

PROTOCOL

LANDING AND ROAD ENDING ACQUISITIONS

**Beale, Davidson, Etherington & Morris, P.C.
September 30, 2006**



Virginia Coastal Zone

M A N A G E M E N T P R O G R A M

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This map production is a product of the Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA), and was funded by Virginia's Coastal Program of the Department of Environmental Quality through Grant #NA05NOS4191180, Task 92.2 of the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resources Management, Under the Coastal Zone Management Act of 1972, as amended.

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EXECUTIVE SUMMARY

This Protocol constitutes the final report of Beale, Davidson, Etherington & Morris, P.C. to the Middle Peninsula Chesapeake Bay Public Access Authority (the "Authority") pursuant to the 2005 Virginia Coastal Resources Management Program Grant. Title searches were performed for all five designated landings. VDOT's files and inventory records for each were examined, and each site was visited. Each landing has been analyzed in accordance with Virginia laws regarding public roads, landings and the public's right to use roads and landings.

Roane Point Landing is at the end of Route 630 in Mathews County, at the Piankatank River. Its use and existence as a public landing is well documented. The earliest record of the site as a public landing is VDOT's 1932 map of the roads in Mathews County. However, no reference to the landing is contained in any deed prior to 1947. Mathews County and VDOT each believe that they own fee simple title to Roane Point Landing. The underlying fee may have been acquired by the County or VDOT from the owner in the mid 1940s. However, no such deed was ever recorded. Nevertheless, VDOT owns a prescriptive easement in the landing. By the deeds and plats in their chain of title, the current owners on each side of the landing have disclaimed any ownership in the landing. The underlying fee to the landing may be owned by the heirs of a prior owner of the property.

Lower Guinea Landing is located at the end of Route 653 in Gloucester County. VDOT owns a prescriptive easement in a 30 foot right-of-way which dead ends at the Severn River near the mouth of Long Creek. There apparently was a deed conveying to VDOT the fee simple interest in a 40 foot right-of-way over the last approximately 700 feet at the end of the road. However, that deed was never recorded and it is likely that it was discarded when VDOT decided not to make the improvements for which it was given the deed.

Ferry Landing is located at the end of Route 663 in Essex County, at Piscataway Creek. VDOT owns fee simple title to all property bounded by Route 17, the centerline of Route 663 and Piscataway Creek. However, some of its property was purchased as a mitigation area and may not be used as part of the landing. In addition, VDOT appears to have fee simple title to the public landing area and to 15 feet beyond the centerline of Route 663 for the first approximately 150 feet going from Piscataway Creek toward Route 17. The owners of the parcels adjoining Route 663 from Hilltop Lane down toward Piscataway Creek own the underlying fee simple title on their side of the center line of Route 663 except for the last approximately 150 feet. VDOT has a prescriptive easement in that part of Route 663. An adjoining landowner uses a part of the landing for access to his property.

Chain Ferry Landing is on the Mattaponi River in King & Queen County at the end of Chain Ferry Road, Route 605. VDOT owns the fee simple title to all of the landing area and all of Route 605. However, the last 223 feet of Route 605 is only 20 feet wide as it approaches the Mattaponi River. The northernmost five feet of what would ordinarily be a 30 foot wide roadway is not part of the public road, and VDOT does not even own a prescriptive easement to that five foot strip. The landing joins the Mattaponi River and there are no title issues which would prevent VDOT from conveying the landing to the Authority.

Byrd's Bridge Landing has never been a landing. Instead, the subject property is the end of old Route 604 where it crossed Dragon Run from King & Queen County into Essex County. The road was relocated in about 1964 to its current location. When VDOT relocated the road, it purchased new land from the owner to the east of the old road. It did not acquire the property between the two roads. There is no record that VDOT ever discontinued the road or that the Board of Supervisors of King & Queen County ever abandoned the old road, other than a

notation on a plat that is not signed by VDOT or the County. Therefore, VDOT continues to have a prescriptive easement in the old roadway, which is about 1,000 feet long, and it continues to be a VDOT road, even though it is no longer maintained.

All roads and landings within the State System of Secondary Highways and the State Highway System remain under VDOT's jurisdiction until they are discontinued, an act reserved for the Commonwealth Transportation Board. Discontinuance of a road or landing means merely that VDOT has no further responsibility for maintaining the road. If VDOT's right to use the road or landing is based upon a prescriptive easement, its prescriptive easement will revert to the local governing body upon discontinuance. However, the public still has a right to use the road or landing unless and until the board of supervisors abandons the road or landing. Abandonment, which can only be done by the board of supervisors, extinguishes the public's right to use a road or landing.

VDOT can convey its title to roads and landings that have been abandoned, but has no statutory authority to convey roads and landings that have only been discontinued. VDOT has authority to grant a land use permit to the Authority for any road within the Secondary System of State Highways. Such a permit would not transfer title and would be revocable at will, but would avoid all complications of the discontinuance statute. There are several legislative actions which the Authority and its members may desire to pursue to allow VDOT to convey title to discontinued roads and landings or to otherwise transfer control of landings to the Authority.

BACKGROUND OF ISSUE

Introduction

This Protocol is being submitted pursuant to the contract dated March 10, 2006 between the Authority and Beale, Davidson, Etherington & Morris, P.C. The contract was entered pursuant to a Request for Proposals to investigate certain road terminus points in or near proximity to tributaries that could yield access to public waters, pursuant to a 2005 Virginia Coastal Resources Management Program Grant. This report is the Acquisition Protocol which is listed as Product No. 3 in the Grant.

The word "landing" is used throughout to include all points where there is or may be access to a waterway from a public road. The use of the word "landing" is intended to include all situations in which the road is adjacent to a pier, a wharf or to the water itself. It is used throughout in the broadest sense possible. For the purposes of the analysis herein, the nature or form of access is irrelevant. What the report focuses on is the public's right of access to the water from the roadway and any historical use by the public of accessing the water from the roadway.

There are numerous references throughout the report to the Authority. It is recognized that the Authority is made up of several local governmental partners, which are its members. The local government members may prefer to obtain or retain control of certain landings. Therefore, many references to the Authority in this Protocol also apply to its local government members. For the sake of clarity, this Protocol simply refers to the Authority.

Purpose of Transfer of Title or Control

The Authority identified over 300 roadways that run to or near waterways in seven localities within the Middle Peninsula: Essex County, Gloucester County, King & Queen County, King William County, Mathews County and the Towns of Tappahannock and West Point. Many, but not all, of these roadways have been landings. There is a considerable sentiment within the governing bodies of these localities that their citizens be able to use these roadways and landings to access waterways for recreational or commercial purposes.

In order to assure the public's ability to use the landings and to maximize their potential, the Authority needs to have control over the road endings or landings. Therefore, the Authority and the local governments believe it is in the best interest of the Middle Peninsula that the Authority own the fee simple title to the property. In the event that it is not possible to obtain fee simple title, it is preferable and advisable for the Authority to obtain possession of sufficient title to be able to assure the public's use of the facilities and to maintain control over them.

Statutory Creation and Authorization of the Authority

In 2002, the General Assembly of Virginia enacted the Middle Peninsula Chesapeake Bay Public Access Authority Act which created the Authority. Virginia Code § 15.2-6600 through 15.2-6625; 2002 Acts of Assembly, Chapter 766 (the "Act"). Pursuant to the Act, the Authority was charged with the duty of identifying land, either owned by the Commonwealth or private holdings, that could be secured for use by the general public as a public access site. It was further charged with researching and determining the ownership of all identified sites, determining the appropriate public use levels of such identified access sites, developing appropriate mechanisms for transferring title of the Commonwealth or private holdings to the Authority and developing appropriate acquisition and site management plans for public access

uses. Furthermore, it was charged with determining which holdings should be sold to advance the mission of the Authority and performing other duties required to fulfill the mission of the Authority.

The Authority was granted a number of powers, including the power to acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate public access sites that are owned or managed by the Authority. Va. Code § 15.2-6606. The Authority is authorized to construct, install, maintain and operate facilities for managing access sites and for determining the fees, rates and charges for the use of its facilities. The Authority may own, purchase, lease, obtain options upon, acquire by gift, grant or bequest or otherwise acquire any property, real or personal, or any interest therein and in connection therewith to assume or to take subject to any indebtedness secured by such property.

Pursuant to the Act, most of the eligible jurisdictions took the necessary actions to create and then to join the Authority. As set forth above, the Authority consists of five of the six counties of the Middle Peninsula and the Towns of Tappahannock and West Point.

This study was commissioned to help the Authority identify the type of obstacles to the accomplishment of these goals, to determine solutions to those obstacles and to create a document to help guide future investigations. The Authority selected five of the potential landing sites to be investigated. (See Attachment 1). Each site was selected because it represented a broad range of landings in the Middle Peninsula. This Protocol therefore addresses issues that will be common to many of the potential landings in the Middle Peninsula.

Byrd Road Act and Predecessor Statutes

The Secondary System of State Highways was created in 1932 with the enactment of the Byrd Road Act of 1932. (1932 Acts of Assembly, ch. 415). The Byrd Road Act transferred to the Virginia Department of Highways, now the Virginia Department of Transportation (“VDOT”), the control of all non-primary highways and landings in Virginia for the purpose of relieving counties and certain cities and towns of the obligation of maintenance and improvements of such roads and landings. Included within the Secondary System of State Highways were “all of the public roads, causeways, bridges, landings and wharves in the several counties of the State as of March 1, 1932, not included in the State highway system.” Landings and wharves continue to be part of the Secondary System of State Highways. Va. Code § 33.1-67. The Byrd Road Act removed all control, supervision, management and jurisdiction over such roads and landings from the boards of supervisors. See Va. Code § 33.1-69.

In the months that followed the enactment of the Byrd Road Act, VDOT inventoried the streets and roads for which it had become responsible. It determined which roads and how much of the roads would be subject to state maintenance. Where the condition of a road was either (a) too costly to repair and maintain, (b) inconvenient in some other way, or (c) there was insufficient public service to warrant the public expense required to maintain those portions, VDOT fixed the location for the end of maintenance. As a practical matter, those portions of roads that were beyond the end of state maintenance did not become part of what is now considered the Secondary System of State Highways.

Nevertheless, VDOT’s decision not to maintain all or portions of original roadway corridors did not operate to cease their status as public roads. It merely constituted an administrative decision discontinuing VDOT’s jurisdiction. Those roads not taken into the

Secondary System of State Highways were left under the jurisdiction of the respective local governing body.

Throughout the Commonwealth, there are many public roads that are not actively maintained by VDOT as a result of those early administrative decisions as well as by later decisions adjusting VDOT's maintenance logs. However, unless those roads have been formally abandoned, they remain available for public use. The fact that VDOT does not actively maintain them does not extinguish the public's right to use them.

The Byrd Road Act did not in and of itself create any public roads. Another portion of the Code of Virginia establishes certain presumptions as to the existence of public roads:

When a way has been worked by road officials as a public road and is used by the public as such, proof of these facts is *prima facie* evidence that the same is a public road. And when a way has been regularly or periodically worked by road officials as a public road and used by the public as such continuously for a period of twenty years, proof of those facts shall be *conclusive* evidence that the same is a public road. In all such cases, the center of the general line of passage, conforming to the ancient landmarks where such exist, shall be presumed to be the center of the way and in the absence to proof to the contrary the width shall be presumed to be thirty feet. (Va. Code § 33.1-184) (emphasis added).

This section of the Virginia Code has far reaching implications for the road endings and public landings which are the subject of this study. Once a roadway has been regularly and periodically worked by road officials as a public road and used continuously by the public as a public road for a period of 20 years, it is *conclusively* established as public road. Because the legislature uses the phrase "conclusively", the presumption that it is a public road cannot be rebutted. This is significant because a right of the public cannot be extinguished by a mere lack of use. *Basic City v. Bell*, 114 Va. 157, 76 S.E. 336 (1912).

The Supreme Court of Virginia has adopted an ancient maxim of the common law that "once a highway, always a highway", unless it is abandoned or vacated in the due course of law.

Bond v. Green, 189 Va. 23, 52 S.E.2d 169 (1949). One of the parties in *Bond v. Green* contended that proof that the road was maintained for a number of years by private parties, and not by the public, established an abandonment of the road as a public way. The Court did not agree. Therefore, once a public road has been created by formal action of the county or state or by the means described in Virginia Code § 33.1-184, it remains a public road until formal action is taken to abandon it. Furthermore, abandonment cannot take place unless it is done by the local governing body. *Ord v. Fugate*, 207 Va. 752, 152 S.E.2d 54 (1967). The failure of VDOT to maintain the road or to include it on state maps is irrelevant to the determination of whether it is a public road.

Section 33.1-184 is also significant because it establishes the width of these public roads. The last sentence that is quoted above creates a rebuttable presumption that the width of all such roads is 30 feet. This presumption applies whether the road has been taken into the Secondary System of State Highways for maintenance or not. It also applies even if the road officials fail to use all 30 feet. *Norfolk & Western Railway Co. v. Faris*, 156 Va. 205, 157 S.E. 819 (1931).

Each of the five landings or road endings that were the subject of the study was accepted into the Secondary System of State Highways and was reflected on state highway maps for periods of more than 20 years. Therefore, each is *conclusively* established as a public road and each *presumptively* has a width of 30 feet.

This 30 foot presumption is frequently attributed to the Byrd Road Act of 1932. However, it was not in the Byrd Road Act. Instead, it was already the law in Virginia. The 30 foot right-of-way of public roads goes back to at least 1785. Section 6 of Chapter 75 of the Virginia Code of 1785 provided that every road shall be “30 feet wide at the least”. (See Attachment 2). That 30 foot width provision has been reenacted regularly over the last 220

years. (See for example, 1819 Code of Virginia, Vol. 2, Chapter 236, § 7, page 235; 1860 Code of Virginia, Chapter 52, § 5, page 298; 1874-1875 Acts of Assembly, Chapter 181, page 177; 1908 Acts of Assembly, Chapter 388, page 674; Virginia Code of 1919, § 2015; 1928 Acts of Assembly, Chapter 159, § 31, page 580).

If a road had been an old turnpike, its right-of-way could be as wide as 60 feet (1816-1817 Acts of Assembly, Chapter 38, page 41). However, if a turnpike had been abandoned and a county took over the roadway, the county would only get a 30 foot right-of-way unless it exercised dominion over more than 30 feet. *Danville v. Anderson*, 99 Va. 662, 53 S.E.2d 793 (1949).

Prescriptive Easements and Other Property Rights

There are several ways a roadway or road corridor can become a public road. A road corridor can become a public road by being purchased by a county or VDOT through deed or the exercise of the power of eminent domain. As set forth in the last section, the Code of Virginia creates a presumption that a roadway is a public road when it has been worked by road officials and/or used by the public for a period of 20 years. The property interest that results from this presumption is a prescriptive easement.

The prescriptive easement for public roads is different from prescriptive easements between private parties. In Virginia, a prescriptive easement between private parties arises where the land of another has been used for a period of 20 years. The use of the land has to be adverse, under claim of right, exclusive, continuous, uninterrupted and with the knowledge and acquiescence of the owner of the underlying land. It is very similar to adverse possession of land. "When the user of a way over another's land clearly demonstrates that his use has been open, visible, continuous and exclusive for more than 20 years, his use is presumed to be under a

claim of right.” *Umbarger v. Philips*, 240 Va. 120, 124, 399 S.E.2d, 198, 200 (1990); *Chaney v. Haynes*, 250 Va. 155, 158-159, 458 S.E.2d 451, 453 (1995). However, the width of the easement is limited to the character of the use during the prescriptive period. *Martin v. Moore*, 263 Va. 640, 561 S.E.2d 672 (2002). Furthermore, an individual trying to establish such a prescriptive easement is subject to a heavy burden of proof. There are also a number of defenses which can defeat a prescriptive easement.

On the other hand, a prescriptive easement obtained by the public pursuant to Virginia Code § 33.1-184 is not rebuttable when the way has been regularly or periodically worked by road officials as a public road and used by the public as a public road continuously for a period of 20 years. No other evidence is required to establish its existence. The width is presumed to be 30 feet. Therefore, the burden of proof to establish a prescriptive easement for a public roadway is significantly less than for a private easement.

Like any other easement, a prescriptive easement is a servitude upon the land owned in fee by another. Even though VDOT, the county or the general public does not own the fee simple title to the underlying land, the public has a right to use the road for all purposes for which the road was established or created. This would include using it as a landing as well as a roadway, if it has historically been used as a landing or a landing is consistent with its use as a road corridor to the water. The owner of the underlying fee continues to own the property, but has no right to use the property in any manner which interferes with the enjoyment by the public of the road or landing. Accordingly, the owner of the title to the land encumbered by a prescriptive easement cannot control the property or interfere with the public’s use of the easement.

As set forth earlier, once a public road or landing is created by a prescriptive easement, it will remain a public road or landing until there is formal action taken by the Board of Supervisors to *abandon* the road or landing. As will be discussed in Part D, however, the *discontinuance* of a roadway or landing, whether by formal action or by failure to continue to maintain or use the roadway, does not extinguish the prescriptive easement. *Ord v. Fugate*, 207 Va. 752, 152 S.E.2d 54 (1967).

METHODS OF DETERMINATION OF PROPERTY RIGHTS

Title Search

Ownership interests in a road or landing cannot be determined without a title search. A title search involves a review of the deed and will records of a county or city to determine the owner of the subject land and any rights appurtenant to that land.

The county tax map is generally a good place to start a title search. It will indicate the person the county assessor believes owns the property. However, the tax map and the Commissioner of Revenue's records are not records of ownership; they are merely guides by which to begin the title search.

To determine title to a road or landing, deeds may need to be searched back to the creation of the road or landing or to the beginning of the county's records. Numerous other public records are available and need to be searched regarding the title of property. For example, when the owner of property dies, the real estate will either transfer by terms of his or her will or by intestate succession. Therefore, will records are part of any title search. It is particularly important to take the title search back to the beginning of the road or landing if there has not been a recorded transfer of title to VDOT or the local governing body. All plats of adjacent properties should be analyzed, particularly any plats that depict the road or landing.

The land and will records of several counties in the Middle Peninsula have been destroyed at some point in time. In those counties, a search can only go back to the date of destruction of the records. As an example, King & Queen's records were burned in 1864. There are no deeds or wills prior to that date. Similarly, the records in Gloucester County prior to 1862 no longer exist.

This Protocol is not intended to set forth guidelines on how to properly conduct a title search. For a more thorough discussion of title examination requirements, the reader is referred to a *Virginia Title Examiners' Manual* by Sydney F. Parham, Jr.

Many roads and landings have been acquired in fee simple by VDOT or one of the counties. Any conveyance from a landowner to a county or VDOT or any record of a condemnation report in the county deed books should be examined to determine what property rights were acquired by the public agency and in what property. If VDOT or the county acquired fee simple title to the property, the title search may end there. However, the searcher should verify the source of the interest owned by the party from whom VDOT or the board of supervisors acquired the property.

Furthermore, condemnation records, including the state highway plat book referred to in a certificate of take or certificate of deposit, will establish the boundaries of the public acquisition. See, for example, Ferry Landing in Essex County. State highway plat books are among the records at county courthouses. They can be helpful even in instances in which the subject roadway or landing is being replaced rather than being acquired. Byrd's Bridge is an example of such a circumstance. The highway plat book gives such information as location of the old road, the parties whom VDOT believed owned the land adjacent to the old road, the date of the project and the project number. Until that plat book was found, VDOT's records on Byrd's Bridge Road provided no information. This information allowed a focused search on the Board of Supervisor records to determine whether there had been an abandonment or discontinuance of the old road.

VDOT Files and Inventory Records

There is no one central location at VDOT that has all information regarding a road or a landing. The VDOT residency office will have a route file for each route in the residency and may have a landing file for each landing. The Saluda Residency is the residency for Mathews County, Gloucester County and King & Queen County. The Bowling Green Residency is the residency for Essex County and King William County. The information in the route files will range from containing nothing of relevance to containing deeds, plats and correspondence related to conveyances of the fee simple title to VDOT. The residency may also have the construction or right-of-way plans on file for changes made in the roadway in the vicinity of the landing. Those records frequently contain information regarding sources of title in the landing.

Additional files are maintained in the Fredericksburg District Office, particularly by the Right-of-Way Division. That office should be contacted for any information it may have. The district and residency offices may also have county maps going back to 1932, which can be helpful in establishing the age of the landing. In addition, the Fredericksburg Right-of-Way Office will necessarily be involved in any conveyances of property by VDOT to the Authority. Therefore, it should be kept advised as to the findings regarding VDOT's title to the roads and landings.

VDOT also maintains an inventory of its secondary roads. Those records are under the management of Ken Smith, VDOT's Highway System Inventory Manager. He is located in the Asset Management Department in Richmond. Mr. Smith is an expert at VDOT on abandonments and discontinuances of secondary roads.

Among the records maintained by Mr. Smith is a November 1, 1934 memorandum from VDOT's Chief Engineer to all district engineers regarding public landings. The district

engineers were instructed to prepare a record of every public landing that was turned over to VDOT and to take steps to have those landings surveyed with monuments set in the corners. A three page list of landings was created at that time. (See Attachment 3).

A similar but somewhat expanded list of landings in the Fredericksburg District was created in 1945. (See Attachment 4). At that time, VDOT noted that a number of landings had been surveyed with monuments set during the analysis of landings in 1934. However, VDOT was still unclear whether all the identified landings were in the State System of Secondary Highways. The resident engineers were charged with checking courthouse records to determine VDOT's maintenance responsibilities.

