

**ANNUAL REPORT ON  
STATE AGENCY FARM LAND AND FOREST LAND  
PRESERVATION ACTIVITIES**

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**A STATUS REPORT TO THE CHAIRS OF THE  
SENATE COMMITTEE ON AGRICULTURE, CONSERVATION AND NATURAL RESOURCES  
AND THE  
HOUSE COMMITTEE ON AGRICULTURE, CHESAPEAKE AND NATURAL RESOURCES**

**Todd P. Haymore  
Secretary of Agriculture and Forestry**

**December 1, 2014**

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## **INTRODUCTION**

Section 3.2-206 of the Code of Virginia requires that the Secretary of Agriculture and Forestry submit a written report by December 1 of each year to the chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources on the impacts of state agency actions on the conversion of farm and forest lands. This section requires that the following four agencies contribute to this report: (i) Department of Transportation, (ii) Department of Conservation and Recreation, (iii) State Corporation Commission, and (iv) Department of Environmental Quality.

Below is a synopsis of the information supplied by each of these agencies.

### **DEPARTMENT OF TRANSPORTATION**

The Department of Transportation (VDOT) reports that, from July 1, 2013 through June 30, 2014, VDOT purchased 241.63 acres to be used for right-of-way. Construction projects on this property will begin six months to one year after purchase.

In fiscal year 2014, VDOT estimated that 49.12 acres of farm land and 93.42 acres of forest land will be impacted by future construction projects. Since these estimates are determined during early environmental studies, the conversion may not actually take place for years. These estimates are preliminary and may decrease as the project develops and avoidance measures are pursued.

### **DEPARTMENT OF CONSERVATION AND RECREATION**

As a conservation agency, the Department of Conservation and Recreation (DCR) strives to minimize impacts to farm and forest lands on its properties. Conversion is often minimized because DCR is taking recreational use land and merely changing the type of recreational use.

DCR's overarching policy is directed towards having the development "lay lightly on the land". Ten projects were completed between July 1, 2013 and June 30, 2014. None of these projects resulted in the conversion of farm or forest land.

### **STATE CORPORATION COMMISSION**

The State Corporation Commission (SCC) anticipates no capital projects that would have an impact on the conversion of farm and forest lands.

SCC approves the construction of utility facilities and considers the impact of proposed facilities on farm and forested lands and their conversion in its analysis of environmental impacts. SCC regularly requests the Department of Environmental Quality (DEQ) to coordinate a review of utility applications and to gather information from all state agencies with environmental responsibilities. Additionally, SCC executed a Memorandum of Agreement (MOA) with DEQ regarding the coordination of reviews of environmental impacts of proposed electric generating plants and associated facilities. A second MOA with DEQ is in place to ensure that consultation

by DEQ on wetland impacts occurs prior to siting determinations by SCC for facilities and activities of utilities and public service companies. SCC's filing requirements further require applicants seeking authority to construct and operate electric generating facilities to submit information on the impact to agricultural and forest resources.

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

DEQ “strives to ensure that any impacts on the preservation of farm and forest lands resulting from DEQ’s actions are necessary to protect and improve the environment for the well being of all Virginians.” If DEQ believes that a regulation may potentially impact farm and forest lands preservation, the agency ensures that a representative of the farming or forestry community is given an opportunity to serve as a member of any advisory panel established to assist in the development of the proposal. Additionally, as the agency coordinates the review of environmental impacts resulting from state construction projects, the responsible agencies are asked to identify any such impacts.

During fiscal year 2014, DEQ and its regulatory boards had one public comment period on notices of intent to adopt, amend, or repeal a regulation and six comment periods on the proposed adoption, amendment, or repeal of regulatory text. DEQ also conducted ten public comment periods for fast-track rulemaking. DEQ received comments regarding the impacts to farm or forest land during two regulatory comment periods as detailed below.

- DEQ accepted comments on the proposed amendments to the Virginia Pollution Abatement Permit regulation that deals with the pollutant management activities for animal wastes at animal feeding operations. The Virginia Agribusiness Council expressed support for the content of the proposed amendment. The Council specifically supported the recordkeeping and utilization requirements for animal waste transferred offsite as proposed and not including the Best Management Practices contained in the Chesapeake Bay Watershed Implementation Plan within the regulation.
- DEQ accepted comments on proposed amendments to the Virginia Pollution Abatement General Permit for Animal Feeding Operations. Numerous farming-related entities submitted comments on the proposed amendments. Commenters were supportive of renewing the general permit, as it provides a simplified process for operating under a permit. Commenters were supportive of the 10-year permit term and were supportive of not including Best Management Practices from the Chesapeake Bay Watershed Implementation Plan in the general permit. Some were supportive of the reporting and training threshold requirements, but one commenter was concerned that farmers did not need the burden of more recordkeeping requirements. One commenter requested that soil and manure sampling be required only every three years.

### Review of Major State Projects

From July 1, 2013 to June 30, 2014, DEQ’s Office of Environmental Impact Review completed the review of 52 environmental impact reports for major state projects. Both the Virginia Department of Agriculture and Consumer Services (VDACS) and the Virginia Department of

Forestry (DOF) indicated that neither farm nor forest land would be adversely impacted by these projects.

### Review of proposed electric generating plants and associated facilities

DEQ and SCC entered into a MOA regarding coordination of the reviews of environmental impacts of proposed electric generating plants and associated facilities. DEQ includes DOF and VDACS in the review of SCC applications. DEQ coordinated the reviews of eight SCC applications between July 1, 2013 and June 30, 2014. DOF found that one application would have significant impacts on forest land and recommended two additional projects for forest land mitigation. Information on these projects is summarized below.

