

APPENDIX J: RESERVE MEMORANDA OF UNDERSTANDING

xii. Dominion Power and DCM

**RECEIVED**  
MAY 22 2007

MEMORANDUM OF AGREEMENT

BETWEEN

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND  
NATURAL RESOURCES

**Morehead City DCM**

AND

VIRGINIA ELECTRIC AND POWER COMPANY d/b/a  
DOMINION NORTH CAROLINA POWER

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**THIS MEMORANDUM OF AGREEMENT** is made and entered into as of the \_\_\_\_ day of May 2007 (the "Effective Date") by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES** (the "Department"), through its **DIVISION OF COASTAL MANAGEMENT** (the "Division"), party of the first part, and **VIRGINIA ELECTRIC AND POWER COMPANY**, a Virginia public service corporation doing business in the State of North Carolina as "Dominion North Carolina Power" ("Dominion"), party of the second part,

RECITALS

The Division is responsible for the management of the Currituck Banks component of the North Carolina National Estuarine Research Reserve, comprising nine hundred sixty (960) acres in Currituck County, North Carolina (the "Reserve").

Under the provisions of N.C.G.S § 113A-129.2, the Division is authorized to administer the North Carolina Coastal Reserve for research, education, and compatible and traditional public uses.

Under the provisions of N.C.G.S. § 113A-129.3, the North Carolina National Estuarine Research Reserve is administered as part of the North Carolina Coastal Reserve that is administered for the same purposes stated above.

**NOW THEREFORE**, this Agreement is for the cooperative maintenance by Dominion and the Division of the permanent easement granted to Dominion for an electric distribution line right-of-way for installation and maintenance of an underground electrical cable to meet additional power capacity demands and reliability to the Currituck Outer Banks as shown in Exhibit 1 (the "Right-of-Way").

**I. DOMINION AGREES:**

1. To minimize interference with or harm to the ecological integrity of the Currituck Banks component of the North Carolina National Estuarine Research Reserve, owned by the State of North Carolina, which might foreseeably result from Dominion's use and maintenance of the Right-of-Way, including, but not limited to, any future low canopy shrub community created within the Right-of-Way, and to eliminate any potential impact on existing freshwater ponds located within the Currituck Banks component.



2. To access and conduct all routine inspections of the Right-of-Way via a meandering pathway four (4) feet in width (the "pathway"). Entrance to the pathway is through the approximately one hundred five (105) foot long fence with gate located at the southern terminus of the Right-of-Way. See Exhibit 1). An all-terrain vehicle marked with Dominion's name may be used on the pathway for these purposes. Dominion shall use alternate temporary access routes pre-approved by the Division when wet weather prevents, or the location of existing permanent ponds blocks, access via the pathway.

3. To conduct all work performed on the Right-of-Way in conformity with the following specifications:

(a) To the extent possible, Dominion North Carolina Power shall comply with all reasonable requests by the Division to minimize interference with areas that the Division reasonably identifies to be of special ecological concern.

(b) To install and maintain a boundary fence at the southern terminus of the Right-of-Way to deter unwanted trespass and traffic onto the Reserve via the pathway while still allowing Dominion access to the Right-of-Way. Dominion is responsible for maintaining the fence and will address maintenance issues reported by Reserve staff.

(c) To conduct inspections of the pathway before initiating planned work to identify brush trimming necessary to clear the pathway four (4) feet in width of woody vegetation. Hand crews shall complete brush trimming. Bush hogs shall not be used to maintain the pathway.

(d) When, in its sole opinion, it is reasonable to do so, Dominion shall plan all non-emergency line work and routine inspections during the months of January, February and March.

(e) To notify the Division of its intent to perform distribution line maintenance and construction, routine inspections, and brush trimming. Such notification shall be made as far in advance as it is practical, but not less than forty-eight (48) hours before the commencement of work. The Company shall not, however, be required to notify the Division in advance of any work to be performed by Dominion under conditions that Dominion deems to constitute an emergency. Dominion shall notify the Division that work is in progress under emergency conditions no less than twenty-four (24) hours after an emergency has been declared. For purposes of the preceding sentences, an "emergency" shall include, but not be limited to, ice storms, hurricanes, tornadoes, wind storms, fires, vandalism to Dominion's facilities, and any other conditions that, in Dominion's judgment, cause or threaten to cause an interruption of service to Dominion's customers.

(f) That staff or agents of the Division may, at their option, accompany Dominion personnel during any routine work performed on the Right-of-Way.

(g) Approved temporary access locations referred to in I.2 may be impassable due to vegetation. In the event Dominion needs to access the Right-of-Way through an approved temporary access location, vegetation shall be cleared as stated in section 3(c). After work is complete, Dominion shall restore the location to an impassable condition within fourteen (14) days. The preferred method for this restoration is the transplantation of suitable native vegetation from other locations on the Right-of-Way. Division staff will provide guidance and oversight during the transplanting process. The installation of posts, cables, and/or gates also may be used, provided that they are sufficiently substantial to act as a significant deterrent to vehicular trespass at the approved temporary access location. These alternatives shall be removed by Dominion after vegetation has sufficiently established itself to deter unwanted vehicular trespass.

(h) To return surface elevations where electrical cable is to be installed to initial pre-construction contours after construction, maintenance, and repair.