In 1977, VDOT considered conveying or transferring control of all landings to the Commission of Game and Inland Fisheries. VDOT ultimately decided not to do that, although the General Assembly enacted Va. Code § 33.1-69.1 in 1980 authorizing VDOT to transfer control of wharves and landings to the Department of Game and Inland Fisheries. While considering that request, VDOT compiled a list of public landings and wharves in the Fredericksburg District that is almost identical to the 1945 list. (See Attachment 5). The landings that appear on the 1934, 1945 and 1977 lists are generally well documented. As a general rule, VDOT will have little or no information on landings that are not on those lists.

Many of the landings are described on the 1945 and 1977 lists as "surveyed and monumented". There is not now and probably never was a single repository of those surveys. The note generally meant that VDOT had performed the survey and set monuments at that landing. The landing files of the Residency will generally have that survey and plat information regarding any such landing.

Site Visits

Each landing should be visited early in the process. The pictures provided by the Authority are helpful. However, a site visit will provide additional information that can guide the process or alert the investigator to problems that would not be apparent in VDOT's files or a title search.

An example of the importance of the site visit is Ferry Landing in Essex County. The title search revealed that VDOT owns the landing and most of the road leading to the landing. The title search also identified the adjoining landowners. However, the title search did not disclose that the only access of one adjoining landowner was the road and the landing. VDOT will not discontinue a road or any part of a road that is necessary to serve a landowner. If an owner's only access is through the landing, that issue will need to be addressed in any negotiations with VDOT.

If VDOT's only right-of-way is a 30 foot prescriptive easement, it is important to note the nature of the roadway and any physical conditions of the ground. The area should be examined to see if there is evidence of any prior use as a landing. The title search may or may not establish whether the roadway goes to the water, particularly when it is not designated or described as a landing. The site visit may disclose physical evidence of the public use going into the water. As an example, a ramp which extends from the road into the water, such as at Chain Ferry Landing, would establish that the landing and/or roadway goes to the edge of the water.

Such evidence of a road going into the water is helpful to resolve any issue about whether a public's right to use a road extends all the way to the water. If there is a legal gap in the public's ownership's interests in the property between the end of a public roadway and the water, the road cannot be used as a landing without the purchase of additional property. In other words,

if the public's right to use the road is based on a prescriptive easement and the roadway was never worked by road officials all the way to the water, the prescriptive easement would not go to the water. That would create a gap in ownership which would prevent the Authority or its local government partners from being able to use the road as a landing without the purchase of the additional property.

However, the absence of physical proof on the ground that the road went into the water does not mean that the public does not have the right to use the road as a landing. If it can be established that the roadway has been maintained by road officials all the way to the water and there has been no abandonment of that right, the right to get to the water continues regardless of what may be on the ground between the end of any improved roadway and the water.

Other Sources

If a deed is not found conveying fee simple title to VDOT, it may be important to review the minute books of the board of supervisors. This is particularly true of a landing or road whose acceptance into the secondary system is in doubt or which may have been abandoned.

For many years, counties regularly authorized the creation of public landings. The typical process involved a petition to the board of supervisors by the owners of the area to be created as a public landing. The landowners were required to donate the land for the landing itself. The deed books may not contain a deed to the county. However, the Board of Supervisor minute books stating that a deed was presented by the landowner and accepted by the county would be a record of fee simple ownership of the landing by the county even in the absence of a recorded deed.

The same process was followed for road extensions and road improvements. Landowners that wanted to extend a road to a waterway would have to petition the board of

supervisors for approval. For many years, the boards of supervisors would appoint road commissioners who would go out, determine the public necessity for the road and fix its location. Until about a century ago, the board would appoint men from the neighborhood to be responsible for constructing and then maintaining the roads. This would be evidence of a road worked by the public. In addition, particularly in the last century, the board of supervisors may have required a deed to the roadway. In that case, title to the roadway can be proven from a statement in the minute books that a deed was presented by the landowner and accepted by the board of supervisors.

The only way a public road can cease to be a public way is if it is abandoned by the board of supervisors. Abandonment of a roadway is not effective unless it is formally adopted by the board of supervisors. *Ord v. Fugate*, 207 Va. 752, 152 S.E.2d 54 (1967). The board of supervisors minute books must be consulted when roads are changed to determine if the old roadway was abandoned or discontinued. If it was abandoned, the public use is extinguished and the property reverts to the abutting landowners. The Authority can then only obtain title by purchase from the landowners or by condemnation by the board of supervisors.

Whether the roadway was abandoned is critical to the determination of the Authority's options at Byrd's Bridge in King & Queen County. Route 604 was relocated in the 1960s. However, the Board of Supervisors never formally abandoned the old roadway. Therefore, the old roadway remains a public roadway. Even though the road is no longer used by the public, has become blocked by fallen trees, and is not maintained by VDOT or King & Queen County, it is still available to be used by the public for access to Dragon Run.

Historical societies and museums may be another source of information regarding a roadway. They may have articles, letters or other documents showing the use of a landing or the

existence of a road or landing. These records do not carry the same weight as court records, but they are useful in providing historical background of the landing's or road's use and in leading to other sources of information.

Another potential source is persons that live on or near a landing or roadway. This knowledge could be crucial to determine use by the public of the end of a roadway as a landing. Such testimony may be necessary to establish that a road has been used by the public for a period of at least 20 years.

THE PUBLIC'S RIGHT OF ACCESS
AT EACH OF THE FIVE DESIGNATED LANDINGS

Roane Point Landing

Roane Point Landing is at the end of Route 630 in Mathews County, at the Piankatank River. Mathews County and VDOT each believe that they own fee simple title to Roane Point Landing. Its existence as a public landing is well documented. The earliest record of the site as a public landing is VDOT's 1932 map of the roads in Mathews County. However, no reference to the landing is contained in any deed prior to 1947. Indeed, the landing is not mentioned in a 1939 deed of the property. The underlying fee may have been acquired by the County or VDOT from the owner in the mid 1940s. However, no such deed was ever recorded. On the other hand, by the deeds and plats in their chain of title, the current owners on each side of the landing have disclaimed any ownership in the landing. The underlying fee to the landing may be owned by the heirs of C. Marvin Matthews.

The public landing and the properties to the east, south and west were originally all part of the same tract of land. That tract is depicted in an April 1873 plat by G. W. Bohannon, surveyor (Land Book 2, page 172). Neither the landing nor Route 630 are shown on the plat and presumably did not exist. At that time, the property totalled 119.907 acres of land which had been owned by William H. Hobday, deceased. The tract was partitioned into one 30 acre tract and two almost 45 acre tracts. In 1886, 1889 and 1928, the portion of the property which surrounds the current landing was being conveyed as a 30 acre parcel of land. There is no reference in those deeds to a road or a landing. No plat was referenced in those deeds.

In 1939, the property which included what is now the landing was conveyed as 29.268 acres of land, based on an August 1939 plat by G. T. Hudgins recorded with the deed (Deed Book 35, page 384). The plat shows Route 630 cutting through the 29 acre tract. The plat does

not show any public landing and the deed makes no reference to a public landing. The road was described on the plat as "30 foot highway to water", with an arrow pointing down the middle of the road into the river. The road was not a boundary line. It is the earliest plat which shows Route 630.

In 1941, there was an Order in a boundary line dispute between the owner of the 29.26 acre tract and the owner of a 6 acre tract to the south of the property. That Order referred to both the 1873 plat and the 1939 plat, but made no reference to the road or public landing. In 1946, a 3.352 acre parcel was conveyed out of the northwestern portion of the 29 acre tract.

The first recorded reference to the landing is in a 1947 deed (Deed Book 42, page 308). That deed conveyed three parcels. Parcel 1 is the 29.268 acre tract. For some reason, the 3 acre 1946 outconveyance was not mentioned or excepted. The conveyance was expressly "made subject to the rights or interests of the State of Virginia, County of Mathews, the public, and all other persons, in and to the highways or road extending across the property to the water and to the colored cemetery and **in and to the one-half (½) acre of land, more or less, at the end of the highway, set aside or used as a public landing.**" The deed referenced the 1939 plat.

The next two sales of the property, in August and November, 1948 (Deed Book 43, page 510 and Deed Book 44, page 442, respectively) contain the same reference to the public landing. The August 1948 deed conveyed the property to C. Marvin Matthews. It was his first ownership of property in the immediate area of the landing. The November 1948 deed was a conveyance from Marvin Matthews to Brooks Lumber Co.

The first subdivision of the property adjacent to the public landing took place in December 1950, when Brooks Lumber Co. sold 4.993 acres of the tract back to C. Marvin Matthews. (Deed Book 46, page 441). Based on a plat (Plat Book 3, page 95) referenced in the

deed, the property conveyed was west and north of Route 630, surrounded the public landing and ran along the Piankatank River. The description of the property in the deed routes it around the public landing. Therefore, the public landing was not conveyed with this deed. The parcel's boundary line is also on the west and northern edges of the road. Therefore, the 4.993 acre parcel did not go to the center line of Route 630.

The plat referenced in the deed is the first recorded plat to show the landing. It does not state the size of the landing, but gives the metes and bounds of the landing's northern and western boundaries, which adjoin the 4.993 acre tract. A note on the recorded version of the plat, in handwriting that does not match the rest of the plat, says "see DB 35/384 for plat of public landing." However, the public landing is not shown on the plat recorded at Deed Book 35, page 384.

Marvin Matthews subsequently repurchased the larger tract from Brooks Lumber Co. in 1952. (Deed Book 48, page 186). That deed specifically referenced the outconveyance of the 4.993 acres and contained the reference to the public landing that was in the 1947 and 1948 deeds. As of that date, unless the public landing had been sold in an unrecorded deed to the County, Mr. Matthews owned the underlying fee simple title to it.

Marvin Matthews owned the large remainder tract until 1984, when he sold a 6.87 acre portion of the tract adjoining the landing on the eastern side to Oliver L. Hitch. It is described as part of the real estate he purchased from Brooks Lumber Co. in 1952. This property is shown on a plat dated April 18, 1984 by Dawson & Phillips, P.C. (Plat Book 12, page 41). That plat, which was done by James Phillips, shows the western boundary of the 6.87 acre tract as State Route 630, with monuments along that line. Marvin Matthews still owned land to the south which was described as the grantor's remaining land. Because the property conveyed is based on

the plat, the conveyance to Mr. Hitch does not include the public landing. Because the road and landing were outside the boundary of the 6.87 acre tract, they were either still owned by Marvin Matthews or had been previously conveyed by unrecorded deed or deeds.

The public landing is shown as outside of the property conveyed in 1984. The plat has a note by the public landing that says "approx. limits of public landing per sketch by VDH&T right-of-way property plat book page 145, dated July 1, 1944." The surveyor, James Phillips, has retired. Bay Design Group is the successor to Dawson & Phillips. There was nothing in his file for this plat at Bay Design Group to indicate what right-of-way property plat book page 145 was or to verify the date of July 1944. However, copies of a plat and right-of-way sheet on file at the Saluda Residency were in that file. Bay Design Group presumes the plat to be the plat referred to by Mr. Phillips.

The plat and VDOT right-of-way sheet are filed together at the Saluda Residency. (See Attachment 6). The plat shows the landing extending from an area slightly east of Route 630 and running westerly for 208 feet, with a southern boundary 104 feet from the northern boundary. The northern boundary was the mean low tide. The right-of-way sheet states that the landing is shown on "R/W property plat book page 145" and that it was monumented. It also describes a land value on the half acre site of \$150.00, beside a date of July 1, 1944. The "R/W property plat book" is not the same as the VDOT plat books on record at the courthouse. The VDOT Fredericksburg Right-of-Way Office advises that this designation refers to a plat book maintained years ago by VDOT which has been lost, misplaced or destroyed. Nevertheless, the document indicates that VDOT was going through an acquisition process. However, nothing was recorded at the courthouse in Mathews County.

Mr. Hitch owned the property to the east until 2003 when he conveyed it to Elizabeth Lindsey Hitch Goodale, Anne Gordon Hitch Martin and Beverly Atwood Hitch Burtch, trustees of the qualified personal residence trust of Oliver L. Hitch. (Deed Book 302, page 101). Schedule A to that deed contains a metes and bounds description, describes the Philips plat and states that it was the same property conveyed to Oliver Hitch by Marvin Matthews in 1984. Significantly, it states that the western boundary line is the eastern boundary of Route 630. Therefore, the current owners and their predecessor are claiming that the Marvin Matthews conveyance in 1984 did not include any part of Route 630 or the landing.

The 4.993 acre parcel south and west of the landing was always treated as a separate parcel, even though Marvin Matthews owned both tracts of land for several years. This parcel was not sold by Marvin Matthews until 1968. (Deed Book 80, page 186). It was subsequently subdivided in 2000. Jamie W. Callis got the 2.43 acres surrounding the landing. Elizabeth Ferry got the other 2.44 acres further west. A December 29, 1999 plat by Wayne E. Lewis was recorded for that subdivision. (Plat Book 23, page 151). On that plat, Mr. Callis' property boundary goes around the public landing and along the inside edge of the roadway. The road is shown on the plat to be 30 feet wide and outside of this property. The landing is described on the plat as "County of Mathews 'Roane's Point Public Landing'".

Accordingly, Route 630 and the public landing are located on land that was owned at one point by Marvin Matthews. There is no record to show that he ever conveyed the fee simple title to the road or the landing. Therefore, the fee simple title to the road and the landing apparently continued to be owned by Marvin Matthews at the time of his death in 1990. In his will, he left a life estate to Mrs. Gary Walker and Mrs. Viola Waddell in the rest, residue and remainder of the real estate which he purchased in 1952 from Brooks Lumber Co. He then gave all remaining real

estate in equal shares to those persons who would be entitled to receive the same according to the then present Virginia Statute of Descent and Distribution as heirs at law of G. W. Chisely, Jr. on the date of his death. (Will Book 19, page 215). Those heirs would appear to be the only persons who have a claim on the underlying fee to Route 630 and the public landing.

Mathews County has an unrecorded plat by Wayne Lewis dated March 12, 1999. (See Attachment 7). That plat describes the landing as the property of the County of Mathews. It contains a note that a plat on file at the VDOT Saluda Residency was used to fix the western property line shown on the plat. I met with Mr. Lewis. He indicated that the landing had been on the land books of Mathews County as County property for many years. The VDOT plat to which he referred is the unrecorded and undated plat from the Saluda Residency. He had no further basis for his statement on either of his plats that the landing was owned by the County of Mathews.

The Mathews County Board of Supervisors' Minute Book 3, which covers all Board of Supervisors meetings from April 17, 1936 to September 24, 1952, has no reference to Roane Point or Route 630. There are many references to petitions to create public landings, but none were on Route 630 or on the Piankatank River. All of them were proposed to be $\frac{1}{4}$ acre in size. The procedure adopted by Mathews County in each such matter was to require the landowner to donate the land for both the road or road extension and the public landing. The petition was only approved if the landowner provided a deed acceptable to the Board of Supervisors. The Board would then approve the landing and accept the deed.

There were several references to landings or public landings in the indexes to Minute Books 2 and 4, but none were located at Roane Point. It is likely that some work was done to have this landing accepted as a public landing, but no one followed the formal process with the

Board of Supervisors and the formal conveyance of the real estate was probably not done. A deed may have been delivered to Mathews County accounting for its belief that it owns the landing, but it was never recorded.

Based on all the title work and on VDOT's and the County's files and records, the landing would seem to have been created between 1939 and 1946, most likely in or about 1944. However, some form of public landing existed before 1939. The 1932 map of Mathews County published by VDOT shows Route 630, then known as Route 202, going to the water. At the water is the designation "Pub. landing". (See Attachment 8). It appears from that record that the public was using what is now Route 630 as access to the water and using the end of the road as a public landing prior to the time it was recognized in the deeds. It also appears that in the early 1940s someone took steps to formalize the public landing and VDOT placed a value on the property. However, the formalized steps were never completed.

Roane Point has been recognized as a public landing for almost 60 years. Mr. Mathews and his predecessors have recognized the public's right to the landing since 1947. Therefore, at the minimum, VDOT has a prescriptive easement in the landing.

It is unclear whether Marvin Matthews intended to retain ownership of the landing and Route 630. They were not described as owned by him when he sold the 6.87 acre tract in 1984. However, the language referring to the landing in the 1947, 1948 and 1952 deeds is written as if the landing were part of the property conveyed even though the public's right to use it was being recognized. The abutting landowners do not own the fee simple title to the landing or Route 630 because their deeds describe their property lines as ending on their side of the road and the landing. *Shaheen v. County of Mathews*, 265 Va. 462, 579 S.E.2d 162 (2003). Regardless of

who has underlying rights in the property, the public has a right to use Route 630 and what is left of the half acre landing to use this property for access to the Piankatank River.

Based on the site visit, there is presently a large sandy turn around area near the end of Route 630. Based on rough measurements and the 1999 plat provided by the County, the road leading into that turn around area begins on the landing property, but quickly extends off the landing property. The rest of the landing's property is wooded down to the beach. By 1999, the depth of the landing ranged from approximately 50 feet to 62 feet, down from its "original" 104 feet, presumably as a result of encroachment by the Piankatank River. It is not known whether the 50 to 60 foot depth is sufficient for a turn around and parking area, given the sandy nature of the soil and the proximity to the water.

Someone has installed a fence approximately 150 feet west of the eastern end of the landing's property. The fence line goes into the wooded area at the beach. It is not clear whether the fence continues once it reaches the landing's property.

This landing is listed in a 1980 "Beach Inventory and Recreational Access Points of the Tidal Waters of the State of Virginia" by the Virginia Commission of Outdoor Recreation provided by Ken Smith of VDOT. (See Attachment 9). It states that the landing has one ramp and space for ten cars to park.

Lower Guinea Landing

Lower Guinea Landing is located at the end of Route 653 in Gloucester County. Based on the information available, VDOT owns a prescriptive easement in a 30 foot right-of-way which dead ends at the Severn River near the mouth of Long Creek. There apparently was a deed conveying the fee simple interest in a 40 foot right-of-way over the last approximately 700 feet at the end of the road. However, that deed was never recorded and it is likely that it was discarded when VDOT decided not to make the improvements for which the deed was given to VDOT.

Welford Industrial Corporation and WRS Land Trust each owns an undivided one-half interest in the parcels on either side of the road. (Deed Documents 02-9462, page 172 and 04-0942, page 51). Therefore, they each own an undivided one-half interest in the underlying fee simple title to Route 653 and the landing.

Prior to 1870, the parcels on each side of the road were part of a single tract owned by James Berry, Sr. Berry conveyed the 10 acre parcel on the western side in 1870 to Anderson Hogg. (Deed Book 2, page 309). That deed describes the property as being bounded on the east by the main road running to Long Creek. That remained the description of the eastern boundary of that tract in its chain of title until 1941, when the eastern boundary was described as the main road leading to Severn River. (Deed Book 71, page 382). Thereafter, it was described as bounded on the east by Route 653.

The 66 acres on the eastern side of the road were owned by the heirs of James Berry, Sr. until it was conveyed to Roland Shackelford in 1952. (Deed Book 92, page 401). The deed states that it was the unsold part of a tract of land conveyed to James Berry, Sr. before 1865 and that James Berry, Sr. died "many years ago", intestate and unmarried. It is not known when or

from whom James Berry, Sr. bought the parcel of land that contained these parcels, but it was before 1862. All records of Gloucester County prior to August 23, 1862 were destroyed.

The parcels were re-united in 1956 when Ben Jacobs, who already owned an undivided one-half interest in the 66 acre tract, acquired the remaining one-half interest in the 66 acre tract from his co-owner, Frank Migliore, as well as the 10 acre tract from Migliore. (Deed Book 107, pages 231 and 233). In 1958, Ben and Mary Jacobs conveyed an undivided one-half interest in both tracts to Jack and Gertrude Rubin. (Deed Book 114, page 18).

The Rubins and the Jacobs apparently executed an omnibus deed to VDOT in 1975. On May 6, 1975, VDOT wrote a letter to the Jacobs and Rubins stating that it would improve Route 653 with a wider roadway, improved site distances, a hard surface and much improved drainage if it received fee simple title to a 40 foot roadway. A follow-up letter was sent to the Jacobs and the Rubins on May 20, 1975. There is a handwritten note in VDOT's file at the Saluda Residency that it had received the omnibus deed from the Rubins and the Jacobs, but not from the other landowners along Route 653. Jimmy Street of VDOT's Fredericksburg Right-of-Way Office recognized the handwriting as that of Len Orem, a long time and current VDOT right-of-way agent. Mr. Orem does not recall the particular deed. However, the improvements that were mentioned in the letters to the Rubins and Jacobs were never made. Based on its practice, VDOT would not have recorded the deed because the purpose for which the deed had been delivered to VDOT was not going to be fulfilled. The most likely reason that the improvements were not made is that at least one other owner along Route 653 failed or refused to sign the omnibus deed. In any event, the omnibus deed was never recorded. A similar omnibus deed signed by Ben and Mary Jacobs is recorded in Gloucester County. However, that deed was for improvements to Route 651, not Route 653. The Jacobs owned property adjoining both roads.

Minute Books 18 and 19 of the Board of Supervisors covering the beginning of 1974 until June 1978 make only one reference to Route 653. On January 20, 1975, the Board was given information on proposed improvements to several roads. Among the roads being considered was Route 653. The VDOT resident engineer said he would take appropriate actions. (Board of Supervisor Minute Book 18, page 511). It is presumed that the letters written in May 1975 were part of the appropriate actions being taken and that the improvements were never made because they did not get all of the property conveyances.