- Appalachian Power Company (APCo) submitted an application for a Certificate of Public Convenience and Necessity (CPCN) to SCC for a transmission line reconductoring project in Rockbridge and Botetourt Counties. This project will result in a forest loss of 75 acres. DOF determined that the projected forest loss of 75 acres is significant and recommended the development of a mitigation plan.
- APCo submitted an application for a CPCN to construct a transmission line project and associated facilities in Campbell County and the City of Lynchburg. The project will require the clearing of approximately 53 acres of wooded area for the transmission line right-of-way. DOF determined that APCo's preferred route will have the least impact on forest land, but stated that this loss is a concern. DOF requested that certain on-site and off-site forest land mitigation recommendations be conditions for permit approval from SCC.
- American Electric Power Appalachian Transmission Company and APCo submitted an application for a CPCN for the construction and operation of the Cloverdale Extra High Voltage Transmission Improvements Project in Botetourt County. This project requires the removal of 40 acres of trees. DOF recommended mitigation for the loss of this forest land.

For additional information on the review of major state projects, see Appendix D.

### Federal Agency Projects

DEQ coordinated the review of 142 federal agency projects (including private development requiring federal approvals) from July 1, 2013 to June 30, 2014. Of that number, DOF indicated that four could have adverse impacts, some significant, on agriculture and forestry resources. Information on these projects is summarized below.

- Proposed improvements to the George Washington Boyhood Home at Ferry Farm will result in the removal of approximately 6 acres of trees and forest vegetation. DOF recommended that it be consulted in the development of the Forest Management Plan for this project.

- The proposed project at the Suffolk Executive Airport will result in the removal of approximately 1.3 acres of trees as well as the clearing of approximately 55 acres of trees via silviculture. DOF determined that this project will impact the forest resources of the state, but that it is consistent with required state laws and regulations with respect to DOF's jurisdiction.
- The Pointe at Pickett Farms in Norfolk is proposed for development on approximately 17 acres of undeveloped wooded land. This project will be funded by the U.S. Department of Housing and Urban Development (HUD). DOF determined that the forest land loss impact of this project is significant. DOF is concerned that the HUD Environmental Assessment Guide for Housing Projects was not considered for this project.
- The proposed construction of Abberly at Centerpointe Apartments in Chesterfield will result in the loss of 24 acres of forest land.

Detailed recommendations made by DOF to mitigate these adverse impacts can be found in Appendix D.

APPENDIX A



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219 2000

Charles A. Kilpatrick, P.E.  
COMMISSIONER

August 25, 2014

Ms. Sandra J. Adams, Commissioner  
Virginia Department of Agriculture and Consumer Services  
P.O. Box 1163  
Richmond, Virginia 23218

Attention: Perida Giles

Dear Ms. Adams:

Attached is the Virginia Department of Transportation's current program/plan for implementing policies for the protection of forest and farmland, in accordance with § 3.2-206 of the Code of Virginia. Also included with our plan are the results of our analysis of the impacts of VDOT projects on these lands from July 1, 2013 to June 30, 2014. If you have any questions, please contact Elizabeth Jordan at (804) 371-0877.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. Long', written over a horizontal line.

Stephen J. Long  
State Environmental Administrator

Attachment

VirginiaDOT.org  
WE KEEP VIRGINIA MOVING

**VDOT's Plan/Program Addressing Code of Virginia Section 3.2-206**

- Estimate the number of acres of farmlands impacted for each VDOT project. Count all farmlands regardless of whether the property has one of the listed characteristics.
- Estimate the number of acres of forestlands impacted for each VDOT project. Count all forestlands regardless of whether the property had one of the listed characteristics.
- Submit the plan annually by September 1.

**Results of the Analysis of the Impact of VDOT Projects**

**Total land acreage converted to other use:** **241.63 acres**  
This is the amount of right-of-way purchased by VDOT in FY13.  
Construction begins approximately 6 months to 1 year after purchase.

**Total farmland acreage planned to be converted:** **49.12 acres**  
This is the amount of farmland estimated in FY13 to be impacted by future construction projects. Since the estimates are determined during early environmental studies, the conversion may not actually take place for years. These estimates are preliminary and may decrease as the project develops and avoidance measures are pursued.

**Total forestland acreage planned to be converted:** **93.42 acres**  
This is the amount of forestland estimated in FY13 to be impacted by future construction projects. Since the estimates are determined during early environmental studies, the conversion may not actually take place for years. These estimates are preliminary and may decrease as the project develops and avoidance measures are pursued.

**APPENDIX B**

Molly Joseph Ward  
Secretary of Natural Resources

Clyde E. Cristman  
Director



Joe Elton  
Deputy Director of Operations

Rochelle Altholz  
Deputy Director of Administration  
and Finance

**COMMONWEALTH of VIRGINIA**  
**DEPARTMENT OF CONSERVATION AND RECREATION**

600 East Main Street, 24<sup>th</sup> Floor  
Richmond, Virginia 23219  
(804)786-6124

October 22, 2014

Commissioner Sandra J. Adams  
Virginia Department of Agriculture and Consumer Services  
Commissioner's Office  
102 Governor Street  
Richmond, Virginia 23219

Subject: FY 2014 Farm and Forest Land Protection Status Report

Dear Commissioner Adams:

Attached is a copy of the Department of Conservation and Recreation's Annual Farm and Forest Land Protection Report that includes an analysis of the impact Agency capital projects had on open space in FY 2014. As a conservation agency, the Department always strives to minimize impacts to farm and forest land on its properties. Conversion is often minimized because we are taking recreational use land and merely changing the type of recreational use. For FY 2014 the Department reports no impacts on farm or forest land.

