (Services - 6)

---

**From:** Dailey, Samantha J CIV USARMY CESAW (US) <Samantha.J.Dailey@usace.army.mil>  
**Sent:** Wednesday, December 06, 2017 9:13 AM  
**To:** Spencer Trichell (Services - 6); Linda Morrison  
**Cc:** McLendon, C S CIV USARMY CESAW (US); Gibby, Jean B CIV USARMY CESAW (US); Kube, Peter R CIV USARMY CENAO (US); Gibson, Steven W CIV USARMY CENAO (US)  
**Subject:** [External] ACP - Tree Felling in Uplands

Good morning Spencer,

You've requested confirmation that the Wilmington District does not regulate tree felling in upland areas under the Section 404 program.

The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328 and 33 CFR 329. Under Section 10 of the Rivers and Harbors Act of 1899, and Section 404 of the Clean Water Act, the Corps has regulatory authority over construction, excavation, or deposition of materials in, over, or under navigable waters of the United States. Under Section 404 of the Clean Water Act, the Corps regulates the discharge of dredged or fill material into waters of the United States, including freshwater wetlands. Certain types of activities, such as land clearing using mechanized equipment and/or sidecasting, in a jurisdictional water would likely be regulated under Section 404 of the Clean Water Act. The Corps does not regulate activities that occur outside waters of the United States (i.e. uplands).

You have indicated the tree felling activities would occur solely within upland areas and would not be associated with the discharge of dredged and/or fill material into waters of the United States. Based on the limitations of the Corps' jurisdictional authorities, the Corps would not regulate the described activities

It is important to note that while the Wilmington District does not regulate tree felling in uplands outside our jurisdiction and/or scope of analysis under either Corps permitting authority (i.e. Section 404 CWA or Section 10 RHA); there are a number of agencies, Federal, state and local authorities claiming jurisdiction-interest. Dominion will need to comply with conditions and requirements, (including the timing of tree felling) resulting from these review processes, (i.e. Section 7 and Section 106). It is imperative to have FERC coordinate this request to all agencies, state and local authorities before Dominion starts significantly disturbing existing corridor conditions.

Please let me know if you have any questions.

Thank you,  
Sam

Samantha Dailey  
Regulatory Project Manager  
U.S. Army Corps of Engineers  
Regulatory Division  
3331 Heritage Trade Drive, Suite 105  
Wake Forest, NC 27587  
(919) 554-4884, Ext. Ext. 22  
[Samantha.j.dailey@usace.army.mil](mailto:Samantha.j.dailey@usace.army.mil)

**State/Commonwealth Agencies**



**West Virginia Department of Environmental Protection**

## Spencer Trichell (Services - 6)

---

**From:** Dickson, Nancy J <Nancy.J.Dickson@wv.gov>  
**Sent:** Tuesday, October 17, 2017 9:55 AM  
**To:** Spencer Trichell (Services - 6)  
**Cc:** Richard B Gangle (Services - 6); Adam Fannin (adam.e.fannin@usace.army.mil); Shaffer, Joshua D CIV USARMY CELRP (US)  
**Subject:** [External] RE: ACP - Upland Tree Felling

Mr. Trichell,

The West Virginia Department of Environmental Protection does not regulate tree felling in upland areas under our 401 WQC Program.

Thank you,  
Nancy

---

**From:** Spencer Trichell [<mailto:Spencer.Trichell@dominionenergy.com>]  
**Sent:** Monday, October 16, 2017 1:34 PM  
**To:** Dickson, Nancy J <[Nancy.J.Dickson@wv.gov](mailto:Nancy.J.Dickson@wv.gov)>  
**Cc:** Richard B Gangle <[richard.b.gangle@dominionenergy.com](mailto:richard.b.gangle@dominionenergy.com)>; Adam Fannin ([adam.e.fannin@usace.army.mil](mailto:adam.e.fannin@usace.army.mil)) <[adam.e.fannin@usace.army.mil](mailto:adam.e.fannin@usace.army.mil)>; Shaffer, Joshua D CIV USARMY CELRP (US) <[Joshua.D.Shaffer@usace.army.mil](mailto:Joshua.D.Shaffer@usace.army.mil)>  
**Subject:** ACP - Upland Tree Felling

Nancy,

Atlantic plans to begin tree felling on November 16, 2017, in order to comply with agency-recommended time of year restrictions associated with migratory birds and protected bats and minimize adverse effects to these species. Tree felling would occur by hand and only in those areas outside of waters of the U.S. (i.e., uplands).