The most recent recorded plats showing Route 653 where it joins the Severn River are two plats by R. F. Heywood dated May 30, 1955. (See Attachment 10). The plat of the tract of land to the east depicts the road as going to the Severn River, although it is not clear if it goes to the edge of the water. It shows a pin at the end of the metes and bearings line 100 feet from the low water line. (Plat Book 1, page 353.) The plat of the tract of land to the west of Route 653 appears to show the road going to the edge of the water, but that is also not clear. It shows a pin, presumably on the west side of the road, that is also 100 feet from the low water line. (Deed Book 104, page 137.)

Route 653 appears on the 1932 and 1935 VDOT maps of Gloucester County, with the road designated at that time as Route 217. It is not described as a landing, even though the end of several other roads have a designation of landing. Route 653 and Lower Guinea Landing are not listed in the 1934, 1945 or 1977 VDOT inventories of public landings.

The site visit to the area established that the last approximately quarter mile of Route 653 is a gravel road. There are no residences along that portion of the road. The area on each side of Route 653 is mainly a marsh. The road becomes indefinite as it approaches the water. It is not

paved into the water. However, it has the appearance of a roadway leading to the edge of water. An area adjacent to the water has been used as a turnaround.

Charles Stubblefield, the former Commissioner of Revenue of Gloucester County, lives on Route 653, not far from its intersection with Route 652. He recalls playing at the end of the road when he was young. It was called Hogg's Landing or Bill Hogg's Landing in the 1940s and 1950s. Only work boats used the landing. He believes the gravel road is only one lane wide and the marshy areas beside the road would prevent two vehicles from passing.

Based on the above, VDOT owns a prescriptive easement in a 30 foot right of way that extends to the Severn River and has been used as a landing in the past. Based on that prescriptive easement, the public has the right to use Route 653 to get access to the water. However, the public's use is limited to the 30 foot width of the easement.

Ferry Landing

Ferry Landing is located at the end of Route 663 in Essex County, at Piscataway Creek. VDOT documents in 1934 and in 1988 also refer to this landing as Bohannon's Wharf and Bohannon's Landing, respectively. The 1945 and 1977 VDOT lists refer to this as "Ferry Bridge or Bohannon's Landing". (See Attachments 3, 4 and 5). VDOT owns fee simple title to all property bounded by Route 17, the centerline of Route 663 and Piscataway Creek. It appears to have fee simple title to the public landing area and to 15 feet beyond the centerline of Route 663 for the first approximately 150 feet going from Piscataway Creek toward Route 17. The owners of the parcels adjoining Route 663 from Hilltop Lane down toward Piscataway Creek own the underlying fee simple title on their side of the center line of Route 663 except for the last approximately 150 feet. VDOT has a prescriptive easement in that part of Route 663. The boat landing is approximately 125 feet wide at the creek.

VDOT owns enough area in fee simple at the public landing to permit a conveyance to the Authority without worrying about the ability to convey the prescriptive easement. The Authority may not even desire to control the part of Route 663 that is subject to the prescriptive easement. However, the landowner at the bottom of the hill, Gregory Jones, relies on the public landing area for access to his property. Mr. Jones' need for access could complicate any discontinuance by VDOT or conveyance to the Authority. It will be necessary to make sure he continues to have access to his property. There also appear to be other landowners along Piscataway Creek who use Mr. Jones' driveway for access.

Based on Certificate of Take No. C-37081 recorded on April 5, 1990, VDOT owns all property north of Route 663 to Route 17 and to Piscataway Creek. (Deed Book 178, page 167) The Certificate of Take took all of the property owned by Glenn A. Smith, Merry R. Smith and

Christine B. Smith, the parties who owned the property on the north side of Route 663. The tract totaled approximately 3.34 acres. The condemnation included acquisition up to the center line of Route 663 most of the road's distance. The take did not include the area at the top of the hill where Route 663 connects with Route 17, apparently because VDOT already owned that land. It also did not follow the centerline when it got to the landing as it neared Piscataway Creek, apparently for the same reason.

The landing was apparently acquired by VDOT in a 1931 condemnation of the property of the heirs of Harry Rohm's estate. The Certificate of Take was not recorded and the Clerk's Office could not find the condemnation case file. There was no plat recorded by VDOT with respect to the take. The only record of the condemnation case is an order approving the report of the commissioners and the report of the commissioners itself, both of which were recorded on October 18, 1935. (Deed Book 81, page 116). The heirs were paid \$100.00 for the property. The land taken was 0.65 acres.

The acquisition by VDOT is referred to in a deed from Rosa Rohm, widow of Harry Rohm, to Ady Hyman in 1944. The deed recites the conveyances to Rosa Rohm by the other heirs of Harry Rohm and notes that 0.65 of an acre of this land was condemned by the State Highway Commissioner in 1931. (Deed Book 85, page 161). Because the deed did not except that acreage from the sale, it is possible that the owners were contending that VDOT only acquired a prescriptive easement in the landing in the condemnation.

The only other recorded reference to the landing is VDOT's plat for the 1990 condemnation of 3.34 acres from Glenn and Merry Smith. (See Attachment 11). That plat has a numeral one inside a hexagon in the middle of the landing area. The note for that symbol refers to the order approving the commissioner's report in the 1931 condemnation. No boundary line is

placed around the landing and it is not clear whether that condemnation went to the centerline of the old road or beyond. The area depicted in the plat for the landing shows frontage on Piscataway Creek of about 125 feet. The Rohm property is in the Smith's chain of title.

There are two parcels which border the south side of Route 663 below its intersection with Hilltop Lane. The lower tract adjoining Route 663 at the Ferry Landing is Tax Parcel 45-22. Its current owner is Gregory W. Jones. Mr. Jones inherited this property from his father, J. Stanley Jones, III, through his father's will. (Will Book 47, page 312).

A 1971 deed in Mr. Jones' chain of title has a metes and bounds description. The description references the line running along the low water mark of Piscataway Creek "to the public landing". It then adjoins the public landing 62.3 feet to a Virginia Highway Department marker, then along the landing another 95.4 feet to another Highway Department marker and finally 20 feet to the center of the old public road. Accordingly, their property does not go to the center line of Route 663 for the last 157.7 feet going down to the water. It is unknown how much the low water mark has changed since the plat was drawn in 1950. The boundary line then follows the center of the old public road leading from Tappahannock to Dunnsville (Route 663) for 63 feet. The deed references a 1950 plat (Deed Book 106, page 251) which was approved by the Court in a 1949 and 1950 boundary line dispute between his grandfather, James S. Jones, Jr., and the neighbor to the east, George Parker (Tax Parcel 45-21). That plat also shows the road northeast of the boundary line between the Jones tract and the public landing for the lower 152 feet of the boundary line.

The property between Hilltop Lane and Mr. Jones' property was formerly owned by George W. Parker. At issue in the boundary line lawsuit was the boundary line between the Jones tract and the Parker tract. After a jury trial, the Court approved the boundary line based on

the plat referenced above. The court order references “the road which now leads into the residence of said Jones, from the old Piscataway Bridge now out of existence, to the old public road leading from said bridge spot to Dunnsville.” The common boundary line ends at the center line of what is now Route 663.

The Parker tract has since been divided into two parcels pursuant to a partition of the property by the heirs of Franklin Parker, Jr. A one acre tract, now tax parcel 45-21B, was conveyed to Mitchell Wayne Parker. That is the portion of the property closest to the public landing. The remainder of Tax Parcel 45-21 is owned by three children of Franklin Parker, with a life estate to his widow, Barbara C. Parker. A 1998 plat recorded with the partition deed (Deed Book 231, page 800) shows the public landing line offset from the centerline of Route 663. It also shows the 20 foot offset from the centerline of the road in the same location as the 1950 plat. The 1998 plat claims that the 95.4 feet from the offset line toward the Creek is owned by Mitchell Parker whereas the court-approved boundary line agreement plat from 1950 showed that portion of the property as being owned by Mr. Jones. The 1998 plat does not purport to go to the water. Rather, the line bends to the southeast, presumably being the edge of the Jones property where his driveway is located.

Mr. Jones, through the conveyances of his property and the 1971 plat, has implicitly agreed to VDOT’s ownership of the landing up to the VDOT monuments shown on VDOT’s 1990 plat. *Shaheen v. Mathews*, 265 Va. 462, 579 S.E.2d 162 (2003). VDOT therefore probably has fee simple title to the entirety of the landing area.

The site visit showed that Route 663 begins at Route 17 as a two lane hardtop road. However, it becomes a one lane gravel road approximately the last two-thirds of its distance. The break in the hard surface to gravel occurs at Hilltop Lane, a private road going off to the left

or southwest. Route 663 goes to the water. There is a turn around area to the left of the road at the end of the road by Mr. Jones' driveway.

Route 663 serves as access to the property of Mr. Jones and probably others. Their driveway begins in the turn around area near the Creek. The driveway is shown on the 1990 VDOT plat (see Attachment 11). Mr. Jones appears to have no access other than Route 663 and needs all but the last few feet of the landing for access. There is a power line running down Route 663 which serves the Jones property and other properties along the Piscataway Creek to the west.

The north side of Route 663 is undeveloped. However, not all of this area can be used for the purposes of a public landing. VDOT condemned the property of the Smiths to use it as a mitigation site. The mitigation area is essentially what is shown on the VDOT 1990 plat as "prop. edge of wetlands". (See Attachment 11). Robert Pickett, the District Environmental Engineer in VDOT's Fredericksburg District office, advises that there may be additional wetlands that existed prior to the condemnation which were not included within the lines drawn for the mitigation area. In order to make any disturbance or install any improvements in the mitigation area or in the wetlands, the Authority would have to comply with EPA guidelines and meet all state and federal requirements for environmental permits in wetlands areas. Mr. Pickett advises that there is an additional problem with obtaining a permit at this site. A particular threatened plant, which was located at this site prior to the construction project, is thriving in the mitigation area. The presence of that plant would complicate any efforts to obtain an EPA permit to take any action within the wetlands and the mitigation area at this site.

The deeds to the properties around the landing make a number of references to the landing itself. A 1946 deed in the Jones chain of title describes its eastern boundary as "the old

main county road leading to the foot of the old Wood bridge". (Deed Book 86, page 324).

When Harry Rohm bought the property on the other side of the road in 1929, the property was referred to as "club property at Piscataway Creek". The grantor, Deane Hunley, operated a store on part of the property not conveyed. The VDOT 1990 plat shows the remains of an old store (Deed Book 76, page 200), but it is not known if that was the store run by Mr. Hunley.

In approximately 1986, VDOT, in cooperation with the Virginia Marine Resources Commission, directed the Fredericksburg District to fabricate and install signs at about fifty locations for public landing sites. This was one of the landings for which a sign was to be installed. However, the resident engineer in Bowling Green, H. H. Shockey, noted on several occasions that this was not a suitable location. He advised the District that he would not put a sign at Ferry Bridge Landing.

The public landing was also the subject of a 2004 case between *Paul Copeland, et al. v. Virginia Marine Resources Commission, Essex County Wetlands Board and Charles W. Davis*, Chancery No. CH04000025. The petitioners appealed a Marine Resources Commission permit or ruling allowing Mr. Davis to construct a boat ramp at a development along Piscataway Creek. One of the issues raised by the petitioners before the Virginia Marine Resources Commission was that Ferry Landing represented a boat launching facility in close proximity to Mr. Davis' project which negated the necessity for the installation of a boat ramp. Mr. Davis testified that Ferry Landing was either not available or not suitable. The Commission apparently agreed with Mr. Davis. Nothing in the case has any bearing on the title of or public's right to use Ferry Landing.

Chain Ferry Landing

Chain Ferry Landing is on the Mattaponi River in King & Queen County at the end of Chain Ferry Road, Route 605. VDOT owns the fee simple title to all of the landing area and all of Route 605. However, the last 223 feet of Route 605 is only 20 feet wide as it approaches the Mattaponi River. The northernmost five feet of what would ordinarily be a 30 foot wide roadway is not part of the public road and VDOT does not even own a prescriptive easement to that five foot strip. The landing joins the Mattaponi River and there are no title issues which would prevent VDOT from conveying the landing to the Authority.

According to a record at the King & Queen County Historical Society Museum, the property was patented by Henry Fenton in 1649. The Historical Society has a list of owners and conveyances of the property over a period of more than 200 years. The Hart family, which owned the entire area around the landing from prior to 1864 until recently, apparently first owned the property in 1828 when it was conveyed to Vincent Hart, as a 260 acre tract. At the time it was known as Shepherd's Warehouse. It was apparently conveyed to Robert Hart in 1845 as 288 acres. None of these deeds exist and cannot be verified because King & Queen County's records were burned in April 1864 by Union troops.

A ferry was officially sanctioned at the landing in 1890 by the Virginia General Assembly. In 1890, the legislature enacted a bill authorizing H. W. Bland and R. M. Hart to establish a ferry across the Mattaponi River from Shepherd's Warehouse. (1889-90 Acts of Assembly, Chapter 167, page 240). (See Attachment 12). However, a letter dated July 20, 1949 by Paul Hart indicates that a ferry was being operated there as early as 1875. The Historical Society has a photograph of the ferry in operation between 1907 and 1910. According to the

Historical Society's records, the ferry stopped operating in 1916 when a bridge was built across the Mattaponi River.

All of the area encompassing the current landing was owned by R. V. Hart prior to 1864 when King & Queen County's records were destroyed. In a 1909 deed partitioning his property, R. V. Hart was said to have died "some years ago". (Deed Book 15, page 591). A number of years prior to 1909, his two children, R. M. Hart and Mary Alice Bland, informally divided the property. R. M. Hart received the property on the left-hand side of "the main road from Shackleford's to Shepherd's Warehouse", now Route 605. His share contained 105 acres. Mary Alice Bland received the property on the right-hand side of the same road, containing 97 ¼ acres. Both properties were bounded by the road, the public landing and the Mattaponi River. The 1909 deed formalized their division of their father's property. The landing was described in the deed as the "public landing at Shepherd's Warehouse."

Paul Hart, the adjoining landowner on the southern side of Route 605 from 1930 until his death in 1971, stated in a letter dated April 23, 1959 that the landing was established in the 1700s on 1/8 of an acre. He said that the County condemned additional property in 1875 for storage of lumber and wood. An earlier letter by Mr. Hart's, dated July 20, 1949, stated that his father had "given" the property to the County for business reasons and that the deed contained a reversionary clause in the event it ceased to be used for storage. However, he stated that the deed was destroyed in a fire at the courthouse. He seemed to have no proof other than the memories of certain residents. No records of any of these transactions are recorded in the King & Queen Courthouse. Mr. Hart's recollection seems faulty, since the fire at the Courthouse took place eleven years before the date given for the conveyance of the additional property. However,

there may be some basis to the date because VDOT's files contain an 1875 plat showing the full area of the landing. (See Attachment 13).

Route 605 was described in a 1938 VDOT letter as an eight foot roadway running from "Route 33 to public landing at the Mattaponi River". In 1947, the Board of Supervisors decided to keep the landing as it was, even though the road had not been used for nearly twenty years and the public landing had been rarely used. In about 1950, the Board of Supervisors recommended that VDOT lease a portion of Chain Ferry Landing to Mr. Hart.

By the late 1950s, the Board of Supervisors was recommending that VDOT exchange properties with Mr. Hart to give Mr. Hart that portion of the land closest to his house and VDOT the portion of the land closest to Route 605. It also appears from a letter by the district engineer in 1959 that the portion of the roadway that went all the way to the river was not in the secondary system at that time. VDOT advised the Board of Supervisors that the Board needed to provide whatever additional right-of-way was necessary to take the road to the river. A plat in VDOT's file indicates that the roadway to the water consisted of a 20 foot right-of-way at that time.

In August 1963, the Board of Supervisors recommended the property swap that ultimately took place between Mr. Hart and VDOT. (Board of Supervisors Minute Book 6, page 179). In November 1963, the Board of Supervisors concurred with the proposed exchange of property between VDOT and the Harts and authorized the County Attorney to join in any transactions necessary to complete the exchange. In the authorization, it noted that the portion of Route 605 going to the Mattaponi River was 20 feet in width. (Board of Supervisors Minute Book 6, page 187).

The exchange of property took place in 1966. By deed dated April 5, 1966, VDOT conveyed 23,171 square feet of the original public landing farthest from Route 605 to Mr. Hart in

return for 22,964 square feet (0.527 acre) of property closest to Route 605. (Deed Book 57, page 526). As a result of that conveyance, the landing is approximately 140 feet wide between Route 674 and the Mattaponi River. The plat recorded with the deed shows the road running to the water. (Highway Plat Book 1, page 296). (See Attachment 14).

VDOT generated several plats showing possible configurations of the exchange of properties with the Harts. All of those plats show the last 223 feet of Route 605 going to the Mattaponi River as being a 20 foot right-of-way. Those plats, including the plat that was recorded with the exchange of land between VDOT and the Harts, along with the record by the Board of Supervisors describing the right-of-way as 20 feet wide, would probably be sufficient to rebut the presumption in Va. Code § 33.1-184 that the right-of-way was 30 feet. The Code Section allows “proof to the contrary” to rebut the presumption and it is likely that this proof will meet that test.

The owners to the north have always treated the 20 foot strip as belonging to VDOT. Therefore, none of Route 605 is held by prescriptive easement, and VDOT owns the 20 foot right-of-way in fee simple in addition to owning the landing in fee simple.

The current owners of the property to the south are J. Grainger and Amy H. Gilbert. (Deed Book 212, page 266). In 2001, their predecessors in title, Robert Walton, asked VDOT to convey to them 0.40 acres of the landing. The Residency recommended the conveyance, but it did not take place. Because VDOT has fee simple title to sufficient property at the landing for improvements and parking, it is not likely that any property would be needed from the Gilberts.

The current owner of the property to the north is Kathleen H. Walker. She inherited the property in 1983 from her stepfather, William L. Bland, one of the children of Mary Alice Hart Bland. (Will Book 12, page 22). Mr. Bland, his brother, Hartwell Bland, and his sister,

Kathleen B. Cottle, engaged in several transactions regarding the property their mother inherited. In the final transaction, William Bland ended up with a lot adjacent to the landing. (Deed Book 55, page 271). Two plats were prepared in 1949 and 1956 subdividing the property they inherited from their mother. The 1949 plat shows what is now Route 605 as 20 feet wide. It notes at least two cement boundary line markers. (Plat Book 3, page 24B). The 1956 plat does not state the width of Route 605. It shows one highway stone and two iron pipes, with a five foot offset between the stone and one of the pipes 243 feet from the low watermark. (Plat Book 4, page 3). That is approximately the location where the other plats show the 20 foot roadway becoming 30 feet wide. The final transaction which conveyed the lot closest to the landing to William Bland in 1959 tied the conveyance to the 1949 plat rather than to the 1956 plat.

Based on the site visit, the Walker property uses a portion of Route 605 for access. However, that property fronts on a private road, Osprey Lane, and there is no reason Ms. Walker could not use Osprey Lane for access. The 1949 plat and the 1956 plat created 30 foot private easements in the approximate location of Osprey Lane.

There is also a driveway onto the Gilbert property from Route 605. However, that property has a paved driveway from Route 674 and does not appear to use the entrance from Route 605 very often.

A ramp at the end of Route 605 goes into the water. In December 1969, when the Board of Supervisors acted on a request to name Route 605 Chain Ferry Road, it referred to the road's terminus at Chain Ferry as "on" the Mattaponi River. These facts, combined with the deed from Paul Hart, establish that the public landing has access to the river. This landing is listed in the 1980 "Beach Inventory and Recreational Access Points of the Tidal Waters of the State of

Virginia” by the Virginia Commission of Outdoor Recreation. (See Attachment 9). It states that the landing has one ramp and space for ten cars to park.

Byrd's Bridge

Byrd's Bridge Landing has never been a landing. Instead, the subject property is the end of old Route 604 where it crossed Dragon Run from King & Queen County into Essex County. The road was relocated in about 1964 to its current location. When VDOT relocated the road, it purchased new land from the owner to the east of the old road. It did not acquire the property between the two roads. There is no record that VDOT ever discontinued the road or that the Board of Supervisors of King & Queen County ever abandoned the old road, other than a notation on a plat that is not signed by VDOT or the County. Therefore, VDOT continues to have a prescriptive easement in the old roadway, which is about 1,000 feet long, and it continues to be a VDOT road, even though it is no longer maintained.

The heirs of James Lipscomb own the property to the east of the road and the underlying fee to the eastern half of Route 604. James Lipscomb died in 1898, leaving a will. His will left his real estate to his five children (Will Book 2A, page 25). When Route 604 was relocated, the portion leading to Dragon Run was moved onto the Lipscomb property. VDOT acquired by condemnation 1.10 acres, 0.25 acre of which had been encumbered by a prescriptive easement. The $\frac{1}{4}$ acre prescriptive easement did not include any of the prescriptive easement in what is now the old road. The proceeds were shared by twelve of his heirs in varying degrees of interest. The County's tax records indicate that the real estate taxes are now being paid by Ms. Natalie Bazzell, 240 South Bayberry Lane, Upper Darby, Pennsylvania 19082. Several different people have paid the taxes on the property between 1964 and the present, some of whom are among the heirs who shared in the proceeds of the condemnation award and all of whom lived in the Philadelphia area.