If you have any questions regarding our submittal, please do not hesitate to contact us. I may be reached at (804) 786-2291 or at [david.dowling@der.virginia.gov](mailto:david.dowling@der.virginia.gov).

Sincerely,

A handwritten signature in cursive script that reads 'David C. Dowling'.

David C. Dowling  
Policy and Planning Director

Attachment

Cc: Clyde E. Cristman, DCR Director  
Erin Williams, VDACS Policy Analyst

*State Parks • Soil and Water Conservation • Outdoor Recreation Planning  
Natural Heritage • Dam Safety and Floodplain Management • Land Conservation*

Analysis of the Impact of Agency Projects for FY14:

Number of projects completed between July 1, 2013 and June 30, 2014: 10

Total land acreage converted to other use: 0.0 acres

Total farm land acreage converted: 0.0 acres

Total forest land acreage converted: 0.0 acres

Total acreage of other lands converted (excluding farm and forest): 0.0 acres

<b>Park</b>	<b>Project Description</b>	<b>Land Converted to Other Use</b>	<b>Farm Land Converted</b>	<b>Forest Land Converted</b>	<b>Other Acreage Converted</b>
New River Trail	Renovate Historic Foster Falls Hotel	0	0	0	0
Chippokes Plantation	Trail Improvements to Multiple Park Trails	0	0	0	0
Westmoreland	Trail Improvements to Four Park Trails	0	0	0	0
Bear Creek Lake	Cabin Access Trail Improvements	0	0	0	0
High Bridge Trail	Prospect Site Rehabilitation	0	0	0	0
Sky Meadows	Replace Roof Residence #1	0	0	0	0
Staunton River	Emergency Pool Repairs	0	0	0	0
Staunton River	Replace Roof, Maintenance Shop	0	0	0	0
Staunton River	Replace Roof and Siding, Bourne Maintenance Shop	0	0	0	0
Westmoreland	Repair Pool Whitecoat	0	0	0	0
	<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Describe alternatives and mitigating measures that were considered to reduce the total acreage of farm and forest lands converted during the period of July 1 through June 30:

For FY 2014 the Department reports no impacts on farm or forest land. However, as a matter of practice, the Department of Conservation and Recreation's construction on park properties is governed by a Master Planning process that is used to develop the properties in a manner that will best blend the project with the natural landscape of the property. The Department of Conservation and Recreation is highly sensitive to the conversion of open space, including the conversion of farm and forestry acreage. Every project initiated by the Department undergoes a strict in-house review including the review of the siting of the development. Our overarching policy is directed toward having the development, whether it be campsites, visitor centers, or parking lots, "lay lightly on the land." The Agency works with designers and contractors closely to insure that land impacts are minimized. Conserving open space and minimizing the intrusion by capital improvements remains a priority with the Department of Conservation and Recreation.

## APPENDIX C

MARK C. CHRISTIE  
COMMISSIONER  
  
JAMES C. DIMITRI  
COMMISSIONER  
  
JUDITH WILLIAMS JAGDMANN  
COMMISSIONER



JOEL H. PECK  
CLERK OF THE COMMISSION  
P.O. BOX 1197  
RICHMOND, VIRGINIA 23218-1197

### STATE CORPORATION COMMISSION

October 14, 2014

The Honorable Sandra J. Adams  
Commissioner  
Virginia Department of Agriculture and Consumer Services  
P.O. Box 1163  
Richmond, Virginia 23218

Dear Commissioner Adams:

On behalf of the State Corporation Commission ("Commission"), I am providing a response to your annual request for information pursuant to § 3.2-206 of the Code of Virginia ("Code") regarding the impact of the Commission's projects and regulations on the conversion of farm and forested lands. The discussion herein is substantively the same as the one provided in prior years.

Section 3.2-206 of the Code requires "an analysis of the impact that the [Commission's] regulations and projects have on the conversion of farm and forest lands." With respect to projects, the Commission anticipates no capital projects that would have an impact on the conversion of farm and forest lands. The remainder of this letter addresses Commission regulations that may have such an impact.

The Commission approves the construction of utility facilities. Commission approval is in addition to other environmental and land-use approvals required for any such construction. The Commission considers the impact of proposed facilities on farm and forest lands and their conversion in its analysis of environmental impacts required by various provisions of the Code, including §§ 56-46.1, 56-259, 56-265.2:1, and 56-580. The Commission regularly requests the Department of Environmental Quality ("DEQ") to coordinate a review of utility applications and to gather information from all state agencies with environmental responsibilities.

In addition, pursuant to §§ 10.1-1186.2:1 B and 56-46.1 G of the Code, the DEQ and the Commission have executed a Memorandum of Agreement regarding coordination of reviews of the environmental impacts of proposed electric generating plants and associated facilities. *See In the matter of receiving comments on a draft memorandum of agreement between the Department of Environmental Quality and the State Corporation Commission, Case No. PUE-2002-00315,*

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Order Distributing Memorandum of Agreement (Aug. 14, 2002). When the Commission receives an application for certification of an electric generating facility, such Memorandum of Agreement ensures the coordination of reviews of environmental impacts.

Virginia statutes, however, limit the authority of the Commission over environmental and other matters. Pursuant to § 56-46.1 A of the Code, whenever the Commission is required to approve the construction of any electrical utility facility:

In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters.

Furthermore, pursuant to § 62.1-44.15:5 D 2 of the Code, the DEQ (on behalf of the State Water Control Board) and the Commission have executed a second Memorandum of Agreement to ensure that consultation by the DEQ on wetland impacts occurs prior to siting determinations by the Commission for facilities and activities of utilities and public service companies. *See In the matter of 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 (July 30, 2003). 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 DEQ prepares a wetland impacts consultation including a summary of findings and any recommendations for the Commission's consideration.