(i) That it will not intentionally introduce any non-native plant species by seeding or planting in the Currituck Banks component of the Reserve.

(j) To minimize the introduction of seeds from non-native plant species by power washing all equipment used in inspection, maintenance, emergency situations, and construction activities before entering the Currituck Banks component of the Reserve.

(k) To post and maintain signage along the Right-of-Way that states:  
Conditioned Utility Right-of-Way  
Environmentally Sensitive Area  
Special Conditions Apply for all Entry  
Contact Manager at 252.261.8891

4. To indemnify and save harmless the State of North Carolina, its directors, officers, employees, contractors, subcontractors and agents from and against any and all actions, suits, demands, claims, and judgments, and from and against all costs, expenses, pecuniary or other loss arising out of any damage, injury to or loss of person, life and/or property proximately caused by the negligent acts or omissions of Dominion, its employees, contractors, subcontractors and agents including, without limitation, improper installation or use of equipment or defective equipment by Dominion.

5. To have no liability for debts or other obligations incurred by the Division, its members, employees, contractors, subcontractors or agents during their performance of any act directly or indirectly related to the provisions of this Agreement.

6. That it shall be liable for property damage and bodily injury (including loss of life and worker's compensation claims) proximately caused by negligent actions or omissions of Dominion, its directors, officers, employees, contractors, subcontractors and agents during their performance of work on the Right-of-Way under the terms of this Agreement.

## **II. THE DIVISION AGREES:**

1. If the Division discovers conditions it reasonably believes to be hazardous, it shall provide immediate oral notice to Dominion North Carolina Power, and promptly shall follow up such oral notice with notice in writing. Dominion North Carolina Power shall correct the condition if, in Dominion's sole judgment, such action is warranted.
2. To provide the following assistance to Dominion when it is appropriate:
  - (a) Identify temporary access locations in the event the pathway is not passable per stipulations in section I.2.
  - (b) Guidance and oversight of restoring temporary access locations.
3. To inform Dominion of any maintenance needed to the fence/gate.
4. That it will not disturb any equipment or maintenance and repair site without Dominion's prior approval.
5. To accompany Dominion personnel on site upon request or at the Division's discretion.
6. To have no liability for debts or other obligations incurred by Dominion, its directors, officers, employees, contractors, subcontractors or agents during their performance of any act directly or indirectly related to the provisions of this Agreement.

## **III. DOMINION AND THE DIVISION MUTALLY AGREE:**

1. To conduct all activities described in this Agreement in conformance with these purposes. All the terms and conditions provided for in this Agreement shall be interpreted to effectuate these goals and objectives.
2. To maintain and update the contact information included in Addendum A as necessary to ensure adequate communication for purposes of this Agreement.
3. That the terms and conditions of this Agreement shall extend to and be binding upon all, employees, agents, contractors, sub-contractors and assigns of either Party.
4. That nothing herein shall be construed to abrogate or diminish the rights held by Dominion under any existing easement agreement.
5. That nothing herein contained shall be construed as limiting or affecting in any way the authority of the Division in connection with the proper administration, management, and protection of the Currituck Banks component of the Reserve in accordance with the laws and documents referenced in this Agreement.

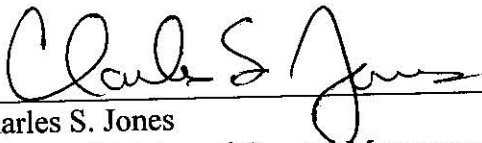
6. That amendments to this Agreement may be proposed by either party and shall become effective upon written approval of both parties.

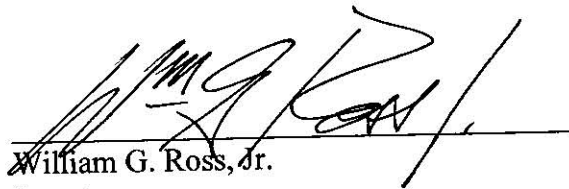
7. That this Agreement shall become effective following signature by the parties and shall remain in force for five (5) years, at which time it may be reviewed and renewed for another five-year period. The Agreement may be terminated by written notice of one party to the other, but will remain in force until six months after the official termination date for removal of equipment, gates, signs, etc.

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LEFT BLANK. SIGNATURE PAGE FOLLOWS.]**

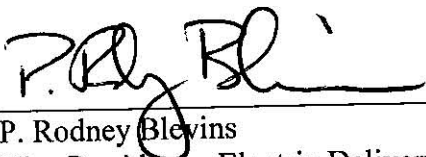
IN WITNESS WHEREOF, Dominion North Carolina Power and the Division have caused this Memorandum of Agreement to be executed by their duly authorized officers and their corporate seals to be affixed and attested by their Assistant Secretaries or Assistant Corporate Secretaries as of the Effective Date.

**NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**


BY:   
Charles S. Jones  
Director, Division of Coastal Management

BY:   
William G. Ross, Jr.  
Secretary

**VIRGINIA ELECTRIC AND POWER COMPANY**

BY:   
P. Rodney Blevins  
Vice President – Electric Delivery Operations

**ATTEST:**

BY:   
Vice President and Corporate Secretary

**ADDENDUM A**  
**CONTACT INFORMATION AND QUALIFIED OBSERVERS**

**Dominion North Carolina Power:**

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Manager – Electric Delivery Operations  
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**Division of Coastal Management &  
North Carolina National Estuarine Research Reserve**

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