The title on the west side of the road is totally messed up. The property was originally part of a 95 acre tract which was 63 ½ chains, or 4,191 feet long, and shown on an 1870 plat. (Deed Book 3, page 6). (See Attachment 15). In the area of Dragon Creek, it showed a subdivision into two parcels, although it is not clear who received the portion of the property closest to Dragon Run. The current tax records list Jerry Richardson as the owner of the property adjacent to the old road on the west side. The tax records recite a 1988 deed which conveys property formerly owned by C. W. Oliver. (Deed Book 110, page 508). The Oliver property location is not clearly defined in the deeds and there is no plat of it. Furthermore, based on recorded deeds, Mr. Richardson only owns three-eighths of an interest in Oliver's property.

Mr. Richardson seems to rely on a different source for his title. He recorded a boundary line plat which purported to identify the boundaries of 38 acres he acquired from Clara M. Richardson in 1984 at Deed Book 99, page 256. (Plat Book 13, page 67). (See Attachment 16). His plat, to which he is bound, encompasses 34 acres. It places his property along the entirety of the old road, except that it does not run all the way to Dragon Creek. An approximately 200 foot wide strip of land between his northern boundary line and Dragon Run is shown on the plat to be outside his property and to be the property C. B. Newbill bought, as recorded at Deed Book 7, page 87. Newbill bought 34 acres described as "near Bird's Bridge" from A. E. Hunley in 1879 (Deed Book 7, page 87). Newbill's property was deeded to Richard Cooke in 1885. (Deed Book 7, page 633). Richardson's 1984 deed from Clara Richardson purchased the property which Newbill had conveyed to Cooke in 1885, citing all of the interests purchased by Clara Richardson's deceased husband from the Cooke heirs.

Therefore, the land between Richardson's property and Dragon Run which Richardson claims that he does not own is land that is in his chain of title. He also does not own the

complete interest in C. W. Oliver's property, on which the tax assessor based his ownership. The only recorded plats showing this property are the 1870 plat, Richardson's 1986 self-proclaimed boundary plat and the 1964 VDOT plat. VDOT's plat lists Cooke and Newbill as owners of separate parcels, even though Cooke's title derives from Newbill. Little significance should be given to VDOT's representation of the owners to the west of the old road because their property was not affected by the change in Route 604, except to the extent it impacted their access to Route 604.

The County tax maps are also unclear. They show a red line parallel to but not reaching Dragon Run as the northern boundary of Richardson's property. The area between his northern boundary and Dragon Run is not listed as being owned by anyone, except to the extent that it may be a part of the property to the west of Richardson. No one is being taxed on that strip of land. Therefore, it is unclear who owns this portion of the property to the west of the old road and closest to Dragon Run and it is also unclear whether Richardson has clear title to the remainder of the property to the west and therefore to the underlying fee of the old Route 604.

The Board of Supervisor's Record Books from February 1963 until October 1979 have no reference to either a discontinuance or an abandonment of the old road. VDOT's Right-of-Way Division in Fredericksburg has likewise reported that its files do not contain any reference to a discontinuance or abandonment. Richardson's 1986 plat has a notation along the old Route 604 that states "property line down center line of abandoned v.s.h.". (See Attachment 16). However, neither VDOT nor the County is a party to that plat and the notation has no legal significance.

If the road was abandoned by the County, neither VDOT nor the County would own anything to convey to the Authority. However, VDOT records reflect no discontinuance or

abandonment and the Minute Books of the Board of Supervisors do not contain evidence of a discontinuance or abandonment for fifteen years after the project was completed. Therefore, the note on the plat appears to be incorrect.

Because VDOT is no longer maintaining the old road, it has been effectively discontinued. However, it has not been discontinued in accordance with statutory procedures. Therefore, it is still a VDOT road and VDOT continues to own the prescriptive easement

A 1937 letter by VDOT's resident engineer listing the public landings turned over to the Highway Department in 1932 did not include Byrd's Bridge or any other landing on Dragon Run. Route 604 was also not listed on the 1934, 1945 or 1977 VDOT lists of landings. (See Attachments 3, 4 and 5).

The landing is presently blocked by fallen trees and similar debris. Therefore, it is unlikely that VDOT will pay for the road's maintenance. VDOT will probably initiate a discontinuance procedure for the road now that the absence of a formal discontinuance has been discovered. When that happens, the prescriptive easement will revert to King & Queen County.

ACQUISITION OPTIONS

Discontinuance

All roads and landings within the State System of Secondary Highways and the State Highway System remain under VDOT's jurisdiction until they are discontinued. Discontinuance is an act reserved for the Commonwealth Transportation Board. It results from a determination by the Board that a road or landing no longer serves the public convenience to the extent that warrants its maintenance at public expense. Discontinuance of a road or landing means merely that VDOT will no longer be maintaining the road. If VDOT already has fee simple title to the road or landing, it will continue to own the road or landing and the public will have the right to use the roadway or landing, but VDOT will have no maintenance responsibilities. If VDOT's right to use the road or landing is based on a prescriptive easement, the prescriptive easement will revert to the local governing body upon discontinuance. However, the public still has a right to use the road or landing and it remains a public roadway unless and until the board of supervisors abandons the road or landing. *Bond v. Green*, 183 Va. 23, 52 S.E.2d 169 (1949).

Abandonment is significantly different from discontinuance. Abandonment extinguishes the public's right to use a public roadway or landing. If VDOT owns the fee simple title, VDOT will remain the owner, but the public will no longer have the right to use the roadway or landing. Va. Code § 33.1-153. If VDOT's rights were based on prescriptive easement, abandonment extinguishes the prescriptive easement and full control of the property reverts to the adjoining landowners. Therefore, the County as well as VDOT loses all interest in a prescriptive easement upon abandonment. Therefore, no landing or road which the Authority wants to acquire should be abandoned if there is any chance that VDOT's right is based on prescriptive easement rather

than fee simple title. However, as set forth subsequently, that will impact the Authority's ability to receive a deed from VDOT.

Abandonment can only be done by the local governing body. To be effective, the abandonment must be formally adopted and must therefore appear in the minute books of the board of supervisors.

Since 1950, procedures for abandonment and discontinuance have been codified by the legislature. Virginia Code § 33.1-150 governs discontinuance of roads and public landings in the Secondary System of State Highways. Virginia Code § 33.1-152.1 sets forth permissible uses by counties of discontinued roads. Virginia Code § 33.1-151 governs the procedure and consequences of abandonment of a road or public landing. Virginia Code § 33.1-152 provides an appeal to the Circuit Court of an order by the local governing body regarding an abandonment petition. It also provides that notice must be given to the Department of Game and Inland Fisheries before a landing can be abandoned. Virginia Code § 33.1-153 sets forth the effect of abandonment. Pursuant to Virginia Code § 33.1-154, VDOT and the governing bodies of counties are authorized to convey the abandoned sections of roads or public landings under certain conditions. All of these statutes provide notices either to the adjoining landowners or to the board of supervisors and place restrictions on the actions of VDOT and/or the board of supervisors.

In the event VDOT decides to discontinue a road or public landing, or receives such a request from the board of supervisors, it must issue notice of intent to discontinue maintenance of the road or public landing and a willingness to hold a public hearing at least 30 days prior to the effective date of the discontinuance. The notice must go to the board of supervisors and to all abutting landowners by registered letter. In addition, VDOT must notice the general public in

a newspaper having general circulation in the county where the road or landing is located. If any party requests a hearing, VDOT must conduct a public hearing. The purpose of the hearing is to determine whether or not the road or public landing should be discontinued.

Regardless of whether a hearing is held, VDOT cannot discontinue a road unless it “deems such road, public landing or crossing is not required for public convenience”. It is this required finding which may create the most difficulty in having control of a landing transferred from VDOT to the Authority.

The purpose of having a public landing discontinued is to allow the Authority to own and operate it as a public landing for the benefit of the public. Under that circumstance, it would be difficult for the Commonwealth Transportation Board to make a finding that the landing is no longer needed for the public convenience. Therefore, there is some question whether the process would result in a discontinuance. In addition, the hearing itself and any potential appeals would add to the time and expense involved with having the road and landing discontinued. Once the road and landing are discontinued, VDOT would no longer maintain the road and landing. A discontinued road or landing is not eligible for VDOT funding.

Deed from VDOT

Once a road or public landing is discontinued, VDOT would be in a position to convey any fee simple interest it has in the property. VDOT would have no prescriptive easement to convey, because all prescriptive easements it had would have automatically reverted to the board of supervisors by operation of law as a consequence of the discontinuance. In all instances where VDOT discontinues a landing to enable a conveyance to the Authority, there should be no impediments to obtaining a deed from VDOT. VDOT would not likely go through the

discontinuance process in order to turn over the landing to the Authority and then decide not to convey the property.

There is a gap in the statutory authority regarding conveyances of discontinued and abandoned roads and landings. Virginia Code § 33.1-154 authorizes VDOT to convey roads and landings that had been *abandoned* whose use is no longer deemed necessary by the Commissioner. However, it is silent as to whether VDOT has the same authority to convey roads and landings that it *discontinues*. This gap likely occurred either because the legislature presumed that VDOT would not discontinue roads in which it had a fee simple interest unless the county planned to abandon them as well or because discontinuance did not eliminate the public's right to use the road or landing and it considered a conveyance of title to be inconsistent with the continuation of the public's right.

The Senior Assistant Attorney General in charge of all legal matters for VDOT indicated that this gap in the statute could prevent VDOT from conveying any landing it owns in fee simple based solely upon a discontinuance. Although an argument could be made that VDOT has the authority to convey such a landing or road after discontinuance, there is no statute expressly giving that authorization. Presently, VDOT requires an abandonment of a road or landing before it will convey its fee simple title. Therefore, it is doubtful the Commonwealth Transportation Board would approve the conveyance in the absence of an abandonment.

This does not present a problem where there is no question that VDOT has fee simple title to the landing, such as at Chain Ferry Landing. However, in each other circumstance, the Authority would risk losing the right to use the property if the local board of supervisors abandoned the landing.

Permit from VDOT

A much simpler method of transferring control to the Authority would be by means of a land use permit from VDOT to the Authority. Obtaining a land use permit would be easier, more likely to succeed and financially more beneficial to the Authority than obtaining ownership. On the other hand, there are drawbacks to obtaining control only through a permit which must be considered.

Obtaining a land use permit to operate the public landing would be simpler, quicker and cheaper. There is a nominal fee for an application for a land use permit, which fee might be waived for the Authority. No public hearing is required, nor a finding that the road is no longer needed for public convenience. There is no limit to the uses or activities which can be allowed by a permit, so long as the uses are consistent with any prescriptive easement limitations. The permit could be drafted as open ended, so that it would not expire until VDOT revoked the permit. The road and landing would remain in VDOT's Secondary Road System. VDOT would therefore continue to be responsible for maintenance of the road, relieving the Authority of potential maintenance expenses.

As long as the road and landing are in the Secondary System, there would be no need to prove fee simple title in VDOT. However, if VDOT does not have fee simple title, there could be some limitations on the methods to which the Authority could use the property. If VDOT only has a prescriptive easement, it cannot give a third party rights that VDOT does not have. In other words, if VDOT cannot conduct a particular activity on its prescriptive easement, a permit allowing the Authority to do so would not be legally effective. The Supreme Court of Virginia recently ruled that the public could not use a public road easement granted to a town to fish from a bridge abutment which was part of the easement. *Kirby v. Town of Claremont*, 243 Va. 484,

416 S.E.2d 695 (1992). However, that easement was created by a deed to the town, rather than by a prescriptive easement. The Supreme Court interpreted that express easement in a more limiting manner than it would have interpreted a prescriptive easement created by § 33.1-184. However, it illustrates that easements have some limitations. For that reason, the Authority might not have the legal authority to construct improvements or provide activities that are not consistent with the operation of a landing. However, as long as the “new” uses are incidental to enhancing the public’s use and enjoyment of the landing, the additional burdens should be deemed acceptable.

It should be noted that the Authority would have the same limitations in the event of a discontinuance of a road in which VDOT only has a prescriptive easement. If the Authority became the “owner” of the prescriptive easement, it would still not be able to increase the burden on the servient estate by uses that were different from those which existed when the easement was created. Therefore, the limitations on what the Authority could do under a permit are no different than the limitations on the Authority in the event of a discontinuance.

The downside to a permit is that a permit is revocable at will at any time by VDOT. Any improvements built at the landing, such as bathrooms and concession stands, would become VDOT’s property if the permit was revoked. However, the only likely reason for a revocation of the permit would be that VDOT wanted to build a new road or relocate or expand its existing roads and needed this property for that project. Based on the locations and conditions of each of the five landings in this study, it is not likely that VDOT will be relocating or expanding nearby roads or building new roads through them in the foreseeable future. Accordingly, this is a remote possibility at best and the benefits of the permitting process far outweigh any potential risks.

Eminent Domain

The Commonwealth of Virginia, as a sovereign government, has the inherent power of eminent domain. State agencies (including VDOT), counties, cities and towns, and some other governmental entities and certain corporations, have been granted the power of eminent domain by delegation from the General Assembly. However, their power to condemn property is limited by the language and restrictions contained in the statutory authorization. *Light v. City of Danville*, 168 Va. 181, 190 S.E. 276 (1937).

The Authority was not granted the power of eminent domain by the General Assembly. Therefore, it does not have the power to condemn property. Although counties have been granted the power of eminent domain with respect to property within their borders, Virginia Code § 15.2-1901, they cannot delegate their power of eminent domain to the Authority. *Ruddock v. Richmond*, 165 Va. 552, 178 S.E. 44 (1935), *cert. denied*, 298 U.S. 674 (1936).

Land that is already devoted to a public use cannot be acquired through a delegated power of eminent domain unless the legislation delegating the power clearly states or infers that such acquisition can take place. *Alexandria & Fredericksburg Railway Co. v. Alexandria & Washington Railroad Co.*, 75 Va. 780 (1881); *Richmond F. & P. R.R. Co. v. Johnston*, 103 Va. 456, 49 S.E. 496 (1905). The Supreme Court of Virginia has noted that there is considerable authority that this principal does not apply where the power of eminent domain is being exercised by an agency of the sovereignty itself, rather than by a public service corporation or a county or municipality. However, because the Court did not need to base its ruling on that issue, it did not express an opinion on that issue. *Bailey v. Anderson*, 182 Va. 70, 27 S.E.2d 914 (1943), *cert. denied*, 321 U.S. 799 (1944).

Counties have not been authorized to condemn property owned by any state agency, including VDOT. Counties can condemn areas needed for landings from private citizens, including any underlying fee property encumbered by a prescriptive easement. However, they cannot condemn property interests owned or possessed by VDOT as a method of acquiring landings.

Potential Legislative Action

The Authority and its members may wish to consider legislative action to cure some of the deficiencies in the discontinuance and conveyance process. One potential legislative solution would be to authorize VDOT to discontinue from its Secondary System of State Highways any roads or landings in the Middle Peninsula which the Authority desired to acquire, control and operate. Public notice might still be required to comply with due process considerations. However, the legislature could change the requirement that VDOT must find that the road or landing is not required for public convenience to a finding that VDOT's control of the landing is not required for public convenience as long as the Authority is assuming that obligation.

The legislature could also grant the Authority similar rights provided to the Department of Game and Inland Fisheries ("DGIF") in Virginia Code § 33.1-69.1. That statute authorizes the Commonwealth Transportation Board to transfer control, possession, supervision, management and jurisdictions over landings, wharves and docks in the Secondary System of State Highways to the DGIF, notwithstanding any other provision of law. It allows the transfer to be made by lease, agreement or otherwise. This statute was passed in 1980, shortly after the 1977 Inventory of Landings was created as part of a study whether to transfer the control of landings to DGIF. By including the phrase "notwithstanding any other provision of law", §

33.1-69.1 avoids the complications with the discontinuance statute. It is unknown whether this statute has ever been used to transfer control of any such landings.

The Authority and its members may wish to request the legislature to pass a similar statute giving VDOT authority to transfer control of landings in the Middle Peninsula to the Authority. To make it clear that the Authority could obtain also fee simple title by such transfer, the words "sell" and "deed" should be added to the new statute.

Either potential legislation should authorize the conveyances of discontinued roads and landings to the Authority, thereby curing the gap in Virginia Code § 33.1-154. Alternatively, the legislature could amend the permit process to prohibit VDOT from revoking a land use permit to the Authority. Some parameters would have to be addressed, such as whether improvements must be constructed before VDOT loses the right to revoke the permit or to prohibit the revocation until a certain number of years have passed. However, VDOT is more apt to object to legislation tampering with its permit process because it may be concerned about creating a bad precedent. VDOT might also take a more stringent look at a permit application that would not be revocable at will.

**ACQUISITION OPTIONS AND ISSUES AT THE
FIVE DESIGNATED LANDINGS**

Roane Landing

VDOT's and Mathew County's ownership of this landing is in doubt. Therefore, the discontinuance, abandonment and § 33.1-154 sale of abandoned property should not be followed. Instead, the land use permit or the discontinuance process are the only safe options. The land use permit would be the quickest and cleanest method to transfer control and would continue to assure the use of VDOT funds to maintain Route 630. This could be done quickly and at minimal cost to the Authority. The Authority could then make all uses of the landing allowed by the permit, which can be made as broad as the Authority desired. Although VDOT would have the authority to revoke the permit at any time, that revocation seems extremely unlikely. The only reason the road would need to be enlarged or relocated in the foreseeable future would be if the landing drew a substantial amount of additional vehicles.

Should the Authority desire to request discontinuance, the Authority and VDOT would need to determine what portion of Route 630 should be discontinued. The two logical points would be either where Route 630 joins the wide part of the landing or at the water's edge so that some of the maintenance costs would be borne by VDOT.

A petition by the Mathews County Board of Supervisors would initiate VDOT's review of the road's discontinuance. VDOT would have to give notice to the abutting landowners and to the general public. If anyone requested a hearing, VDOT would have to hold a public hearing. It is impossible to gauge at this stage what type of objections or counter suggestions might be raised at a public hearing. However, VDOT would have to determine that the discontinued portion of the road and the public landing are no longer required for the public convenience. Given that the discontinuance is being requested because the landing is needed for the

enhancement of the public convenience, there is a considerable question whether the Commonwealth Transportation Board could or would make that finding. If VDOT did make the necessary finding, the discontinuance would transfer VDOT's prescriptive easement to the Board of Supervisors. The Authority could then obtain a deed from the Board of Supervisors of whatever interest it has in the landing. Because VDOT believes it has fee simple title, VDOT should also provide a special warranty or quitclaim deed to the Authority to transfer whatever title it may have, although it may be unwilling to do so because of the lack of statutory authorization to deed discontinued properties.

The landing originally was half an acre. Because of erosion, the size of the landing is down to 0.40 acres according to the survey of Mr. Lewis for the County in 1999. Based on the site inspection, much of that land is on a beach and may not be suitable for any improvements other than a boat ramp. The area where most of the parking occurs now is not on the landing property. The Authority would have no right to allow parking off the landing property. Accordingly, the Authority would be limited in the number of improvements that could be made at this site.

Lower Guinea Landing

VDOT only has a prescriptive easement in Route 653 leading up to the Severn River. For that reason, a discontinuance followed by an abandonment and a sale pursuant to Virginia Code § 33.1-154 will not work because the abandonment would cause the easement to be extinguished and all rights to revert to the co-owners of the property.

There is no more than a 30 foot prescriptive easement in this location, and it is located in a marshy area. It would probably violate Federal wetlands laws to construction any improvements other than an extension of the boat ramp into the water and perhaps paving the

entire 30 foot easement near the landing. However, that may not provide sufficient place for parking. The Authority would also need to address the issue of providing enough roadway to allow cars to pass in each direction.

A land use permit may be the best way to proceed with regard to this landing. Because the Authority may not be able to construct any improvements at this landing, it would not risk losing any investment by not obtaining the prescriptive easement itself. Furthermore, the land use permit would continue to assure the use of VDOT funds to maintain Route 653.

If VDOT discontinues the road, the prescriptive easement would revert to the Board of Supervisors. As a result, VDOT would have no interest to convey. However, VDOT and the Authority must determine at what point VDOT's maintenance of the road should end and therefore where the discontinuance would begin. There is no logical cutoff point other than the beginning of the gravel road past the last residence. However, that would impose on the Authority the duty to maintain a gravel road extending at least 700 feet. Furthermore, VDOT would face the same dilemma regarding its finding that the road and landing are no longer necessary for the public convenience.

Once the road is discontinued, the prescriptive easement could be conveyed by Gloucester County to the Authority along with all responsibility to maintain a landing. However, neither Gloucester County nor the Authority could expand the landing beyond the 30 foot prescriptive easement unless it acquired further rights from the current owners, Welford Industrial Corporation and WRS Land Trust.

Ferry Landing

VDOT owns the fee simple title to the landing, to the northern half of the 30 foot right-of-way of Route 663 and to all of the property to the north of Route 663. It has only a prescriptive easement to the southern half of Route 663 until Route 663 reaches the landing. Much of the property owned by VDOT between Route 663 and Route 17 is protected as a mitigation area. However, not all of the property is in the mitigation area, and there is a possibility that the landing can be expanded somewhat using the property to the north that is not in the mitigation area. It would be difficult to expand the landing into the mitigation area, but that could be possible if the necessary EPA permits were obtained. However, the presence of the threatened plant will make it more difficult to obtain such a permit. Furthermore, additional areas in the property acquired by VDOT in 1990 may be in wetlands, which would have the same restrictions.

The land use permit would be the quickest and cleanest method to transfer control. It would also continue to assure the use of VDOT funds to maintain Route 663. However, the drawbacks to the permit process are more relevant here than at the other landings.