Finally, the Commission's filing requirements for applicants seeking authority to construct and operate electric generating facilities are set forth at 20 VAC 5-302-20. These filing

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October 14, 2014  
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requirements direct the applicant to submit, among other things, information on the impact to agricultural and forest resources. *See, e.g.*, 20 VAC 5-302-20 12.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Dudley", is written over the typed name and title.

John F. Dudley  
Counsel to the Commission

cc: Erin Williams, Policy Analyst  
Virginia Department of Agriculture and Consumer Services

Cody D. Walker, Assistant Director, Division of Energy Regulation  
State Corporation Commission

**APPENDIX D**



**COMMONWEALTH of VIRGINIA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

*Street address:* 629 East Main Street, Richmond, Virginia 23219

*Mailing address:* P.O. Box 1105, Richmond, Virginia 23218

Fax: 804-698-4019 - TDD (804) 698-4021

[www.deq.virginia.gov](http://www.deq.virginia.gov)

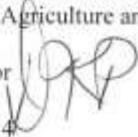
Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4020  
1-800-592-5482

**MEMORANDUM**

**TO:** The Honorable Sandra J. Adams, Commissioner  
Department of Agriculture and Consumer Services

**FROM:** David K. Paylor 

**DATE:** August 27, 2014

**SUBJECT:** Preservation of Farm and Forest Lands - Report on Impacts from the Department of Environmental Quality's Programs pursuant to § 3.2-206 of the Code of Virginia

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The Department of Environmental Quality (DEQ) strives to ensure that any impacts on the preservation of farm and forest lands resulting from the DEQ's actions are necessary to protect and improve the environment for the well being of all Virginians. The primary goal of the DEQ as it develops regulations is to focus on environmental results, to consider both the environmental benefits and the impacts to those we regulate, and to prioritize our efforts and resources based on potential impact on the environment. Included in each notice of intent or notice of a comment period on a proposal is a specific request for comment on the impacts of the regulation on farm and forest land preservation. If the DEQ believes that a regulation may impact farm and forest land preservation, the DEQ will ensure that a representative of farming and/or forestry is given an opportunity to be a member of any advisory panel established to assist in the development of a proposal. DEQ also coordinates the review of environmental impacts resulting from state construction projects, proposed electric generating plants and associated facilities submitted to the State Corporation Commission (SCC), airport projects requiring license from the Department of Aviation, and federal projects. Responsible agencies are asked to identify any such impacts. In addition, the Departments of Agriculture and Consumer Services (VDACS) and of Forestry (DOF) are asked to review those evaluations and make recommendations on how such impacts can be avoided or minimized.

From July 1, 2013, to June 30, 2014, the DEQ (and its regulatory boards) had 1 comment period on a notice of intent (NOIRA) to adopt, amend or repeal a regulation and 6 comment periods on proposed adoption, amendment or repeal of regulatory text. In addition, there were

The Honorable Sandra Adams  
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10 public comment periods for fast-track rulemakings. Comments were received regarding impacts to farm or forest lands during 2 of the regulatory comment periods. The specifics on the regulatory comment periods are listed below:

- The State Air Pollution Control Board issued 4 notices of a public comment period on fast track regulations and 1 notice of a public comment period on a proposal.
- The Virginia Waste Management Board issued 3 notices of a public comment period on fast track regulations.
- The State Water Control Board issued 1 NOIRA, 3 notices of a public comment period on fast track regulations and 5 notices of a public comment period on proposals. Comments relative to farm and forest land preservation were received during 2 proposed comment periods.

DEQ accepted public comments on proposed amendments to the Virginia Pollution Abatement Permit regulation (9VAC25-32) that deals with the pollutant management activities of animal wastes at animal feeding operations (AFO). DEQ staff received comments from the Virginia Agribusiness Council expressing support for the content of the proposed amendment. They specifically supported the recordkeeping and utilization requirements for animal waste transferred offsite as proposed and not including the Best Management Practices contained in the Chesapeake Bay Watershed Implementation Plan (WIP) within the regulation.

DEQ also accepted comment on proposed amendments to the Virginia Pollution Abatement (VPA) General Permit for Animal Feeding Operations (AFO) (9VAC25-192). The VPA General Permit Regulation for AFOs governs the pollutant management activities of animal wastes at AFOs not covered by a Virginia Pollutant Discharge Elimination System (VPDES) permit, and having 300 or more animal units utilizing a liquid manure collection and storage system. These AFOs may operate and maintain treatment works for waste storage, treatment or recycling and may perform land application of manure, wastewater, compost, or sludges. In developing the proposed amendments, the agency worked with an advisory committee that included representation from the farming community. Comments on the proposed amendments were submitted by numerous farming related entities. Commenters were supportive of renewing the general permit, as it provides a simplified process for operating under a permit. The commenters were supportive of the ten year permit term and were supportive of not including Best Management Practices from the Chesapeake Bay Watershed Implementation Plan in the general permit. Some were also supportive of the reporting and training threshold requirements, while one commenter was concerned about the recordkeeping requirements, and stated that farmers didn't need to be bogged down with more recordkeeping requirements.

DEQ feels that additional recordkeeping is necessary to ensure compliance with the new proposed options such as transferring animal waste or bringing off-site generated waste to the facility for treatment. The new recordkeeping items are only required when the owner of the facility transfers animal waste or brings off-site generated waste to the facility. The new recordkeeping items are consistent with the poultry waste regulation (9VAC25- 630).