I am requesting confirmation that the West Virginia Department of Environmental Protection does not regulate tree felling in upland areas under your Section 401 regulatory program. Thanks in advance for your prompt response.

Regards,

**Spencer Trichell**  
Environmental Consultant - [Atlantic Coast Pipeline](#)

Dominion Energy Services, Inc.  
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O:(804)-273-3472 M:(804)-263-5980  
[spencer.trichell@dominionenergy.com](mailto:spencer.trichell@dominionenergy.com)



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**Virginia Department of Environmental Quality**

## Spencer Trichell (Services - 6)

---

**From:** Golden, James (DEQ) <James.Golden@deq.virginia.gov>  
**Sent:** Thursday, December 14, 2017 10:34 AM  
**To:** Spencer Trichell (Services - 6)  
**Cc:** Davenport, Melanie (DEQ)  
**Subject:** [External] RE: ACP - Upland Tree Felling

Spencer and Richard,

The VA Department of Environmental Quality does not regulate tree felling by hand in upland areas under any of the Department's regulatory programs provided no land disturbance occurs.

The felling of trees with chainsaws does not constitute a "man-made change to the land surface" and therefore does not meet the definition of "Land disturbance" under the Stormwater Management Act (62.1-44.15:24) and the Erosion and Sediment Control Law (62.1-44.15:51). Any activities associated with the felling of trees that may result in soil erosion is considered a land disturbance. These activities include but are not limited to the removal of cut trees, grubbing, clearing, and grading. Activities that cause more than 10,000 ft<sup>2</sup> of land disturbance (2500 ft<sup>2</sup> within a Chesapeake Bay Preservation Act area) require an approved Erosion and Sediment Control Plan. Additionally, activities that cause more than 1 acre of land disturbance (2500 ft<sup>2</sup> within a Chesapeake Bay Preservation Act area) require an approved Stormwater Management Plan.

Due to the level of public interest in this project, and to facilitate the DEQ's ability to respond to public inquiries and conduct any potential complaint investigations, we request that notification of any tree felling activities be provided to the agency prior to initiation.

James J. Golden  
DEQ Director of Operations  
(804)698-4220  
[james.golden@deq.virginia.gov](mailto:james.golden@deq.virginia.gov)

---

**From:** Spencer Trichell [<mailto:Spencer.Trichell@dominionenergy.com>]  
**Sent:** Monday, October 16, 2017 12:02 PM  
**To:** Golden, James (DEQ) <[James.Golden@deq.virginia.gov](mailto:James.Golden@deq.virginia.gov)>  
**Cc:** Richard B Gangle <[richard.b.gangle@dominionenergy.com](mailto:richard.b.gangle@dominionenergy.com)>  
**Subject:** ACP - Upland Tree Felling  
**Importance:** High

James,

Atlantic plans to begin tree felling on November 16, 2017 in order to comply with agency-recommended time of year restrictions associated with migratory birds and protected bats and minimize adverse effects to these species. Tree felling would occur by hand and only in those areas outside of waters of the U.S. (i.e., uplands).

I am requesting confirmation that the VA Department of Environmental Quality does not regulate tree felling by hand in upland areas under your Section 401 regulatory program. Thanks in advance for your prompt response.

Regards,

**Spencer Trichell**

Environmental Consultant - **Atlantic Coast Pipeline**

Dominion Energy Services, Inc.

*5000 Dominion Blvd*

*Glen Allen, VA 23060*

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**Virginia Marine Resources Commission**

## Spencer Trichell (Services - 6)

---

**From:** Owen, Randy (MRC) <Randy.Owen@mrc.virginia.gov>  
**Sent:** Monday, October 16, 2017 12:12 PM  
**To:** Spencer Trichell (Services - 6)  
**Cc:** Watkinson, Tony (MRC); Neikirk, Chip (MRC)  
**Subject:** [External] RE: ACP - Upland Tree Felling

You are correct. Thank you for the opportunity to comment.

---

**From:** Spencer Trichell [<mailto:Spencer.Trichell@dominionenergy.com>]  
**Sent:** Monday, October 16, 2017 12:05 PM  
**To:** Owen, Randy (MRC) <Randy.Owen@mrc.virginia.gov>  
**Cc:** Richard B Gangle <[richard.b.gangle@dominionenergy.com](mailto:richard.b.gangle@dominionenergy.com)>  
**Subject:** ACP - Upland Tree Felling

Randy,

Atlantic plans to begin tree felling on November 16, 2017 in order to comply with agency-recommended time of year restrictions associated with migratory birds and protected bats and minimize adverse effects to these species. Tree felling would occur by hand and only in those areas outside of waters of the U.S. (i.e., uplands).