Because this landing contains more property than any of the other landings, it may be the most desirable on which to build improvements. In addition, it is the closest landing to a major road. For that reason, the potential for a permit to be revoked is highest at Ferry Landing. However, the second Route 17 bridge over the Piscataway Creek was constructed in about 1988. It is unlikely that traffic will increase on Route 17 in the foreseeable future to the extent that Route 17 will be relocated or that the bridges will need to be substantially widened. Even if that happens, it is unlikely that VDOT will want to go through the requirements that would be imposed on it to move the road into the mitigation area. Therefore, even though the risk seems

higher, it is unlikely that VDOT will ever need this property for a Route 17 crossing over Piscataway Creek.

Should the Authority desire to request a discontinuance, the Authority and VDOT would need to determine what portion of Route 663 should be discontinued. They would have to take into consideration the needs of the abutting landowner for access. The titles have not been searched to verify that Mr. Jones has no easement across other properties to a public road. However, his property adjoined the landing and historically had access through it to the main road. It is unlikely he has any other legal access. Therefore, VDOT will not be able to discontinue Route 663 unless Mr. Jones and any other landowner who relies on the end of Route 663 for access is given an easement or a right to use that portion of the landing as a public road.

Mr. Jones' access situation will complicate determining where and how much of the property would be eligible for discontinuance. The most likely result would be to shift the current location of the end of Route 663 to the southern edge of the landing and leave it open as Route 663. VDOT would then continue to maintain the road all the way to Mr. Jones' driveway.

Chain Ferry Landing

VDOT owns the fee simple title to all of the landing and the end of Route 605. The only possible prescriptive easement is the five foot strip of land beyond the highway monuments at the north edge of what has historically been referred to as a 20 foot roadway. Because VDOT, through its own deeds and plats, has listed it as a 20 foot right-of-way, the legislative presumption of a 30 foot right-of-way would probably be successfully rebutted.

The property VDOT acquired from the Harts in 1966 consists of a little more than ½ acre. In addition, it already owned in fee simple an area almost as large. Accordingly, the total area of

the landing is close to an acre. Route 605 is hard surfaced into the river, although the ramp needs extensive repairs. The landing is large enough to support improvements.

The land use permit would be the quickest and cleanest method to transfer control and would continue to assure the use of VDOT funds to maintain Route 605. This could be done quickly and at minimal cost to the Authority. The Authority could then make all uses of the landing allowed by the permit. Because VDOT owns the fee simple title to the landing, there would be no limit to the uses that could be permitted.

Having just built a new bridge across the Mattaponi River, it is inconceivable that VDOT would be planning a new Mattaponi River crossing in this location. Although there could someday be a desire to construct a bypass around West Point and this could be included in the bypass corridor, it is hard to conceive the circumstances that would lead to such an expenditure within the reasonably expected lifetime of any improvements that the Authority might desire to place at Chain Ferry Landing.

Should the Authority desire to have the road and landing discontinued, the Authority and VDOT would need to determine what portion of Route 605 should be discontinued. Two logical points would be the intersection of Route 605 with Route 674 or at a point past the driveway to the landowner to the north. It would also be logical to end state maintenance at the beginning of the 20 foot wide portion of the road, because that would give the abutting landowners access to Route 605.

Byrd's Bridge

VDOT only has a prescriptive easement in old Route 604. Although this road was effectively discontinued in the 1960s when it was replaced by the new road and bridge and VDOT ceased maintaining the road, there is no record that VDOT followed statutory procedures

to discontinue the road. VDOT is researching the lack of discontinuance and will likely discontinue the road. When that happens, the prescriptive easement will revert to the King & Queen County Board of Supervisors. Ironically, the Authority probably has less need of a discontinuance because a permit would probably give the Authority all rights it would ever need.

The most viable means of transfer of control to the Authority would be a formal discontinuance by VDOT coupled with a deed from King & Queen County conveying the prescriptive easement to the Authority. So that the prescriptive easement would not lapse, the conveyance should make clear that the roadway will continue to be available as a corridor for use by the public and set forth sufficient language to establish the public convenience and the Authority's governmental status.

**LEGAL INSTRUMENTS NEEDED TO EFFECT
TRANSFER OF VDOT'S FEE SIMPLE RIGHTS**

No legal instruments would be needed to effect a transfer of rights from VDOT at Lower Guinea Landing or Byrd's Bridge Landing. VDOT never had anything other than a prescriptive easement at either landing. VDOT will lose its prescriptive easement at Byrd's Bridge when it formally discontinues the old road. At Lower Guinea, VDOT still owns the prescriptive easement. However, it will not convey that prescriptive easement as long as the road is in the Secondary System of State Highways. Removing it from the Secondary System by discontinuance would cause the prescriptive easement to revert automatically to the Board of Supervisors, leaving it nothing to convey.

At the remaining landings, the Commonwealth Transportation Board would have to approve any transfer of its fee simple rights. That approval should be reflected in the minutes of the Commonwealth Transportation Board. Those minutes would be necessarily created by VDOT.

VDOT is not likely to convey the property by any instrument other than a quitclaim deed. VDOT uses its own forms and prepares its own deeds. Therefore, it is unlikely that the Authority would be involved in drafting any deeds for the conveyance of these properties. Nevertheless, the Authority must review any proposed deeds to see that they satisfy the needs of the Authority.

For a transfer to be effective, the Authority must record the deeds from VDOT. The Authority should only incur nominal fees to the clerks of court to affect the recordings because both VDOT and the Authority are governmental agencies.

Because VDOT would prepare the legal instruments, very little work would need to be done by the Authority once VDOT has agreed to convey its title in the landing. This assumes

that all of the title work would have been done during the investigation of the landing, as was done on the five sites in this study. It is unlikely that a title insurance company would insure title owned by VDOT. However, if that were a desire of the Authority, it could be investigated. Title insurance would be an additional cost.

In conclusion, the costs to the Authority for effecting transfer of VDOT's fee simple title would be relatively small. They would likely be limited to reviewing VDOT's deed for sufficiency and accuracy and taking the steps to have it recorded.

RECOMMENDATIONS FOR FUTURE STUDIES

Prior to undertaking future studies, the Authority and its members should seriously consider the legislative options outlined in Part D of this Protocol. Several major obstacles to the transfer of landings were discovered during this investigation and addressed in this Protocol. Most of those obstacles would be resolved by granting VDOT the authority either to discontinue landings so that they can be transferred to the Authority without the “not required for public convenience” finding or to transfer control or title to the Authority similar to the transfer to the Department of Games and Inland Fisheries in Virginia Code § 33.1-69.1. Any potential legislation should also grant VDOT the authority to convey its title in a discontinued landing and/or road without requiring the road or landing to be abandoned.

If legislative changes are going to be made, that should be done before additional studies are performed. The analysis at each landing would be simpler because the investigation could focus on the facts that must be addressed to make a landing eligible for conveyance of title or transfer of control to the Authority.

Furthermore, the Authority should decide whether it wishes to consider obtaining control of any landings or types of landings through land use permits. If so, most of the information obtained in this study would not be necessary. The major information to collect would be the width of the right-of-way, the dimensions of the landing, and whether the road or landing went to the edge of the water. Whether VDOT owned the underlying fee simple title would be irrelevant.

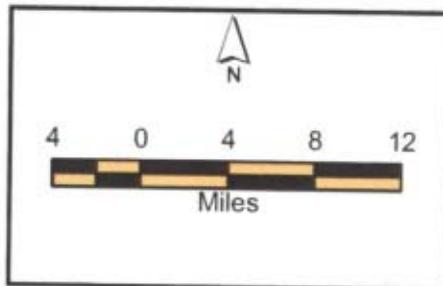
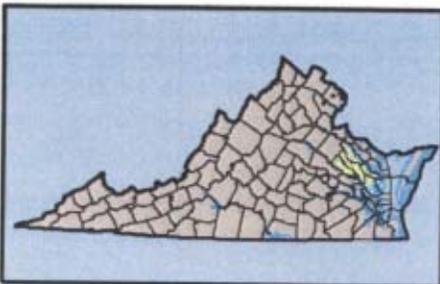
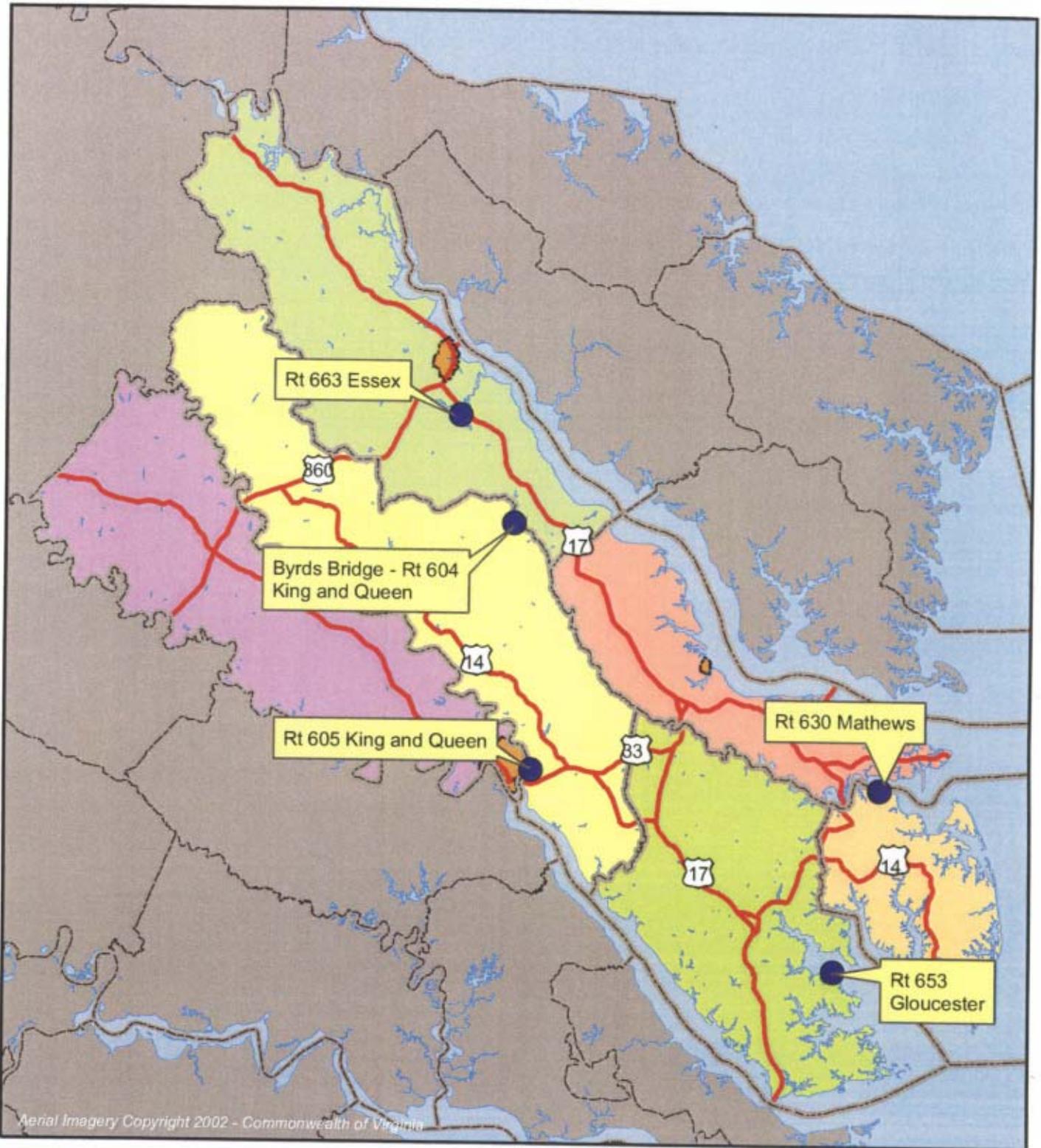
When selecting the five landing sites for this initial study, the Authority sought to include sites that were likely to address different circumstances and situations. If there were other types of circumstances or situations that could not be included within this study, they should be

addressed in the next study. Otherwise, it is recommended that the Authority choose those sites to which access would be most beneficial to the public.

ATTACHMENTS

1. Map of all five landing sites
2. Section 6 of Chapter 75 of the Virginia Code of 1785
3. 1934 List of Landings
4. 1945 List of Landings
5. 1977 List of Landings
6. VDOT Plat and R/W Sheet regarding Roane Point Landing
7. Unrecorded plat of Roane Point Landing by Wayne Lewis dated March 12, 1999
8. VDOT 1932 map of Mathews County
9. 1980 Beach Inventory and Recreational Access Points of the Tidal Waters of the State of Virginia by the Virginia Commission of Outdoor Recreation
10. 1955 Heywood plats of Lower Guinea properties
11. 1990 VDOT plat at Ferry Landing
12. 1890 Act of Assembly establishing Chain Ferry
13. 1875 plat of Chain Ferry Landing
14. Plat of exchange of land between VDOT and Paul Hart at Chain Ferry Landing
15. 1870 plat at Byrd's Bridge
16. Boundary Survey for Jerry Richardson at Byrd's Bridge

MPCBPAA Road Ending Site Locations





Although this data has been used by the Marine Resource Planning (MRP) Committee (MPPCC) in various reports and maps, the MPPCC is not responsible for the accuracy or applicability of the data and water depths, nor the use of the data for navigation purposes and such liability shall be responsibility assumed by the MPPCC in connection therewith.

This map is a product of the MPPCC Coastal Assessment Program and was developed by Virginia Coastal Zone Management Program of the Department of Environmental Quality through Statewide Coastal Planning Task 44 of the National Oceanic and Atmospheric Administration. Office of Ocean and Coastal Resources Management under the Coastal Zone Management Act of 1972, as amended.



Virginia Coastal Zone
 MANAGEMENT PROGRAM



and see that the same be cleared and kept in good repair, which surveyor shall continue in office until another shall be appointed by the said court in his stead.

Who to work on roads.

IV. All male labouring persons, of the age of sixteen years or more, except such as are masters of two or more male labouring slaves, of the age of sixteen years or more, shall be appointed by the court to work on some public road: For every person so appointed, who, when required by the surveyor placed over him, shall, without legal cause or disability, fail to attend, with proper tools for clearing the road, or shall refuse to work when there, or to find some other person equally able, to work in his room, the sum of seven shillings and six pence for every day's offence, shall be paid by himself, if he be a freeman of full age, if an infant, then by his parent, guardian, or master, and if a slave or servant, then by his overseer; if he be under one, or otherwise, by his master.

Surveyors, how notified.

V. The clerk of every county court shall within ten days after the appointment of any surveyor of a road, deliver a copy of the order to the sheriff of the county, under the penalty of fifteen shillings; and the sheriff, within fifteen days after the receipt of such order, shall deliver the same to the surveyor, under the penalty of fifteen shillings. And each clerk shall moreover, once in every year, fix up in the court-house, a list of the names and precincts of all the surveyors of roads in his county, under the penalty of fifty shillings for every neglect.

Duty of surveyors.

VI. Every surveyor of a road shall cause the same to be constantly kept well cleared and smoothed, and thirty feet wide at the least; and at the fork or crossing of every public road, shall cause to be erected, and kept in repair from time to time, a stone, or otherwise an index on a post or tree, with plain inscriptions thereon, in large letters, directing to the most noted place to which each of the said roads shall lead, and may take stone or wood for that purpose from any adjoining land: and for the expence of setting up and inscribing such stones, posts, or indexes, and keeping them in repair, the surveyor shall be reimbursed by the county court in their next succeeding levy; and where bridges and causeys are necessary, the surveyor shall cause them to be made, twelve feet broad at the least, convenient and safe, and shall keep the same in repair, and for that purpose may cut and take from the lands of any per-

Sign posts.

Bridges and causeys.

son adjoining, such, and so much timber, earth, or stone, as may be necessary, the same being first viewed and valued by two honest house-keepers appointed and sworn for that purpose by a justice of the peace, unless the owner shall freely give such timber, stone, or earth, for that use; but where a road leads through a city or town, the surveyor shall not take any timber, stone, or earth, from any lot within the town, without the permission of the owner, but shall take the same from the lands nigh or adjacent to the said town, where it will do the least injury to the proprietor; and where the assistance of wheel carriages is necessary for making or repairing any causeys, any justice of peace may issue his warrant, under his hand and seal, for empowering the surveyor to impress such necessary carriages, draught horses; or oxen, with their gear and driver, belonging to any person who, or their servants or slaves, are appointed to work on the road, and appointing two honest house-keepers, who, being sworn, shall value by the day, the use of such carriages, draught horses, oxen, and driver, which valuation, with a certificate from the surveyor how many days the said things were employed in the work, shall entitle the owner to an allowance for the same in the next county levy. And in the like manner shall the owner of timber, stone, or earth, taken for bridges or causeys, be entitled to the valuation thereof in the next county levy, upon a certificate from the two house-keepers who value the same. Every surveyor of a road, who fails to do his duty as aforesaid, shall forfeit fifteen shillings for every offence.

Materials for, how procur- ed.

Penalty on surveyors for neglect.

VII. Where a bridge or causey shall be necessary, and the surveyor, with his assistants, cannot make or maintain the same, the court of the county are empowered and required to contract for the building and repairing such bridge or causey, and to levy the charge thereof in their county levy. And where such bridge or causey shall be necessary from one county to another, the court of each county shall join in the agreement for building and repairing the same; and the charge shall be defrayed by both counties, in proportion to the public tax or assessment paid by each. Upon every such contract or agreement, bond and security shall be given by the undertaker, payable to the governor and his successors, for the use of the county or

How bridges and causeys are to be built, and repaired, within the county.

Henings, Statutes of Virginia, 1785
Vol. 12

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HIGHWAYS

FILE 107.08

November 1st, 1934

ALL DISTRICT ENGINEERS

Gentlemen:

Mr. Mullen has issued instructions to me that we are to prepare a record of every public landing which was turned over to us on the secondary highway system. He states that he wants a survey made of these landings from the records in the Clerk's office, wants plans made up, and then he wants monuments set in the corners established on these public landings. I imagine that most of these are in the nature of ferrys, etc.

I wish you would please get in communication with the Resident Engineers and have them to investigate the public landings on the secondary system in their residency, and then advise me as promptly as possible the name of the landing, the county, and the secondary road number. I in turn will turn this information over to the Chief of Party who will go to the Clerk's office and get a copy of the description and make a closed survey for such landings. This will then be plotted up and made as a record.

Yours very truly,

C. S. Mullen, Chief Engineer.

By _____
A. H. Bell.

AHB:S
Copy to Mr. Mullen.

COUNTY	RTE.	WATERWAY	REMARKS
Stafford	C-608 ✓	Potomac River	Old Steamboat Wharf. ^{at} Landing (YOU BEDAMN LANDINGS)
"	C-630 ✓	Aquia Creek	Oquia Station Landing.
King George Co.	C-612 ✓	" "	Boyds Hole Landing.
"	C-616 ✓	Machodoc Creek	Brick House Landing.
"	C-630 ✓	" "	Known as Oyster Shell Landing.
✓ Westmoreland	C-622 ✓	Currionam Bay	Currionam Landing.
"	C-642 ✓	Potomac River	Meadow Landing.
"	C-640 ✓	" "	Longwood Landing.
"	C-1006 ✓	Kinsale Creek	Kinsale Landing.
"	C-642 ✓	Rappahannock River	Harts Landing.
"	C-648 ✓	Nomini Creek	Deep Point Landing.
"	? C-664 665	" "	Prospect Landing.
King William	C-637 ✓	Mattaponi River	Horse Landing.
"	360 C-642 ?	" "	Ayletts Landing.
King & Queen	C-604 ✓	" "	Mantapike Landing.
"	C-602 ✓	" "	Millrose Landing.
"	C-611 ✓	" "	^{Water} Warner Fence Landing.
"	C-629 ✓	" "	Walkerton Landing.
"	C-605 ✓	" "	Chain Ferry Landing.
Essex	Rte. 199 ✓	Rappahannock River	Bowlers Wharf.
"	C-611 ✓	" "	Wares Wharf.
"	C-616 ✓	" "	Lowreys Wharf Landing. (no wharf)

COUNTY	RTE.	WATERWAY	REMARKS
Essex	C-617 ✓	Piscataway Creek	Bohannons Wharf. (<i>Ferry Bridge</i>)
"	C-632 ✓	Occupacia Creek	Bairds Wharf. (<i>PRIVATE</i>)?
"	C-637 ✓	Rappahannock River	Laytons Wharf. (")?
"	C-601 ✓	" "	Laytons Landing (Possibly Public Landings.)
"	C-631 ✓	" "	Dillards Landing " " "
"	C-607 ✓	" "	No Name " " "
Richmond	C-622 ✓	" "	Carters Wharf.
"	C-606 ✓	" "	Simonsen Landing
"	C-638 ✓	" "	Jones Creek Landing.
"	<i>? C-648</i> G-607 ✓	" "	Oakleys Landing.
"	Int. Rte. 3&C-620 ✓	Totuskey Creek	Totuskey Landing.
"	(C-650/600) ✓	Farnum Creek	Farnum Creek Landing. (Near Ivondale Landing) <i>W37-10-100</i>
Northumberland	Rt. 200 ✓	<i>→ Great Wicomico River →</i>	Tipers Ferry (north of). Glebe Point Landing.
"	C-655 ✓	Cockrell Creek	Cockrell Creek Landing. (Near Reedsville).
"	C-643 ✓	Potomac River	Hack Neck Landing.
"	C-636 ✓	Great Wicomico River	Cooper Landing.
"	C-639 ✓	" " "	Cedar Point Landing.
"	C-629 ✓	Coan River	Bundies Landing.
"	C-612 ✓	" "	Forrest Landing. (North of Heathville.)
"	C-601 ✓	" "	Coan Landing (North of Heathville.) (<i>Rowes Landing</i>)
"	C-616 ✓	XXXXXXXXXX <i>South Wicomico River</i>	Lodge Landing (North of Callao).