The Honorable Sandra Adams  
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One commenter requested soil and manure sampling be required only every 3 years. Subsection E. 4 of § 62.1-44.17:1 of the Code of Virginia states that (i) waste shall be monitored at least once per year. Additionally, monitoring waste is a valuable tool for nutrient management and for evaluating the performance of a waste system.

The agency has diligently worked with stakeholders, including those in the regulated community as well as those representing environmental organizations to only adopt regulations that are protective of human health and the environment while minimizing impacts to the regulated community.

#### Review of major state projects

During the past fiscal year (July 1, 2013, to June 30, 2014), the Office of Environmental Impact Review completed the review of 52 environmental impact reports (EIRs) for major state projects. The EIRs for these projects were coordinated with the Department of Forestry (DOF) and the Virginia Department of Agriculture and Consumer Services (VDACS) as appropriate. In all cases, VDACS and DOF did not indicate that farm and forest lands would be adversely affected by these state projects.

#### Review of environmental impacts of proposed electric generating plants and associated facilities

Pursuant to Virginia Code §10.1-1186.2:1 B and §56-46.1 G, DEQ and the State Corporation Commission (SCC) entered into a memorandum of agreement regarding coordination of the reviews of environmental impacts of proposed electric generating plants and associated facilities. DEQ includes DOF and VDACS in the review of SCC applications. DEQ coordinated the reviews of eight SCC applications between July 1, 2013, and June 30, 2014. DOF found that one of the eight applications would have significant impacts on forest lands and recommended two projects for forestland mitigation due to the degree of impacts; therefore, information on these projects is summarized below.

#### **1. Cloverdale – Lexington 500 kV Transmission Line Reconductoring Project in Rockbridge and Botetourt Counties, Case No. PUE-2013-00133.**

Appalachian Power Company (APCo) submitted an application for a Certificate of Public Convenience and Necessity (CPCN) to the SCC. APCo is proposing to implement the Cloverdale-Lexington 500 kilovolt (kV) Transmission Line Reconductoring Project in Botetourt and Rockbridge counties as part of a regional transmission upgrade. The project involves the reconductoring of approximately 36 miles of the existing Cloverdale-Lexington 500 kV transmission line, the replacement of approximately nine of the existing steel lattice transmission structures, and the construction of three new steel lattice transmission structures. Upon completion, the line's voltage will be unchanged, but its capacity to transmit electricity will be improved. The line is shared between APCo and Dominion Virginia Power. The proposed work will be within the existing 175-foot right-of-way and will utilize existing structures for approximately 90% of its length.

**Forestry Impacts.** DOF states that a forest loss of 75 acres is significant, and it should be mitigated in some manner on-site either by additional avoidance steps in the design or location of the access roads, or off-site through restoration or replacement actions. DOF is prepared to work with APCo on an acceptable mitigation plan and requests the applicant be required to develop one as part of the SCC's approval.

DOF's principal concern in reviewing the application is in the amount of forest acreage that will be lost. It was DOF's understanding based on communications in August 2013 with APCo's environmental contractor that tree loss would be less than 10 acres. However, the submitted application and Mr. George Reeves' testimony indicate that the forest loss will be approximately 75 acres to provide for new access roads and expansion of existing access roads.

With regard to forest conservation concerns relative to this plan, DOF finds APCo's proposed restoration and maintenance plan for working within the right-of-way to be generally in accordance with DOF recommended best management practices and industry standards. Given the scenic areas that will be crossed, DOF recommends that APCo follow the SCC Division of Energy Regulation's "Guidelines of Minimum Requirements for Transmission Line Applications Filed under Virginia Code Section 56-46.1 and The Utility Facilities Act, May 10, 1991" as part of the SCC approval. Specifically, DOF is referring to certain elements listed under the section "The Selection and Clearing of Rights-of-Way Routes" in Chapter 6, Environmental Issues, SCC Environmental Responsibilities and reiterated in the recommendations below.

**Recommendations.** DOF has the following recommendations:

- Develop an acceptable mitigation plan and coordinate with DOF to develop the plan.
- Adhere to the following best management practices listed in the SCC's "Guidelines of Minimum Requirements for Transmission Line Applications Filed under Virginia Code Section 56-46.1 and The Utility Facilities Act, May 10, 1991":
  - Rights-of-way should avoid prime or scenic timbered areas, steep slopes and proximity to main highways where practical. In some situations scenic values would emphasize locating rights-of-way remote from highways while in others, where scenic values are less important, rights-of-way along highways in timbered areas would achieve desirable conservation of existing forest lands.
  - Long tunnel views of transmission lines crossing highways in wooded areas, down canyons and valleys or up ridges and hills should be avoided. This can be accomplished by having the lines change alignment in making the crossing, or in other situations by concealment of terrain or by judicious use of screen planting.
  - Rights-of way-clearing should be kept to the minimum width necessary to prevent interference of trees and other vegetation with the proposed transmission facilities. In scenic or urban areas, trees which would interfere with the proposed transmission facilities and those which could cause damage if fallen should be selectively cut and removed.

- The time and method of clearing rights-of-way should take into account matters of soil stability, the protection of natural vegetation and the protection of adjacent resources.
- In scenic areas visible to the public, rights-of-way strips through forest and timber areas should be deflected occasionally and should follow irregular patterns or be suitably screened to prevent the rights of way from appearing as tunnels through the timber.
- At road crossings or other special locations of high visibility rights-of-way strips through forest and timber areas should be cleared with varying alignment to comport with the topography of the terrain. In such locations also where rights-of-way enter dense timber from a meadow or other clearing, trees should be feathered in at the entrance of the timber for a distance of 150 – 200 yards. Small trees and plants should be used for transition from natural ground cover to larger areas.