I am requesting confirmation that the VA Marine Resources Commission does not regulate tree felling in upland areas under your regulatory program (subaqueous bottoms or tidal wetlands). Thanks in advance for your prompt response.

Regards,

**Spencer Trichell**  
Environmental Consultant - [Atlantic Coast Pipeline](#)

Dominion Energy Services, Inc.  
5000 Dominion Blvd  
Glen Allen, VA 23060  
O:(804)-273-3472 M:(804)-263-5980  
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**North Carolina Department of Environmental Quality**

## Spencer Trichell (Services - 6)

---

**From:** Burdette, Jennifer a <Jennifer.Burdette@ncdenr.gov>  
**Sent:** Wednesday, October 18, 2017 5:20 PM  
**To:** Spencer Trichell (Services - 6); Higgins, Karen  
**Cc:** 'Dailey, Samantha J CIV USARMY CESAW (US)'; Gibby, Jean B CIV USARMY CESAW (US); Greer, Emily C CIV USARMY CESAW (US); Richard B Gangle (Services - 6); Vinson, Toby  
**Subject:** RE: [External] ACP - Upland Tree Felling

Spencer,

Tree felling outside of waters of the US (i.e. uplands) is not regulated by the Section 401 water quality certification. However, tree felling within protected riparian buffers in the Neuse and Tar/Pamlico Basins may not commence without a buffer authorization.

It is important to note that ACP's application is still under review, and a 401 approval/buffer authorization has not been issued. Tree felling in upland, nonbuffered areas would be conducted at ACP's own risk and could not be used as justification for any particular crossing alignment.

Jennifer

### Jennifer Burdette

401/Buffer Coordinator  
Division of Water Resources - 401 & Buffer Permitting Branch  
Department of Environmental Quality  
919 807 6364 office  
[jennifer.burdette@ncdenr.gov](mailto:jennifer.burdette@ncdenr.gov)

1617 Mail Service Center  
Raleigh, NC 27699-1617  
(Physical Address: 512 N. Salisbury St, Raleigh, NC 27604 - 9<sup>th</sup> Flr Archdale Bldg – Room 942F)

*Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.*

---

**From:** Spencer Trichell [<mailto:Spencer.Trichell@dominionenergy.com>]  
**Sent:** Wednesday, October 18, 2017 8:57 AM  
**To:** Burdette, Jennifer a <[Jennifer.Burdette@ncdenr.gov](mailto:Jennifer.Burdette@ncdenr.gov)>; Higgins, Karen <[karen.higgins@ncdenr.gov](mailto:karen.higgins@ncdenr.gov)>  
**Cc:** 'Dailey, Samantha J CIV USARMY CESAW (US)' <[Samantha.J.Dailey@usace.army.mil](mailto:Samantha.J.Dailey@usace.army.mil)>; Gibby, Jean B CIV USARMY CESAW (US) <[Jean.B.Gibby@usace.army.mil](mailto:Jean.B.Gibby@usace.army.mil)>; Greer, Emily C CIV USARMY CESAW (US) <[Emily.C.Greer@usace.army.mil](mailto:Emily.C.Greer@usace.army.mil)>; Richard B Gangle <[richard.b.gangle@dominionenergy.com](mailto:richard.b.gangle@dominionenergy.com)>  
**Subject:** [External] ACP - Upland Tree Felling

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Ms. Burdette and Ms. Higgins,

Atlantic plans to begin tree felling on November 16, 2017, in order to comply with agency-recommended time of year restrictions associated with migratory birds and protected bats and

minimize adverse effects to these species. Tree felling would occur by hand without land disturbance and only in those areas outside of waters of the U.S. (i.e., uplands).

I am requesting confirmation that the North Carolina Department of Environmental Quality does not regulate tree felling in upland areas under your Section 401 regulatory program. Thanks in advance for your prompt response.