XXXXXXXX

<u>COUNTY</u>	<u>RTE.</u>	<u>WATERWAY</u>	<u>REMARKS.</u>
Northumberland	C-857 ✓	Bull Neck Creek	Shell Landing (Occasional use).
"	C-859 ✓	Cockrells Creek	Spriggs Landing " "
"	Rt. 202 ✓	Hampton Hall Creek	Hampton Hall Landing (occasional use.)
"	C-647 ✓	Little Wicomico River	Shipping Point Landing (not is use)
"	C-620 ✓	Kinsale Creek	Hudsons Landing (not is use.)

<u>COUNTY</u>	<u>RTE.</u>	<u>WATERWAY</u>	<u>REMARKS</u>
Gloucester	C-639 ✓	Timberlake Creek	Timberlake Creek Wharf.
"	C-651 ✓	Browns Bay	Browns Bay Wharf.
"	C-614 ✓	Whittiers Creek	Whittiers Creek Wharf.
"	C-612 ✓	<i>Ponopostank River</i>	Millers Landing(Wharf).
"	Rte. 17 ✓	York River	Under supervision of County Employed operator.

~~XXXXXXXXXXXX~~

DEPARTMENT OF HIGHWAYS

INTER-DEPARTMENTAL MEMORANDUM

Virginia

Richmond

194

December 17, 5

Route _____ Proj. _____

TO

Mr. M. D. King

FROM

A. H. Bell

SUBJECT:

Public Landings and Wharves -
York, James City, and Elisabeth City Counties

As you are aware under the Byrd Act for taking over secondary roads, it was our responsibility to take over for maintenance as of July 1932, all public landings and wharves formerly considered a part of the County Road System and any other landings or wharves taken into the Secondary System by resolution of the County Board of Supervisors since that time.

There are no doubt many isolated landings and wharves, some of which are not connected by a maintained road and your attention is called to the fact that the Attorney General has ruled that although a wharf may have been owned by the County that this does not necessarily make it eligible for inclusion in the Secondary System but rather that the wharf must have been considered a part of the County Road System in order to be eligible for inclusion in the Secondary System.

In checking our files we are somewhat in doubt as to which public landings and wharves are considered a part of the Secondary System and due to this confusion we would like to definitely determine our responsibility regarding the landings and wharves in your residency.

In 1934 a survey was made and monuments set on most of the landings and we are attaching a list which shows the landings surveyed in your residency and possibly some that were not surveyed. However, this list may not be complete and it is requested that you make a thorough check in your residency on these and any other landings and wharves that are not listed. It is requested that you then take this list to the Court House and check with the county records to determine our responsibility in each case.

The property sheets recently sent you by the Right of Way Division may be of some help in locating the landings and the information to be obtained from the Court House records.

After the records have been checked, please take this matter up with the County Board of Supervisors and obtain a resolution from them listing all public landings and wharves that are considered a part of our Secondary System.

We would like to have a report on each of the wharves as to value, condition, use, and an estimate of the cost of repairs and maintenance.

Please let us have this information promptly as we are anxious to get the records straight and determine our responsibility concerning these wharves.

Location and Design Engineer.

VAL:ban

CC - Mr. J. J. Ferrer

Mr. J. E. Bagen (with list attached)

LIST OF PUBLIC LANDINGS AND WHARVES

FREDERICKSBURG DISTRICT

STAFFORD COUNTY

*Completed
June 1945*

Route 608 Old Stearnboat Landing on Potomac River Surveyed and Monumented
Route 630 Aquia Station Landing on Aquia Creek Surveyed and Monumented

KING GEORGE COUNTY

(No road Boyd's Hole Landing on Potomac River Surveyed and Monumented
maintained)
(No road Oyster Shell Landing on Machodoc Creek Surveyed and Monumented
maintained)
Route 616 Brickhouse Landing on Machodoc Creek Not surveyed

WESTMORELAND COUNTY

Route 622 Currioman Landing on Currioman Bay Surveyed and Monumented
Route 642 Meadow Landing on Potomac River Not surveyed
Route 640 Longwood Landing on Potomac River Surveyed and Monumented
Route 1005 Kinsale Landing on Kinsale Creek Surveyed and Monumented
Route 648 Deep Point Landing on Nomini Creek Surveyed and Monumented
Route 664 Prospect Landing on Nomini Creek Not surveyed
Route 678 Hott's Landing on Rappahannock River Surveyed and Monumented

ESSEX COUNTY

Route 199 Bowler's landing on Rappahannock River Surveyed and Monumented
Route 611 Ware's Landing on Rappahannock River Surveyed and Monumented
Route 616 Lowery's Landing on Rappahannock River Surveyed and Monumented
Route 617 Ferry Bridge or Bowhannons Landing on Piscataway Ck. Surveyed and Monumented
Route 601 Layton's Landing on Rappahannock River Surveyed and Monumented
Route T-1002 Public Landing (near Tappahannock) on Hoskins Creek Surveyed and Monumented

MIDDLESEX COUNTY

Route 608 Mill Stone Landing on Farrott's Creek Surveyed and Monumented
Route 623 Quarter Landing on Locklies Creek Surveyed and Monumented
Route 626 Upper Mill Creek Landing on Mill Creek Surveyed and Monumented
Route 628 Mill Creek Lower Landing on Mill Creek Surveyed and Monumented
Route 627 Garlands Landing on Mill Creek Surveyed and Monumented
Route 613 Oaks Landing on Urbanna Creek Surveyed and Monumented
Route 623 Fairfield Landing on Piankatank River Surveyed and Monumented
Route 630 Starper's Landing on Piankatank River Surveyed and Monumented
Route 634 Inark's Landing on Fishing Bay Surveyed and Monumented

MATHEWS COUNTY

Route 615	Town Point Landing on East River	Surveyed and Monumented
Route 611	Old Mill Landing on Winter Harbor Bay	Surveyed and Monumented
Route 641	Cedar Lane Landing on Stutt's Creek	Surveyed and Monumented
Route 631	Ware House Creek Landing on Piankatsank River	Surveyed and Monumented
Route 630	Public Landing on Piankatsank River	Surveyed and Monumented
Route 632	Public Landing on Piankatsank River	Surveyed and Monumented

RICHMOND COUNTY

Route 607	Oakley's Landing on Morattico Creek	Surveyed and Monumented
Route 606	Simonson Landing on Morattico Creek	Surveyed and Monumented
Route 610	Farnham Creek Landing on Farnham Creek	Surveyed and Monumented
Route 636	Jones Creek Landing on Rappahannock River	Surveyed and Monumented
Route 622	Carter's Wharf Landing on Rappahannock River	Surveyed and Monumented
Route 5	Totuskey Landing on Totuskey Creek	Surveyed and Monumented

GLOUCESTER COUNTY

Route 651	Guinea Landing at Browns Bay	Not surveyed
Route 17	Gloucester Point Landing at York River	Surveyed and Monumented
Route 606	Deep Point Landing on Piankatsank River	Surveyed and Monumented
Route 612	Millers Landing on Poropotank Creek	Surveyed and Monumented
Route 616	Clay Bank Landing on York River	Surveyed and Monumented
Route 657	John's Point Landing on Deal's Creek	Surveyed and Monumented
Route 659	Williams Landing on Timberneck Creek	Surveyed and Monumented
Route 654	Cherry Point Landing on Severn River	Surveyed and Monumented
Route 614	Taryard Landing on Poropotank Creek	Surveyed and Monumented
Route 611	Pollard's Landing on Poropotank Creek	Surveyed and Monumented
Route 649	Severn Landing on Severn River	Surveyed and Monumented
Route 637	Fields Landing on Timberneck Creek	Surveyed and Monumented
Route 645	Sedger Creek Landing on Perrin River	Surveyed and Monumented
Route 630	Faynes Landing on Wilson Creek	Surveyed and Monumented
Route 621	Ware House Landing on Ware River	Surveyed and Monumented
Route 644	King Landing on Perrin River	Surveyed and Monumented
Route 615	Capahosic Landing on York River	Surveyed and Monumented

NORTHAMPTON COUNTY

Route 692	Shell Landing on Bull Neck Creek	Surveyed and Monumented
Route 684	Spriggs Landing on Cockrells' Creek	Surveyed and Monumented
Route 620	Hudson's Landing on Kinsele Creek	Surveyed and Monumented
Route 208	Hampton Hall Landing on Hampton Hall Creek	Surveyed and Monumented
Route 612	Forrest Landing on Coan River	Surveyed and Monumented
Route 601	Howe's Landing on Coan River	Surveyed and Monumented
Route 616	Lodge Landing on Lodge Creek	Surveyed and Monumented
Route 647	Shipping Point on Little Wicomico River	Surveyed and Monumented
Route 200	Glebe Point Landing on Great Wicomico River	Surveyed and Monumented
Route 643	Black Neck Landing on Potomac River	Surveyed and Monumented
Route 639	Cedar Point Landing on Great Wicomico River	Surveyed and Monumented
Route 636	Cooper's Landing on Great Wicomico River	Surveyed and Monumented
Route 655	Cockrell Creek Landing on Cockrell Creek	Not surveyed
Route 629	Sandicks Landing on Coan River	Not surveyed

KING WILLIAM COUNTY

Route 860	Public Landing (near Ayletts) on Mattaponi River	Surveyed and Monumented
Route 637	Horse Landing on Mattaponi River	Surveyed and Monumented

KING AND QUEEN COUNTY

Route 360	Public Landing (near Ayletts) on Mattaponi River	Surveyed and Monumented
Route 604	Kantapike Landing on Mattaponi River	Surveyed and Monumented
Route 602	Millrose Landing on Mattaponi River	Surveyed and Monumented
Route 611	Waterfence Landing on Mattaponi River	Surveyed and Monumented
Route 605	Chain Ferry Landing on Mattaponi River	Surveyed and Monumented
Route 629	Walkerton Landing on Mattaponi River	Surveyed and Monumented

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

May 6, 1977

Listing of Public Landings,
Wharves and Docks -

Mr. James W. Engle, Jr., Chief
Lands and Engineering Division
Commission of Game & Inland Fisheries
P. O. Box 11104
Richmond, Virginia 23230

Dear Mr. Engle:

Attached is a listing of the public landings, wharves and docks under the Department's control located in our Fredericksburg District. There is also one landing shown for York County which is in the Suffolk District.

We are compiling another listing of landings under the Department's control in the Suffolk District and these will be forwarded you in the near future.

As we discussed, I would like to explore with you the possibility of the Game Commission assuming the administrative responsibility for landings with the Department handling any necessary maintenance.

Sincerely,

C. O. Leigh
Maintenance Engineer

COL:phy
Attachments

LIST OF PUBLIC LANDINGS AND WHARVES
FREDERICKSBURG DISTRICT

STAFFORD COUNTY

Route 608	Old Steamboat Landing on Potomac River	Surveyed & Monumente
Route 630	Aquia Station Landing on Aquia Creek	Surveyed & Monumente

KING GEORGE COUNTY

(No road maintained)	Boyd's Hole Landing on Potomac River	Surveyed & Monumente
(No road maintained)	Oyster Shell Landing on Machodoc Creek	Surveyed & Monumente
Route 616	Brickhouse Landing on Machodoc Creek	Not Surveyed

WESTMORELAND COUNTY

Route 622	Currioman Landing on Currioman Bay	Surveyed & Monumente
Route 347	Meadow Landing on Potomac River	Not Surveyed
Route 624	Longwood Landing on Potomac River	Surveyed & Monumente
Route 1005	Kinsale Landing on Kinsale Creek	Surveyed & Monumente
Route 708	Deep Point Landing on Nomini Creek	Surveyed & Monumente
Route 649	Prospect Landing on Nomini Creek	Not Surveyed
Route 678	Hart's Landing on Rappahannock River	Surveyed & Monumente

ESSEX COUNTY

Route 684	Bowler's Landing on Rappahannock River	Surveyed & Monumente
Route 611	Ware's Landing on Rappahannock River	Surveyed & Monumente
Route 616	Lowery's Landing on Rappahannock River	Surveyed & Monumente
Route 617	Ferry Bridge or Bowhannons Landing on Piscataway Creek	Surveyed & Monumente
Route 601	Layton's Landing on Rappahannock River	Surveyed & Monumente
Route T-1002	Public Landing (near Tappahannock) on Hoskins Creek	Surveyed & Monumente

MIDDLESEX COUNTY

Route 3	Greys Point Landing on Rappahannock River	--
Route 655	Twigg Ferry Landing on Piankatank River	--
Route 608	Mill Stone Landing on Parrott's Creek	Surveyed & Monumente
Route 623	Quarter Landing on Locklies Creek	Surveyed & Monumente

Route 626	Upper Mill Creek Landing on Mill Creek	Surveyed & Monumente
Route 628	Mill Creek Lower Landing on Mill Creek	Surveyed & Monumente
Route 627	Garland's Landing on Mill Creek	Surveyed & Monumente
Route 618	Oak's Landing on Urbanna Creek	Surveyed & Monumente
Route 708	Fairfield Landing on Piankatank River	Surveyed & Monumente
Route 630	Stamper's Landing on Piankatank River	Surveyed & Monumente
Route 1102	Ruark's Landing on Fishing Bay	Surveyed & Monumente
Route 621	Locklies Landing on Rappahannock River	--
Route 634	Whitings Landing on Whitings Creek	--
Route 636	Broad Creek Landing on Broad Creek	--
Route 660	Jackson Landing on Jackson Creek	--
Route 631	North End Landing on Rappahannock River	--

MATHEWS COUNTY

Route 615	Town Point Landing on East River	Surveyed & Monumente
Route 611	Old Mill Landing on Winter Harbor Bay	Surveyed & Monumente
Route 641	Cedar Land Landing on Stutt's Creek	Surveyed & Monumente
Route 631	Ware House Creek Landing on Piankatank River	Surveyed & Monumente
Route 630	Public Landing on Piankatank River	Surveyed & Monumente
Route 632	Public Landing on Piankatank River	Surveyed & Monumente

RICHMOND COUNTY

Route 607	Oakley's Landing on Morattico Creek	Surveyed & Monumente
Route 606	Simonson Landing on Morattico Creek	Surveyed & Monumente
Route 610	Farnham Creek Landing on Farnham Creek	Surveyed & Monumente
Route 638	James Creek Landing on Rappahannock R.	Surveyed & Monumente
Route 622	Carter's Wharf Landing on Rappahannock River	Surveyed & Monumente
Route 3 & 620	Totuskey Landing on Totuskey Creek	Surveyed & Monumente
Route 682	Farnham Creek Landing on Farnham Creek	--

GLOUCESTER COUNTY

Route 651	Guinea Landing at Brown's Bay	Not Surveyed
Route 17	Gloucester Point Landing at York River	Surveyed & Monumente
Route 606	Deep Point Landing on Piankatank River	Surveyed & Monumente
Route 612	Miller's Landing on Poropotank Creek	Surveyed & Monumente
Route 616	Clay Bank Landing on York River	Surveyed & Monumente
Route 657	John's Point Landing on Deal's Creek	Surveyed & Monumente
Route 1303	Williams Landing on Timberneck Creek	Surveyed & Monumente

Route 654	Cherry Point Landing on Severn River	Surveyed & Monumente
Route 617	Tanyard Landing on Poropotank Creek	Surveyed & Monumente
Route 611	Pollard's Landing on Poropotank Creek	Surveyed & Monumente
Route 649	Severn Landing on Severn River	Surveyed & Monumente
Route 1301	Fields Landing on Timberneck Creek	Surveyed & Monumente
Route 645	Sedger Creek Landing on Perrin River	Surveyed & Monumente
Route 630	Paynes Landing on Wilson Creek	Surveyed & Monumente
Route 621	Ware House Landing on Ware River	Surveyed & Monumente
Route 1101	King Landing on Perrin River	Surveyed & Monumente
Route 618	Capahosic Landing on York River	Surveyed & Monumente

NORTHUMBERLAND COUNTY

Route 692	Sheel Landing on Bull Neck Creek	Surveyed & Monumente
Route 684	Spriggs Landing on Cockrell's Creek	Surveyed & Monumente
Route 620	Hudson's Landing on Kinsale Creek	Surveyed & Monumente
Route 202	Hampton Hall Landing on Hampton Hall Creek	Surveyed & Monumente
Route 612	Forrest Landing on Coan River	Surveyed & Monumente
Route 601	Rowe's Landing on Coan River	Surveyed & Monumente
Route 712	Lodge Landing on Lodge Creek	Surveyed & Monumente
Route 647	Shipping Point on Little Wicomico River	Surveyed & Monumente
Route 200	Glebe Point Landing on Great Wicomico R.	Surveyed & Monumente
Route 643	Hack Neck Landing on Potomac River	Surveyed & Monumente
Route 639	Cedar Point Landing on Great Wicomico R.	Surveyed & Monumente
Route 707	Cooper's Landing on Great Wicomico R.	Surveyed & Monumente
Route 655	Cockrell Creek Landing on Cockrell Creek	Not Surveyed
Route 629	Bundick's Landing on Coan River	Not Surveyed
Route 731	Crane Creek Landing on Crane Creek	--

KING WILLIAM COUNTY

Route 360	Public Landing (near Ayletts) on Mattaponi River	Surveyed & Monumente
Route 637	Horse Landing on Mattaponi River	Surveyed & Monumente

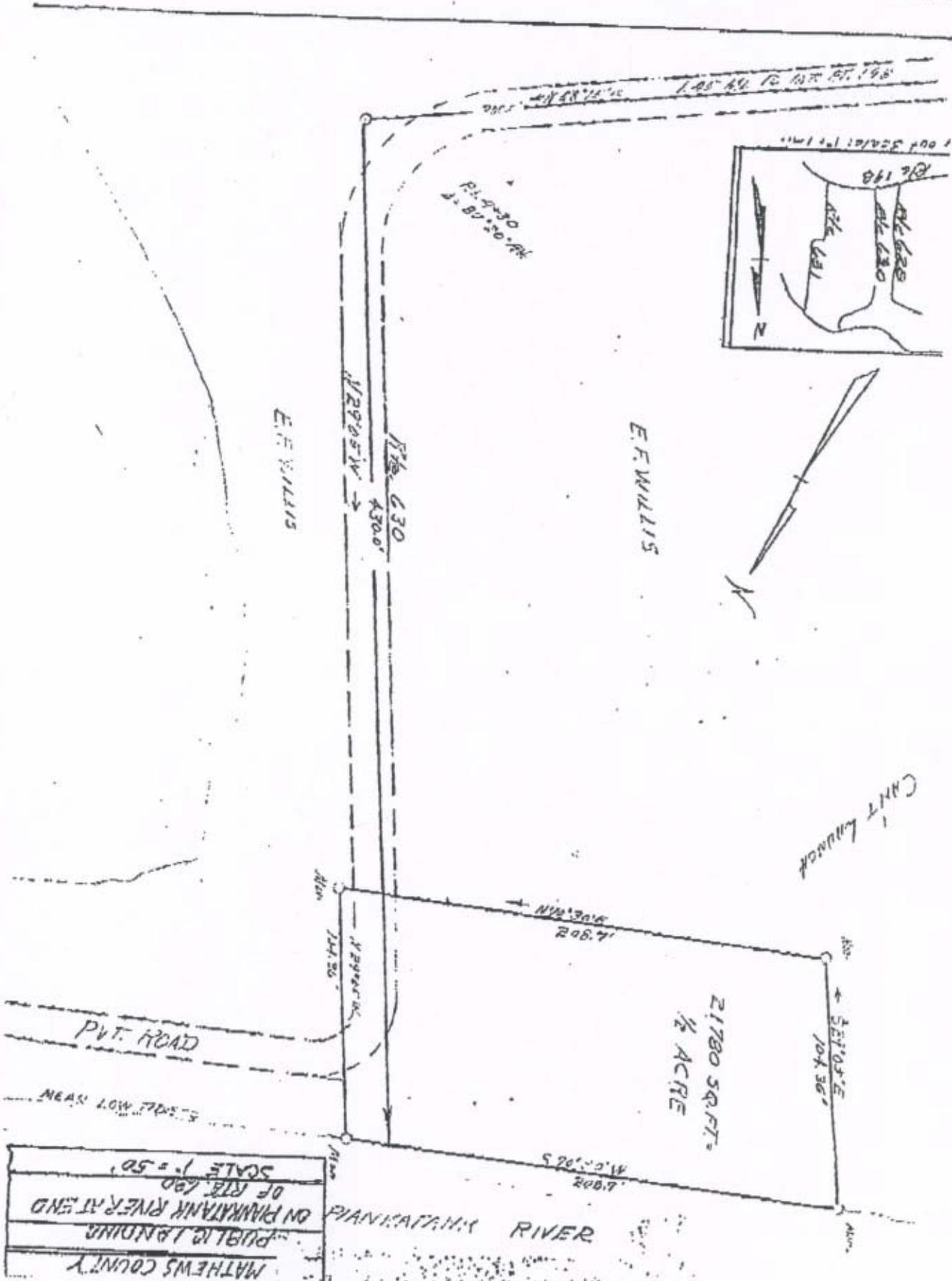
KING AND QUEEN COUNTY

Route 667	York River Landing on York River	--
Route 360	Public Landing on Mattaponi River (near Ayletts)	Surveyed & Monumente
Route 659	Mantapike Landing on Mattaponi River	Surveyed & Monumente
Route 602	Millrose Landing on Mattaponi River	Surveyed & Monumente
Route 611	Waterfence Landing on Mattaponi River	Surveyed & Monumente

Route 605	Chain Ferry Landing on Mattaponi River	Surveyed & Monument.
Route 629	Walkerton Landing on Mattaponi River	Surveyed & Monument.
Route 654	Lacking Landing on Mattaponi River	--
Route 633	Lester Manor Landing on Pamunkey River	--

LANCASTER COUNTY

Route 662	Greenvale Creek Landing on Greenvale Creek	--
-----------	--------------------------------------------	----



PROPERTY NO. F-53

COUNTY OF MATHEWS

PUBLIC LANDING ROUTE 630 PROJ. _____

APPROXIMATE LOCATION: On Planktank River

NUMBER OF ACRES 1/2, OF WHICH _____ ACRE IS INCLUDED IN
NORMAL RIGHT OF WAY.