**2. South Lynchburg Area Improvements 138 kV Transmission Line Project in Campbell County and the City of Lynchburg, Case No. PUE-2013-00126.**

APCo submitted an application for a CPCN to the SCC to construct a transmission line project and associated facilities in Campbell County and the City of Lynchburg. The project will enable a 138 kV connection between the Brush Tavern, Lynbrook (proposed), George Street, and South Lynchburg substations. The project consists of the following:

- Construction of approximately 9.3 miles of new 138 kV electric transmission line, of which 4.5 miles will be built in the right-of-way and 4.8 miles will be built in a new right-of-way.
- Construction of a new 138/12 kV substation (Lynbrook Substation) approximately 200 feet by 200 feet in size.
- Associated improvements at APCo's existing Brush Tavern, New London, George Street and South Lynchburg substations.
- Removal of approximately 5.4 miles and 60 structures of the existing Lawyers Tap 69 kV transmission line and the abandonment of approximately 0.9 mile of the existing Lawyers Tap 69 kV right-of-way.
- Removal of APCo's existing Lawyers Substation.

A 100-foot wide right-of-way will be required for construction and operation of most of the proposed line. The final location of the preferred right-of-way within the preferred corridor is subject to change depending on final line design, minimization of impacts to resources, landowner preferences, and detailed ground surveys. The project also requires the construction of a new 138/12 kV distribution substation (Lynbrook Substation). The fenced gravel yard dimensions of the new substation will be approximately 200 feet by 200 feet (0.9 acre).

**Forestry Impacts.** The project would require the clearing of approximately 53 acres of wooded area for the transmission line right-of-way. DOF states that APCo's preferred route (Alternative 2 included in the application) will have the least impact on forestland and DOF concurs overall with APCo's selection of Alternative 2 as the preferred route. DOF states that it has the following comments, some of which were raised previously with APCo's consultant but remain unaddressed in the current application. In the application, APCo states that case-by-case exceptions to its standard right-of-way clearing, restoration and maintenance practices are considered to address sensitive environmental areas/features and/or property owner requests while maintaining company and federal safety clearances. DOF states that aerial photos provided with the application show increasing fragmentation of the existing forest resource in the vicinity surrounding the proposed right-of-way, making it a sensitive environmental area. Therefore, DOF considers this project to be an exception and the loss of an additional 52.5 acres of forested land (as will be necessary for the proposed route) is a concern.

**Recommendations.** DOF requests that these on-site and off-site forestland mitigation recommendations be conditions for permit approval from the SCC:

- Conduct offsite replacement mitigation to offset and compensate for the forest loss elsewhere.
- Coordinate with DOF to develop an acceptable offsite replacement mitigation plan.
- Implement onsite mitigation through the design and maintenance of the right-of-way so that as much of the forest ecosystem value is retained as is possible.
- Adhere to certain specific best management practices outlined in the SCC Division of Energy Regulation's "Guidelines of Minimum Requirements for Transmission Line Applications Filed under Virginia Code Section 56-46.1 and The Utility Facilities Act, May 10, 1991" for onsite mitigation; specifically, the following items from the "The Selection and Clearing of Rights-of-Way Routes" section in Chapter 6, Environmental Issues, SCC Environmental Responsibilities:
  - Rights-of-way should avoid prime or scenic timbered areas, steep slopes and proximity to main highways where practical. In some situations scenic values would emphasize locating rights-of-way remote from highways while in others, where scenic values are less important, rights-of-way along highways in timbered areas would achieve desirable conservation of existing forest lands.
  - Long tunnel views of transmission lines crossing highways in wooded areas, down canyons and valleys or up ridges and hills should be avoided. This can be accomplished by having the lines change alignment in making the crossing, or in other situations by concealment of terrain or by judicious use of screen planting.
  - Rights-of way-clearing should be kept to the minimum width necessary to prevent interference of trees and other vegetation with the proposed transmission facilities. In scenic or urban areas, trees which would interfere with the proposed transmission facilities and those which could cause damage if fallen should be selectively cut and removed.

- The time and method of clearing rights-of-way should take into account matters of soil stability, the protection of natural vegetation and the protection of adjacent resources.
- In scenic areas visible to the public, rights-of-way strips through forest and timber areas should be deflected occasionally and should follow irregular patterns or be suitably screened to prevent the rights of way from appearing as tunnels through the timber.
- At road crossings or other special locations of high visibility rights-of-way strips through forest and timber areas should be cleared with varying alignment to comport with the topography of the terrain. In such locations also where rights-of-way enter dense timber from a meadow or other clearing, trees should be feathered in at the entrance of the timber for a distance of 150 – 200 yards. Small trees and plants should be used for transition from natural ground cover to larger areas.
- Give special consideration to the following actions when implementing DOF's Best Management Practices (BMPs) for water quality (as stated in the application) and the SCC Division of Energy Regulation's guidelines.
  - Restore contours to pre-construction conditions and control erosion until re-vegetation stabilizes the disturbed areas.
  - Where forest clearing may be done as part of the construction process and is not part of the necessary right-of-way, restore vegetation to native species and protect the natural functions of the pre-construction ecosystem.
  - Retain existing groupings and/or clusters of trees and natural vegetation on the right-of-way where feasible, to provide aesthetic and environmental benefits, as well as reduce future open space maintenance costs.
  - Establish native herbaceous species and shrubs or some low-growing trees that are considered desirable ground cover and valuable wildlife habitat along the right-of-way in the project's vegetation management and revegetation plan. The partial list of compatible tree species provided in the application the sponsor normally considers is satisfactory for meeting this objective.
  - Maintain a scrub habitat, dominated by low growing, bushy vegetation and young trees as being preferable to mowing in forest habitats.