Regards,

**Spencer Trichell**  
Environmental Consultant - [Atlantic Coast Pipeline](#)

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**Dominion Energy Transmission, Inc.**  
707 East Main Street, Richmond, VA 23219



December 15, 2017

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

**Re: Atlantic Coast Pipeline, LLC & Dominion Energy Transmission, Inc.  
Atlantic Coast Pipeline & Supply Header Project  
Docket Nos. CP15-554-000, CP15-554-001, and CP15-555-000  
Request for Limited Notice to Proceed**

Dear Secretary Bose:

By Order dated October 13, 2017, the Federal Energy Regulatory Commission (Commission or FERC) authorized Atlantic Coast Pipeline, LLC (Atlantic) and Dominion Energy Transmission, Inc.<sup>1</sup> (DETI) to construct and operate certain facilities that comprise the Atlantic Coast Pipeline and Supply Header Projects (Projects). *Atlantic Coast Pipeline, LLC & Dominion Energy Transmission, Inc.* 161 FERC ¶ 61,042 (the "Order").

As required under Environmental Condition No. 6 of the Order, Atlantic and DETI submitted its Implementation Plan (IP) on October 17, 2017 (FERC Accession Number: 20171018-5002), and filed supplemental information on November 3 and December 1, 2017 (FERC Accession Numbers: 20171103-5142 and 20171201-5302, respectively). DETI hereby requests written authorization from the Director of the Office of Energy Projects (OEP) for a limited Notice to Proceed for felling of upland trees via non-mechanized methods in the certificated workspace; specifically excluding any certificated workspace located on National Forest Service lands.

Atlantic and DETI propose to fell upland trees and vegetation at or above ground level, using methods that will not rut soils or damage root systems. The contractors will not be allowed to use mechanized clearing methods or heavy equipment when tree felling. Trees and vegetation will not be felled within or into delineated wetlands and waterbodies. Mats and bridges will not be used; waterbodies and wetlands will be crossed on foot. Felled trees will be left in place until all applicable permits and approvals and FERC's issuance of a separate notice to proceed to begin earth disturbing activities are received. The felling of trees will not occur on lands for which easements have not been obtained or for which additional state or local permits are required for such activity.

Before this activity can commence, consultation with the U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of the Endangered Species Act must be completed and a Programmatic Agreement (PA) must be executed to conclude the consultation process required under Section 106 of the National Historic Preservation Act. The USFWS completed the Section 7 process with the issuance of the Biological Opinion (BO) on October 16, 2017 (FERC Accession Number: 20171103-3008). Execution of the Section 106 PA is expected mid December 2017.

In order to comply with the conservation measures outlined in the BO for the Northern long-eared bat, Atlantic and DETI must fell trees located within the workspace required for construction of the

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<sup>1</sup> On May 12, 2017, Dominion Transmission, Inc. changed its name to Dominion Energy Transmission, Inc.

proposed Projects between November 15 and March 31 in West Virginia and Pennsylvania, and between November 16 and March 31 in Virginia and North Carolina.

Atlantic and DETI will avoid culturally sensitive areas as detailed within the Section 106 PA during the course of performing any activity associated with the Projects. Each of these areas, as well as markings depicting “no access”, will be identified.

The proposed felling of trees and vegetation at or above the ground surface via non-mechanized methods, which does not substantially disturb the root system, does not require a U.S. Army Corps of Engineers (USACE) permit pursuant to Section 404 of the Clean Water Act (CWA), as this activity will not involve substantial earth disturbance or the placement of dredged or fill material in wetlands or waterbodies. The USACE confirmed that these requested activities are not regulated under Section 404 of the CWA, as they do not involve a discharge of dredged and/or fill material. The USACE confirmations are provided in Attachment A.

Likewise, tree felling in this manner is not regulated under State Water Quality Certifications (WQC) under Section 401 of the CWA. The North Carolina Department of Environmental Quality has not yet issued its 401 WQC but confirmed that these requested activities are not regulated under Section 401 of the CWA. This confirmation is also provided in Attachment A. While not applicable to this activity, the Pennsylvania Department of Environmental Protection issued its 401 WQC on November 21, 2017, the West Virginia Department of Environmental Protection waived its 401 WQC requirements on December 6, 2017. The Virginia State Water Control Board approved its final 401 WQC on December 12, 2017, which certification will become effective upon the satisfaction of certain conditions specified therein, and confirmed in writing that the requested activities are not regulated under Section 401 of the CWA. See Attachment A.

Accordingly, Atlantic and DETI respectfully request **immediate authorization** upon execution of the Section 106 PA in order to comply with the time-of-year restrictions contained in the BO and the Projects’ schedules. Atlantic and DETI understand that this Notice to Proceed would be limited to the specific activities listed in this request.

If you have any questions, please contact me at 866-319-3382.

Respectfully submitted,

/s/ *Matthew R. Bley*

Matthew R. Bley  
Director Gas Transmission Certificates

cc: Mr. Kevin Bowman, FERC

encl(s)/

Document Content(s)

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