NET ACREAGE, EXCLUSIVE OF RIGHT OF WAY 1/2

ACQUIRED FROM _____

CONSIDERATION: TOTAL _____ \$ _____

PROPORTIONAL FOR _____ ACRES IN RIGHT OF WAY \$ _____

NET FOR _____ ACRES IN RESIDUE _____ \$ _____

DEED DATED _____

RECORDED _____, DEED BOOK _____, PAGE _____

SHOWN ON R/W property plat book page 145

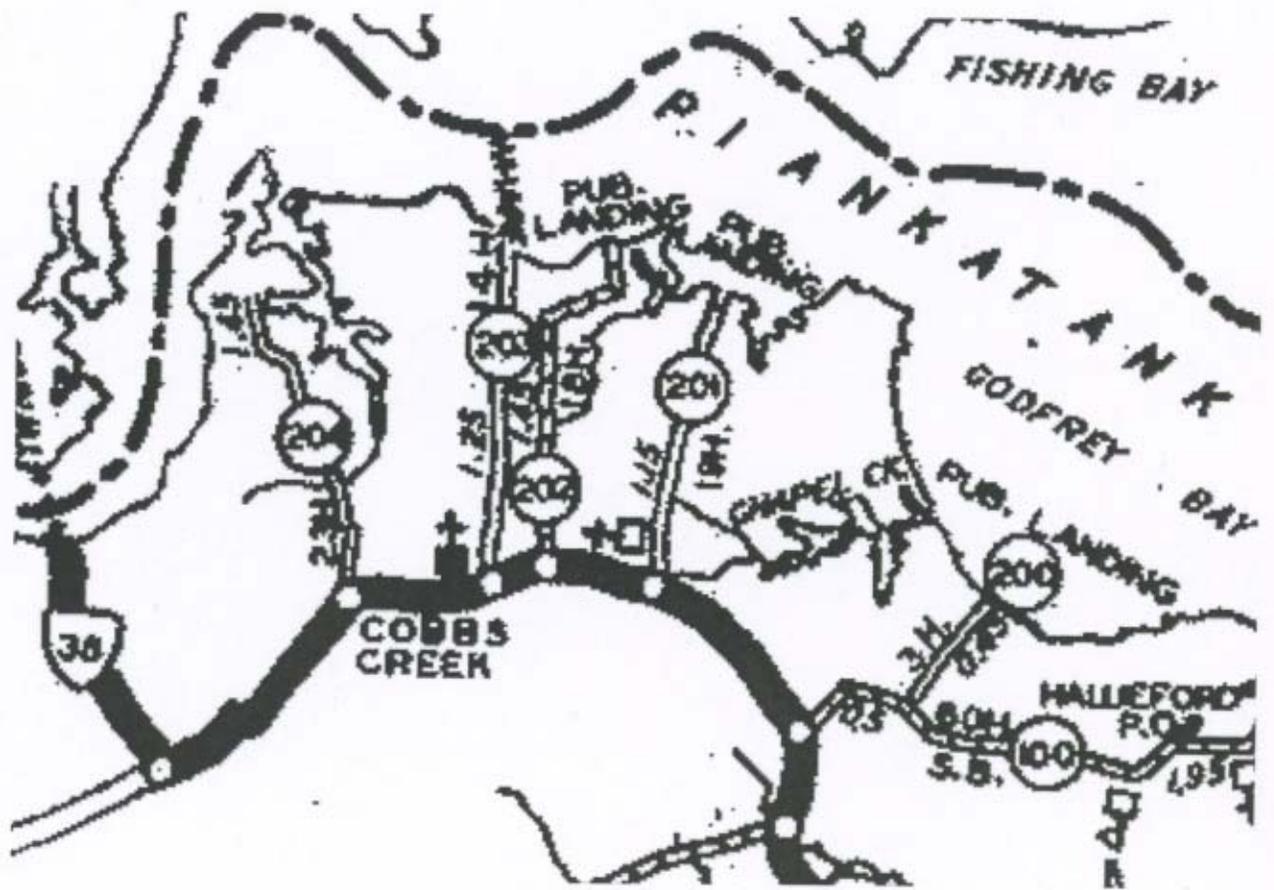
MONUMENTED: Yes

IMPROVEMENTS ADDED: _____

REMARKS: _____

ESTIMATED VALUE OF LAND AND REPLACEMENT VALUE OF IMPROVEMENTS:

<u>DATE</u>	<u>LAND</u>	<u>IMPROVEMENTS</u>	<u>TOTAL</u>
<u>7-1-44</u>	<u>\$ 150.00</u>	<u>\$ None</u>	<u>\$ 150.00</u>
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$



BEACH INVENTORY AND
RECREATIONAL ACCESS POINTS
ON THE TIDAL WATERS OF
STATE OF VIRGINIA



DATA COMPILED BY
COMMONWEALTH OF VIRGINIA
COMMISSION OF OUTDOOR RECREATION
RICHMOND, VIRGINIA

INTRODUCTION

The 1979 Virginia Outdoors Plan identified access to the waters of the Commonwealth as one of the most critical recreation needs in the State. However, since a complete inventory of facilities had never been conducted, there was no way to determine where existing access was adequate and where additional sites might be needed.

Late in 1979, the Commission of Outdoor Recreation began the first phase of a state-wide inventory of marinas, boat ramps and beach areas. The initial phase consisted of inventorying only the access points in the tidal waters. A second phase consisting of an inventory of all non-tidal sites will begin early in 1981.

The purpose of the inventory was to obtain a complete up-to-date listing of all facilities in the tidal areas of the State that provide services to recreational boaters. We attempted to eliminate marinas and other facilities that serve only watermen, industry or commercial seafood operations. While we realize that there are some sites where there is an overlap of service, the rule of thumb that we used was: if the facility receives a majority of its business from recreational boaters, it was included in the inventory. If the site is geared primarily to serve the seafood industry or some other water related industrial operation, it was omitted. However, those boat builders and marine railways which provide services for recreational boaters were included.

The inventory also includes sites which, although not open for public use, provide opportunities for recreational boating; i.e., military sites, yacht clubs and private homeowner association facilities. No attempt was made to count the piers, boathouses and ramps belonging to private individuals owning waterfront property.

The beach inventory is designed to delineate good quality beaches, one-half mile or more in length, either public or private, in the tidal areas. This is not to imply that any of the beaches presently in private ownership are available for public use. The beach inventory is intended to be a planning tool to aid State

agencies and local governments in identifying potential public beach sites.

Only those beaches now in public ownership and generally available for public use are designated as "public". All other beaches are "restricted" by our definition.

The Virginia Institute of Marine Sciences "Shoreline Situation Reports", and USGS topographic maps were the primary reference sources regarding the beaches. We included on the inventory all beach segments which the VIMS reports classified as "good or excellent", and those beaches in public ownership regardless of classification.

A SPECIAL THANKS

We are very appreciative of the assistance of planning district commission personnel, local officials, and the Marine Resources Commission's Law Enforcement Division for their invaluable help in field checking this data.

We hope to use this data as a base from which periodic, (perhaps biannual) updates can be produced to accurately assess the recreational water access situation in the Commonwealth.

DEFINITIONS

Definitions that apply to this report are as follows:

- o A commercial marina is any facility open to the general boating public, that provides some or all of the following:
slips, launching, supplies, fuel, sales and service, repairs or any other service for the recreational boater.
- o A restricted marina is any facility that provides services to recreational boaters, but is not open to the general public. Military posts, yacht clubs and homeowners associations are examples of restricted marinas.

- o A public ramp is any boat ramp, regardless of size or condition, that is publicly owned and available for use by the recreational boater.
- o A restricted ramp is any boat ramp, regardless of condition, that is not open to the general public, but offers recreational boat launching opportunities to certain individuals or groups. Private campgrounds, military posts, yacht clubs and homeowners associations are among the restricted sites identified.
- o Public beach refers to the beach segments that are in some form of public ownership and available for use by the general public.
- o Restricted beach refers to all beaches, public or private that are generally unavailable for public use.

REFERENCES

The following references as well as many hours of field research were used in compiling this inventory.

Boating Almanac, Vol. 4, 1978, Boating Almanac Inc.,
Severna Park, Maryland

Saltwater Sport Fishing and Boating in Virginia, 1977,
Alexandria Drafting Company, Alexandria, Virginia

Shoreline Situation Reports, Virginia Institute of Marine
Science, Gloucester, Virginia

Boating Access to Virginia Waters, 1979, (a map) by the
Virginia Commission of Game and Inland Fisheries,
Richmond, Virginia

Landing List, Department of Highways and Transportation,
Richmond, Virginia

TIDAL WATER ACCESS POINTS

MATHEWS COUNTY

LOCALITY

FIPS #

COR TOPO #

NAME OF SITE

LOCATION

(Include local address, phone # and other names associated with site)

WATER BODY

Access Road #

Admn

CONST. # RAOPS

SLIPS

DEK STO.

CARS PARKING

RAMP FEES

ISLAND AC.

RESTROOMS

STORE

RESTRO-BAY

CAMP GR. # STPS.

FUEL

BOAT RENTAL

COMMENTS

Moorings, Use Level, Lifts, Water Depth, Problems, Maintenance Needed, Etc.

	NAME OF SITE	WATER BODY	Access Road #	Admn	CONST. # RAOPS	# SLIPS	# DEK STO.	# CARS PARKING	RAMP FEES	# ISLAND AC.	RESTROOMS	STORE	RESTRO-BAY	CAMP GR. # STPS.	FUEL	BOAT RENTAL	COMMENTS
1	Hodges Marina Cobbs Creek, Va 23035 725-3839	Plankatank River	701	1	c	1	0	20	2.00	1	Yes	No	No	Yes	No		
2	Ginney Point Marina Cobbs Creek, VA 725-4040	Cobbs Creek Plankatank River	628	1	c	1	21	Yes	100	2.00	10	Yes	No	No	Yes	No	Railway-repairs and service
3	Plankatank River Landing (1)	Plankatank River	630	4	D	1	0	10	0	1	No	No	No	No	No	No	Suitable for canoes and small jon boats only
4	Warehouse Creek Landing	1-Warehouse Creek Plankatank River	631	4	D	1	0	10	0	1	No	No	No	No	No	No	Suitable for canoes and small jon boats only
5	Plankatank River Landing (2)	Plankatank River	632	4	D	1	0	10	0	1	No	No	No	No	No	No	Suitable for canoes and small jon boats only
6	Roses Creek Landing	Queens Creek	652	4	D	1	0	10	0	1	No	No	No	No	No	No	Suitable for canoes and small jon boats only

NOTE: In Facilities Section, Use 0 where none exist. In Accommodations and Facilities Section, indicate "YES" or "NO". Fill in Number where required.

- 1 = COMMERCIAL
- 2 = GAME & FISH COMM.
- 3 = LOCALITY

ADMINISTRATION

- 4 = HIGHWAY DEPARTMENT
- 5 = RESTRICTED (SPECIFY OWNERSHIP)
- 6 = OTHER (SPECIFY)

RAMP CONSTRUCTION

- A = ASPHALT
- B = BOARD (WOOD)
- C = CONCRETE
- D = UNPAVED (OTHER)
- (?) = NOT KNOWN

TIDAL WATER ACCESS POINTS

KING AND QUEEN COUNTY

LOCALITY

FIPS #

COR TOPO #

NAME OF SITE

LOCATION

(Include local address, phone # and other names associated with site)

WATER BODY

Access Road #

Admn

FACILITIES
 CONST. # RMPGS # SLIPS # DRY STG. # CARP PARKING # RAMP FTES # ISLAND AC. RESTROOMS

ACCOMMODATIONS
 STORE RESTRU. RANT CARP GR. # SPA. FUEL

BOAT RENTAL

COMMENTS
 Moorings, Use Level, Lifts, Water Depth, Problems, Maintenance Needed, Etc.

NAME OF SITE	LOCATION	WATER BODY	Access Road #	Admn	CONST. #	RMPGS #	SLIPS #	DRY STG. #	CARP PARKING #	RAMP FTES #	ISLAND AC. #	RESTROOMS	STORE	RESTRU. RANT	CARP GR. # SPA.	FUEL	BOAT RENTAL	COMMENTS
R. S. Roane Marina Gressette, Virginia		Protopank River	601	1	C	1	13	0	10	2.00	1	Yes	No	No	No	Yes	No	
York River Landing		York River	667	4	D	1	0	0	10	0	1	No	No	No	No	No	No	May have difficulty launching at low tide.
Tucker Fishing Shores Plainview, Virginia		York River	666	1	C	1	10	0	10	2.00	10	Yes	Yes	No	Yes	No	No	
Unnamed Marina West Point, Virginia		Mattaponi River	3	1	O	0	10	0	10	0	1	Yes	No	No	No	No	No	
Chain Ferry Landing West Point, Virginia		Mattaponi River	605	4	D	1	0	0	10	0	1	No	No	No	No	No	No	
Waterfence Landing		Mattaponi River	611	2	C	1	0	0	15	0	1	No	No	No	No	No	No	Parking limited

NOTE: In Facilities Section, Use 0 where none exist. In Accommodations and Facilities Section, indicate "YES" or "NO". Fill in Number where required.

- ADMINISTRATION
- 1 = COMMERCIAL
 - 2 = GAME & FISH COMM.
 - 3 = LOCALITY
 - 4 = HIGHWAY DEPARTMENT
 - 5 = RESTRICTED (SPECIFY OWNERSHIP)
 - 6 = OTHER (SPECIFY)

- RAMP CONSTRUCTION
- A = ASPHALT
 - B = BOARD (WOOD)
 - C = CONCRETE
 - D = UNPAVED (OTHER)
 - (?) = NOT KNOWN

of the first part covenants that he has the right to convey the said land to the grantees; that he has done no act to encumber the same; that the said grantees shall have quiet possession thereof, free from all encumbrances; and that he, the said party of the first part shall execute such further assurances of the said land as may be requisite.

WITNESS the following signature and seal:

Roland C. Shackelford (SEAL)

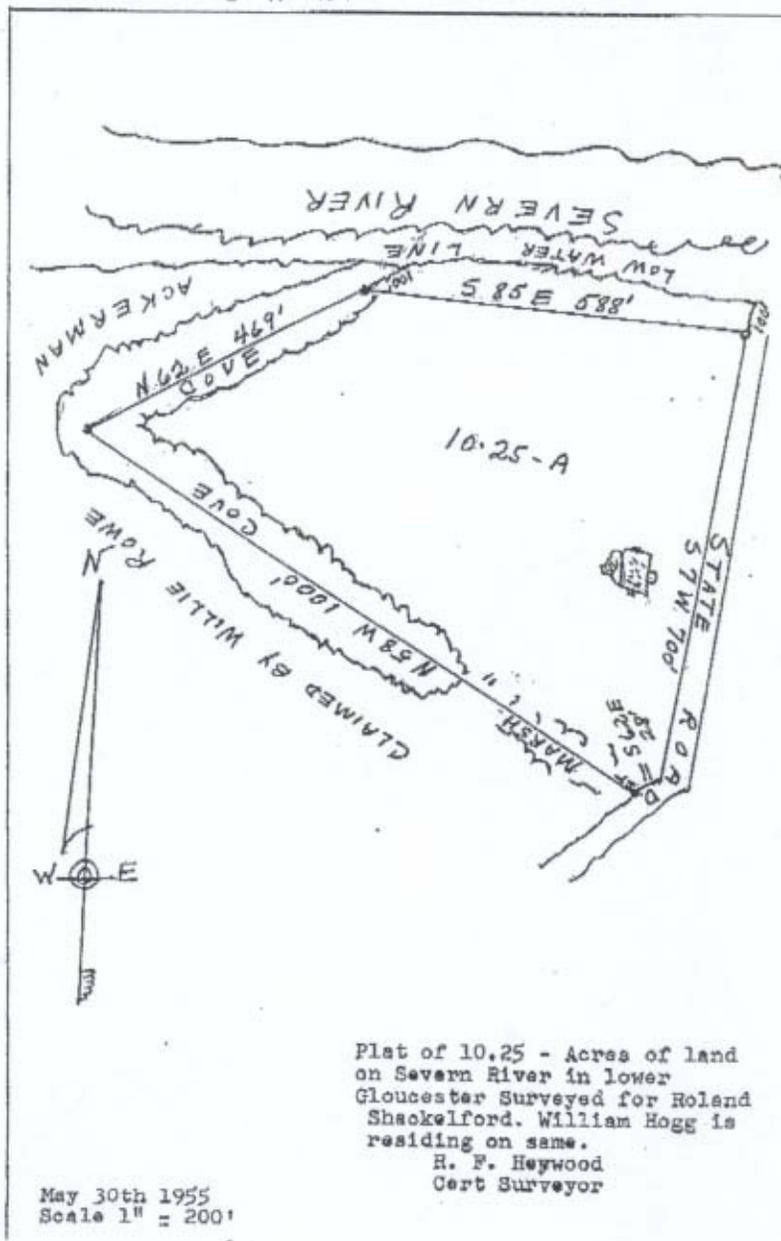
STATE OF VIRGINIA COUNTY OF GLOUCESTER To-Wit:

I, John E. DeHardit, a Notary Public in and for the County aforesaid, in the State of Virginia, do certify that Roland C. Shackelford, single, whose name is signed to the writing hereto bearing date on the 31st day of October, 1955, has acknowledged the same before me in my County aforesaid.

Given under my hand this 31st day of October, 1955.

John E. DeHardit Notary Public

My Commission Expires: Aug. 4, 1959



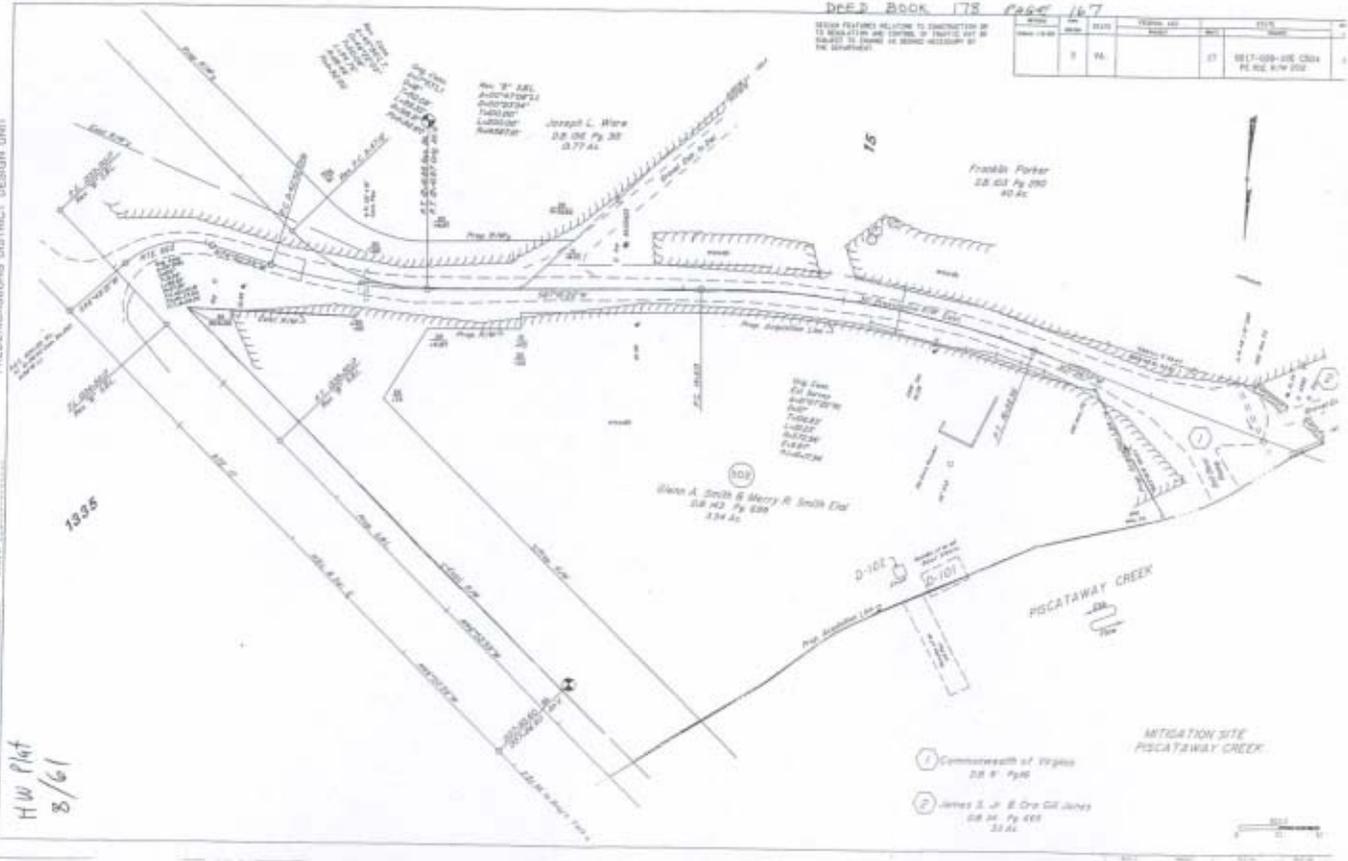
FREDERICKSBURG DISTRICT DESIGN UNIT

HW Pmt
8/61

DEFS BOOK 175 Page 167

SEVEN PLATS RELATIVE TO CONSTRUCTION OF
A BRIDGE OVER AND CONTROL OF FLOODS AND
THE LOCATION OF THE BRIDGE

PLAT	DATE	BY	REVISION
1	74		
2	77		1817-200-016 C204 PL 001 8-74 202



No. 37 241
A-07470721
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A-0707003
A-0707002
A-0707001

Joseph L. Ware
28 02 Pg 20
0.77 AL

Franklin Porter
28 03 Pg 090
40 AL

Walter A. Smith & Merry P. Smith Esq
28 42 Pg 039
134 AL

- ① Commonwealth of Virginia
28 8 Pg 0
- ② James S. Jr. & Ora G. Jones
28 01 Pg 425
31 AL

MITIGATION SITE
PISCATAWAY CREEK



75072.01

Board of super-
visors invested
with power to
negotiate
bonds.

way they may think best, and may deposit the proceeds in either of the banks in Charlottesville, subject to their order, pending the completion of the fire-proof clerk's office; provided, however, that they shall not negotiate the six per centum bonds of the county for less than par value.