**3. Cloverdale Extra High Voltage Transmission Improvements Project, Botetourt County, State Corporation Commission, Case No. PUE-2013-00036.**

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The American Electric Power (AEP) Appalachian Transmission Companies, Inc. and Appalachian Power Companies (herein referred to as the Companies) submitted an application to the SCC for a CPCN for the construction and operation of the Cloverdale Extra High Voltage Transmission Improvements Project in Botetourt County. The project will be constructed near the existing Cloverdale Substation and will include the following:

- three new 345 kV transmission lines and one new 500 kV transmission line;
- the partial relocation of an existing 765 kV transmission line, an existing 500 kV transmission line and two existing 138 kV transmission lines; and
- improvements to the Cloverdale Substation, including the construction of a new 500 kV yard to serve as the terminus for the relocated 500 kV line.

**Forestry Impacts.** Approximately 40 acres of trees will be removed for the substation areas and transmission line right-of-way. DOF states that the Companies have been conscientious in avoiding forestland conversion by routing the project through industrial and non-forested areas and making maximum use of existing rights-of-way. Similarly, DOF appreciates the Companies' commitment to utilize the DOF's best management practices for water quality in its tree clearing methods. In Volume II, Section 5 of the application, discussion of the proposed right-of-way clearing methods to be used and the right-of-way restoration and maintenance practices planned for the proposed project are detailed. DOF supports the Companies' decision, where reasonable and practical, to utilize selective clearing methods to retain low growth shrubs and other compatible vegetation. Such an action, where early successional forests are created, has the potential to buffer forest fragmentation impacts to forest functions and values. Because the Companies already own much of the land where the new rights-of-way will be cut and maintained, the opportunity exists to try some innovative management approaches. DOF has made some recommendations already and understands from its correspondence with the Companies' consultants that those have been forwarded to the Companies for consideration. DOF is prepared to work with the project sponsors and its sister agencies where appropriate on efforts that will result in reducing the rate of forestland conversion in the Commonwealth.

Lastly, Companies' consultant advised DOF that the Companies do not currently have plans to mitigate the removal of the pine plantation carbon sequestration plantings that will be required to site the new transmission facility. However, it was also noted that the Companies have a long history of voluntarily supporting efforts that conserve the Commonwealth's natural resources, working forest lands and biodiversity. DOF would appreciate the opportunity to work with the Companies on such an effort.

DOF states that requesting mitigation for the loss of forestland is consistent with DOF's statewide goal of reducing the rate of forestland conversion in the Commonwealth through mitigation efforts. A mitigation plan could be implemented to help achieve this goal, and consultation with DOF could identify the appropriate mechanism to accomplish the objective.

**Recommendations.** DOF has the following recommendations:

- Mitigate for the 40 acres of forestland that will be lost due to the project's construction; and
- Coordinate with DOF on a mitigation response.

### **Federal Agency Projects**

The DOF indicated that four of the 142 federal agency projects (including private development projects requiring federal approvals) coordinated by DEQ from July 1, 2013, to June 30, 2014, could have adverse impacts (some significant) on forestry resources. Information on these projects is summarized below.

#### **1. George Washington Boyhood Home at Ferry Farm, Site Treatment Plan**

The Department of the Interior (DOI), National Park Service (NPS) and the George Washington Foundation propose to make improvements to the George Washington Boyhood Home Site at Ferry Farm located on the Rappahannock River across from Fredericksburg in Stafford County. Up to 5 acres of trees would be removed from the eastern side of Ferry Farm to accommodate the new facilities, parking lots, and driveway. An additional 1.3 acres of forest vegetation would be removed from the northeastern portion of the site to accommodate the realigned entrance road. It is anticipated that up to 24 trees would be removed from the escarpment between the historic core and the Rappahannock River to accommodate historic views.

**Forestry Impacts.** DOF finds that the following elements of the preferred alternative will mitigate the impact of the development on forest resources:

- The proposed project footprint should minimize the permanent loss of forestland more than the other build alternatives.
- Most of the grey infrastructure components will be built on non-forested land.
- Positioning the proposed maintenance building at the southern end of the site avoids forested areas and tree removal thereby reducing the forest fragmentation within the existing large block of evergreen forest.
- Planned plantings of trees as screens and for other aesthetic purposes reduces over time, the actual permanent forest cover loss to less than an acre.
- The "ecological area" where development will be limited to construction of trails only combined with the "historic zone" where development will be limited to trails and archeological study, encompasses almost all of the medium age deciduous forest on the site. Additionally, because that area is also adjacent to the river and consists of more steeply sloped land, the existing ecosystem services provided by the forest are retained. As a result, long-term, adverse impacts on coastal resources associated with soils and topography, wildlife and wildlife habitat, and Chesapeake Bay resources should be minimal.

**Recommendations.** DOF recommends that the applicant consult with DOF staff on the elements of the Forest Management Plan to be developed for the project. The DOF document,

Forestry Best Management Practices for Water Quality, includes DOF-approved practices that may be incorporated into the Forest Management Plan to be developed for the project.

## **2. Suffolk Executive Airport.**

The City of Suffolk proposes to remove trees, complete construction of a parallel taxiway, relocate the localizer antenna, and remove a portion of abandoned runway and taxiways at the Suffolk Executive Airport (SFQ) in the City of Suffolk. The project will result in the removal of approximately 1.3 acres of trees to include grading and grass seeding and the clearing of approximately 55 acres of trees via silviculture.