Commencem't. 5. This act shall be in force from its passage.

CHAP. 167.—An ACT to allow H. W. Bland and R. M. Hart to establish a ferry from Shepherd's warehouse, in King and Queen county, across the Mattaponi river.

Approved February 4, 1890.

May establish
ferry.

1. Be it enacted by the general assembly of Virginia, That it shall be lawful for H. W. Bland and R. M. Hart, of the county of King and Queen, to establish a ferry across Mattaponi river, and they are hereby authorized to establish and keep a ferry from Shepherd's warehouse, in King and Queen county, across the said Mattaponi river, to a certain place called and known as Point of Marsh, in King William county, immediately opposite Shepherd's warehouse; provided, that the said H. W. Bland and R. M. Hart, their heirs or assigns, shall within twelve months from the date of the passage of this act, provide and have in use at said ferry at least one boat for the transportation of foot passengers and one boat for the transportation of horses and vehicle, and shall have in readiness sufficient hands for the proper and safe management of said boats.

Courts shall fix
rates.

2. The county courts of King and Queen and King William counties shall fix the rates of ferriage over this ferry as the law of Virginia provides.

3. The ferry hereby authorized to be established shall be subject to all the rules, regulations, conditions and penalties prescribed by general statutes now in force or hereafter enacted governing ferries established under the provisions of the code of eighteen hundred and eighty-seven, and the said proprietors of said ferry shall be entitled to all the rights, privileges and remedies given as such under the said statutes, and for all purposes the said ferry shall be deemed to have been established under the provisions of sections thirteen hundred and seventy-five, thirteen hundred and seventy-six, and thirteen hundred and seventy-seven, of the code of eighteen hundred and eighty-seven; provided, however, that the franchise hereby granted shall, also, at all times be subject to the control of the general assembly, and may be at any time amended by it.

Commencem't. 4. This act shall be in force from its passage.

CHAP. 168.—An ACT enabling supervisors of Campbell county to exempt certain manufactories from taxation.

Approved February 4, 1890.

1. Be it enacted by the general assembly of Virginia, That the board of supervisors of Campbell county be, and are hereby, authorized to exempt from county taxation all infant manufacturing industries, and that such exemption may continue operative for a period not to exceed twenty years.

2. This act shall be in force from its passage.

Commencem't.

CHAP. 169.—An ACT defining a lawful fence for Amherst county.

Approved February 4, 1890.

1. Be it enacted by the general assembly of Virginia, That for and within the county of Amherst a fence four and one-half feet high, made of three rails, planks, poles, or wires, the bottom one of which is to be two feet from the ground, the middle one to be three feet from the ground, and the top one to be four and a half feet from the ground, shall be deemed a lawful fence.

2. This act shall be in force on and after the first day of April, eighteen hundred and ninety.

Commencem't.

CHAP. 170.—An ACT to authorize the board of supervisors of Mathews county to compromise certain claims due said county.

Approved February 4, 1890.

Whereas there are several demands of the county of Mathews against former officers in said county and their securities, who are of doubtful solvency, for debts due said county, which have been, are, or may be, the subject of litigation in the courts:

1. Be it enacted by the general assembly of Virginia, That the board of supervisors of Mathews county be, and is hereby, authorized and empowered to compromise any such debts or demands upon such terms and in such manner as they may deem most advisable for the interest of said county; provided, such compromise be agreed upon and definitely settled within six months after the passage of this act.

2. This act shall be in force from its passage.

Commencem't.

HW Plot
8/61

FREDERICKSBURG DISTRICT DESIGN UNIT



Scale: 1/4" = 100'

NO.	DESCRIPTION	DATE
1	Checked by [Name]	8/1/61
2	Checked by [Name]	8/1/61
3	Checked by [Name]	8/1/61
4	Checked by [Name]	8/1/61
5	Checked by [Name]	8/1/61
6	Checked by [Name]	8/1/61
7	Checked by [Name]	8/1/61
8	Checked by [Name]	8/1/61
9	Checked by [Name]	8/1/61
10	Checked by [Name]	8/1/61

- 1. Check of [Name]
- 2. Check of [Name]
- 3. Check of [Name]
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- 5. Check of [Name]
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- 7. Check of [Name]
- 8. Check of [Name]
- 9. Check of [Name]
- 10. Check of [Name]

APPROVED AND
FORWARDED:

ENGINEER

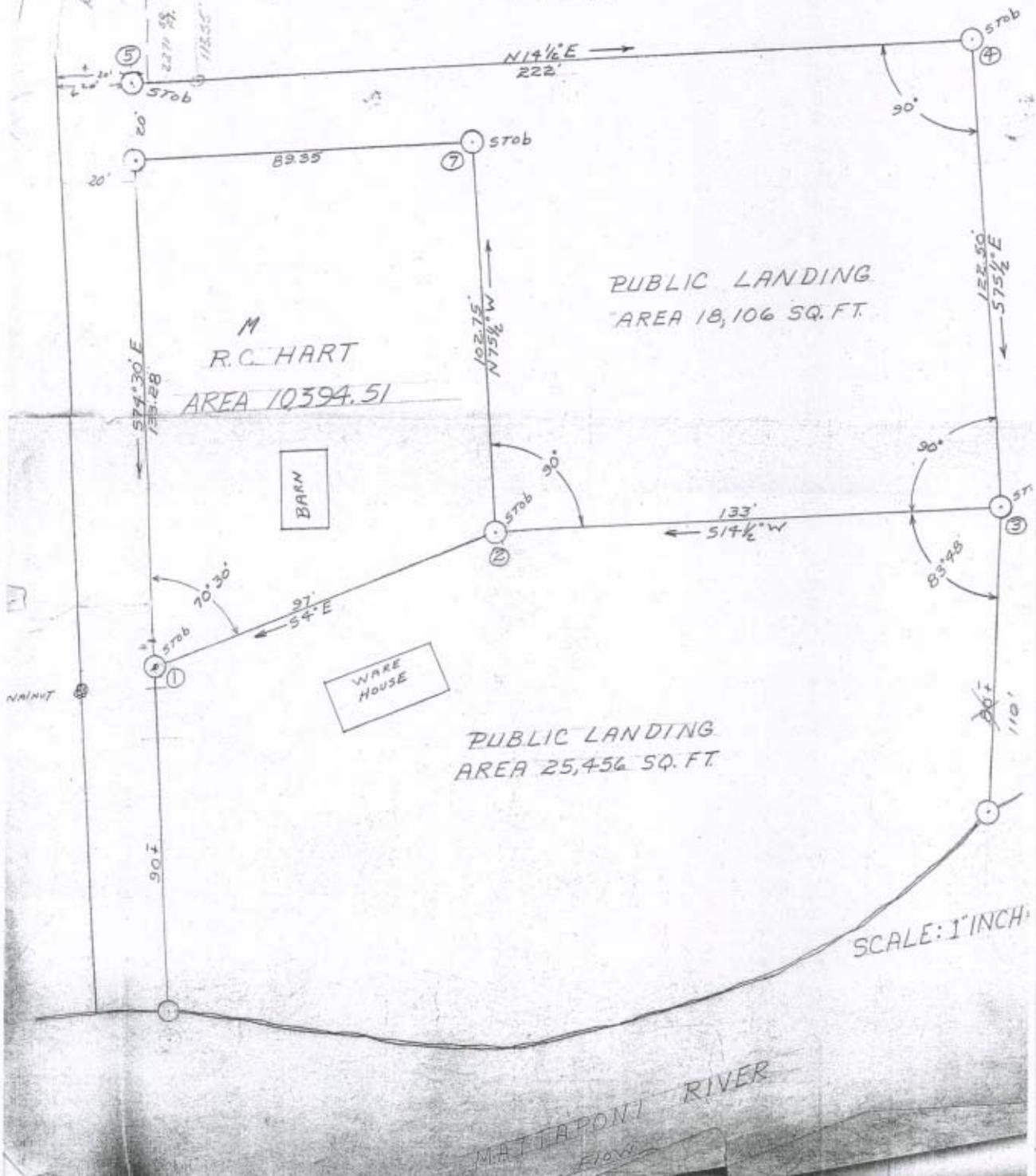
PLAT OF PUBLIC LAND AT WARE HOUSE
 KING AND QUEEN COUNTY
 SELECTED BY COMMISSIONERS
 SEPTEMBER 7, 1875

The plat below represents the Public Landing at Sheppards Ware House - King & Queen County, Virginia. Laid out by Commissioners appointed by the County Court of King & Queen and run out by L. N. Robinson, Surveyor September 7, 1875. By metes and bounds as above described. True copy made by R. T. Bland, Surveyor of Middlesex County, November 20, 1886 pursuant to the request of Robert Hart.

- Station (1) S 4° E 97 Ft.
 (2) S 14 1/2° W 133 Ft.
 (3) S 75 1/2° E 122 1/2 Ft.
 (4) N 14 1/2° E 222 Ft.
 (5) S 7 1/2° E 20 Ft.
 (7) N 75 1/2° W 102 3/4 Ft.

Respectfully submitted,

/s R. T. Bland, Surveyor

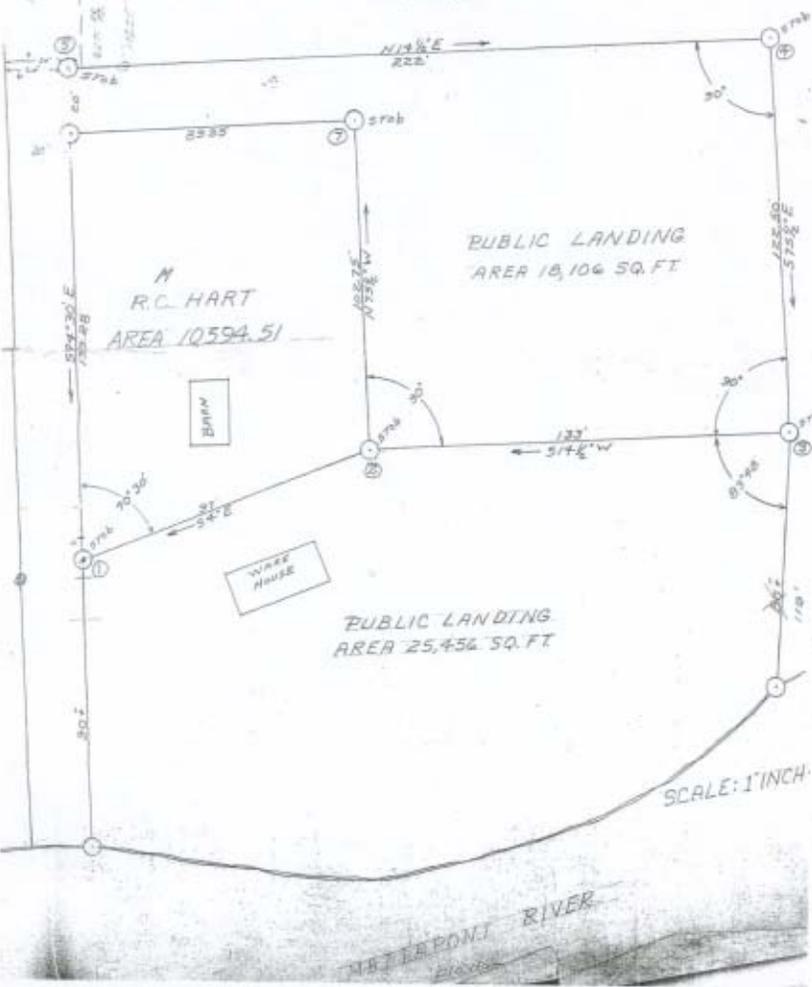


PLAT OF PUBLIC LAND AT WARE HOUSE
 KING AND QUEEN COUNTY
 ORIGINATED BY COMMISSIONERS
 SEPTEMBER 7, 1875

The plat below represents the Public Landing at Sheppards
 Ware House - King & Queen County, Virginia. Laid out by
 Commissioners appointed by the County Court of King & Queen
 and run out by L. N. Robinson, Surveyor September 7, 1875.
 By notes and bounds as above described. True copy made by
 R. T. Hland, Surveyor of Middlesex County, November 20, 1886
 pursuant to the request of Robert Hart.

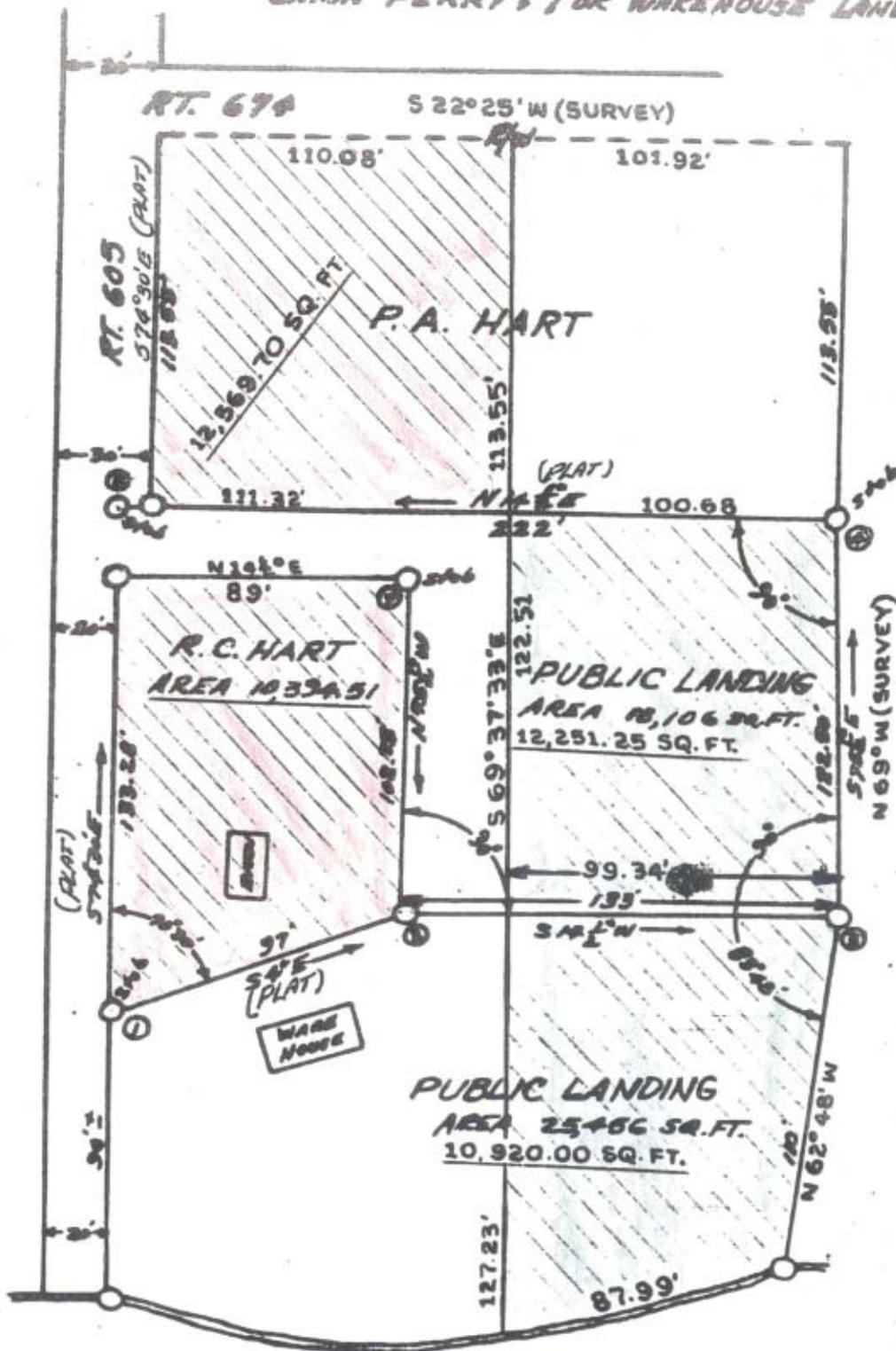
- Station (1) S 6° W 97 Ft.
 (2) S 16° W 133 Ft.
 (3) S 75° W 172 Ft.
 (4) N 11° E 222 Ft.
 (5) S 70° E 20 Ft.
 (7) N 75° W 102 3/4 Ft.

Respectfully submitted,
 /s/ R. T. Hland, Surveyor



KING & QUEEN COUNTY
CHAIN FERRY & / OR WAREHOUSE LANDING

WILLIAM L. BLAND &
PHYLLIS H. BLAND, HIS WIFE



PAUL A. HART

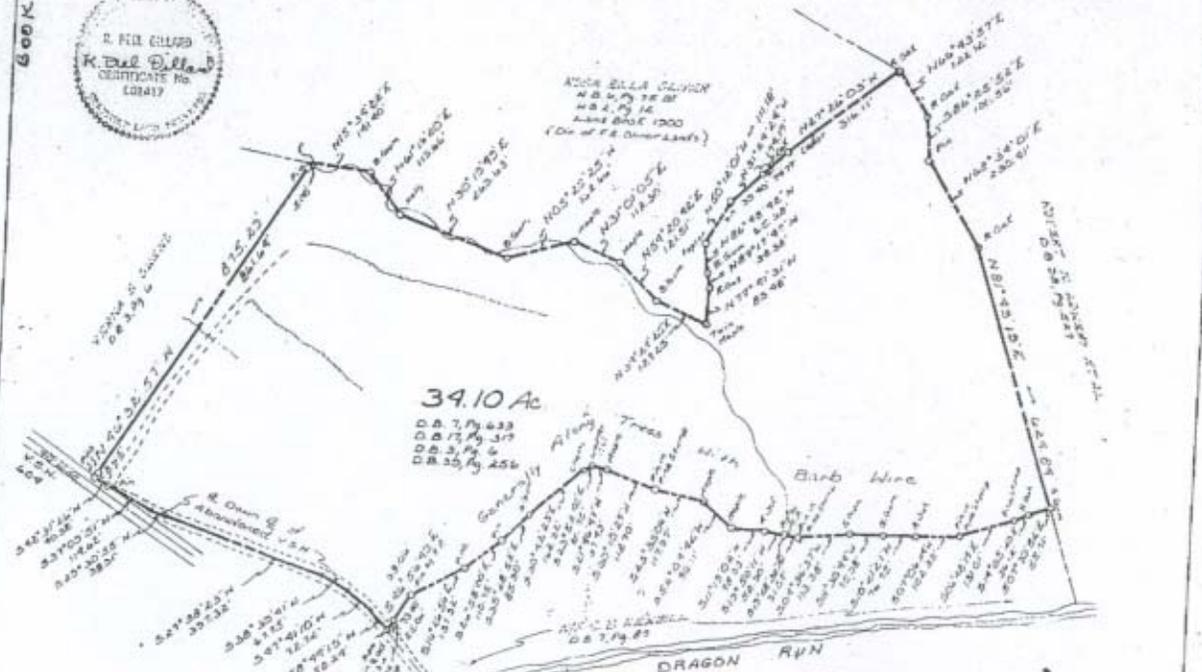
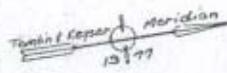
-  HART - 23,171.25 Sq. Ft.
-  STATE - 22,964.21 Sq. Ft.

SCALE 1" INCH = 50 FEET
C.C.G. 6-3-63

BOOK 13 PAGE 2

BUNDARY SURVEY JERRY RICHARDSON

STEVENSVILLE MAGISTERIAL DISTRICT
KING and QUEEN COUNTY, VIRGINIA



Date: January 4, 1986 Scale: 1"=200'
R. PEEL DILLARD
CERTIFIED LAND SURVEYOR
TAPPAHANNOCK, VA.
Drawn By: D.J.S. Job No. KQ551
Checked By: E.H. FS 784-11
Sect. 278-234-640641 DN. 23

904 5286950 P.06

historical title PMA J-U

10-24 10-24 10-24