**Forestry Impacts.** DOF finds that this project will impact the forest resources of the Commonwealth. However, as proposed, it is consistent with required state laws and regulations with respect to DOF's jurisdiction. DOF's conclusion is based on the following:

- The trees that have been identified for removal are considered obstructions to flight safety by Federal Aviation Administration regulations (FAR Part 77), and as such are hazards to aircraft operating at the Airport. This FAA regulation requires the airspace around airports to be clear of obstructions in order to enhance the safe operations of aircraft when landing and taking off.
- The preferred action option for the project proposes 1.3 acres of upland tree clearing and approximately 55 acres of forested wetlands and non-wetland linear water features through silviculture (both on and off airport property).
- The silviculture approach to be employed would comply with DOF's Forestry Best Management Practices for Water Quality in Virginia Technical Manual (Fifth Edition, 2011).
- The silviculture would involve the cutting of trees approximately 3-6 inches above the ground with no grubbing, and replanting short, slow-growing trees and shrubs pursuant to a forest management plan already approved by DOF.
- The 55 acres of trees that are proposed to be removed are not contiguous to each other but rather are in 10 separate areas and each has been addressed in the forest management plan.
- During silviculture activities, approximately 55 acres of Palustrine Forested wetlands would be temporarily impacted. However, adverse water quality impacts are not anticipated to result from silvicultural activities due to adherence to the DOF Forestry Best Management Practices for Water Quality in Virginia Technical Manual (Fifth Edition, 2011). Furthermore, the project will be subject to DOF inspections of the areas harvested using silvicultural principles. The Silvicultural Water Quality Law (Code of Virginia §10.1-1181.1 through 10.1-1181.7) gives the state forester authority to protect water quality from excessive sedimentation of streams that originates from silvicultural operations.
- The Code of Virginia Section 28.2-1302.3.5 authorizes localities to implement local wetlands boards and permits for the "harvesting of...forestry...products" within wetlands. The City of Suffolk Code of Ordinances (Section 34-298) states that the harvesting of forestry products within wetlands is authorized.

### 3. The Pointe at Pickett Farms.

The U.S. Department of Housing and Urban Development (HUD) proposes to provide mortgage insurance under HUD Section 221(d)(4) to the AGM Financial Services, Inc. to finance the construction of The Pointe at Pickett Farms (Revised) by Pickett Farms Apartments, LP in the City of Norfolk. Phase I would be developed on approximately 8.939 acres of land and Phase II would be constructed on approximately 7.977 acres of land, currently consisting of undeveloped wooded land.

**Forestry Impacts.** DOF is concerned that the evaluation criteria required under procedures defined by the Department of Housing and Urban Development were not considered for the HUD-funded project. DOF finds that, although the project area is small, it consists largely of forest and tree canopy. It is also next to a waterway and it is in an urban area where it represents the only remaining relatively large parcel of forestland in the region surrounding the site.

According to HUD's Environmental Assessment Guide for Housing Projects, Chapter 5, EF 3.2, Unique Natural Features and Areas, public or private scenic parks or areas may be considered in a site review as unique. As the only remaining large parcel of forestland in the entire area, DOF finds that the forestland is unique under HUD's criteria.

The forestland loss impact is significant, as almost all of the forestland on site will be lost. It is DOF's position that this fact requires a finding of "Major Impact Anticipated" under HUD criteria. Chapter 5 of HUD's Environmental Assessment Guide for Housing Projects states the following procedures to be followed under such circumstances:

"Major Impact Anticipated: Means the impact of the factor is known and is rated as having a major impact on the project or that the project will have a major impact on the factor. This finding can result in an EIS being required or may be cause for rejection if the impact cannot be mitigated. The overall finding on the project must consider the severity and permanence of the impact as well as the importance of the factor".

The required procedures go on to say regarding mitigation or modification:

"Some changes to mitigate impacts are recommended. This determination follows a finding of minor or major impact anticipated. The recommendations for mitigation or modification should be in sufficient detail so that they can be implemented by the responsible parties."

**Recommendation.** The development of forest management strategies for the site should be coordinated with DOF.

### 4. Abberly at Centerpointe Apartments.

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The U.S. Department of Housing and Urban Development (HUD) proposes to provide mortgage insurance under HUD Section 221(d)(4) to HHHunt Corporation (applicant) to finance the construction of the Abberly at Centerpointe Apartments in Chesterfield County. The project involves the construction of a five-building, 276-unit multi-family apartment complex on approximately 26 acres of undeveloped wooded land on Brandermill Parkway and Old Hundred Road.

**Forestry Impacts.** DOF finds that the proposed project will eliminate 24 acres of forestland in an area of Virginia that is rapidly urbanizing.

**Recommendations.** Activities should be undertaken to minimize construction impacts that effect forest health-related ecosystem services including:

- Restoring vegetation to native species and protecting the natural functions of the pre-construction ecosystem where forest clearing is done as part of the construction process;
- Reducing soil compaction by using the appropriate machinery and avoiding construction activity during periods of wet weather when compaction can easily occur;
- Working with DOF to develop a Preharvest Plan prior to timber removal from the construction site if the timber removed from the site is to be harvested (the plan should include the careful layout of haul roads and skid trails necessary to transport timber from the site);
- Following forestry Best Management Practices (BMPs) for water quality as outlined by DOF's Voluntary BMP Guidelines publication for all harvesting operations;
- Stockpiling soil away from trees that are to remain standing; and
- Retaining existing groupings and/or clusters of trees and natural vegetation on the sites of the residential facility, where feasible, to provide esthetic and environmental benefits, as well as reducing future open space maintenance costs.

DOF further recommends, pursuant to HUD National Environmental Policy Act guidance, that the forest loss impact be mitigated.