

Eastern Shore

CITIZENS FOR A BETTER EASTERN SHORE

SHORELINE

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Conservation Easements, an Introduction

By Arthur Upshur, Stewardship Manager, Virginia Eastern Shore Land Trust

There are a lot of ways that land a can be conserved. There is a national target of 30% by 2030 for preserved lands. We are already at this total for the Shore, although much of the preserved "land" is actually marsh. But the Shore's success story is partly because we live in a rural space with few development pressures. Also, we live in such an important place ecologically that we have been a focus for land purchases by The Nature Conservancy (TNC), the Federal Wildlife Refuge system, and several state agencies, such as the Department of Wildlife Resources (DWR) and the Department of Conservation and Recreation (DCR). They are focused on the migratory species that use our peninsula and the nowrare undeveloped coastal wilderness areas on both the bayside and seaside.

A number of agencies hold conservation easements on private land; the oldest is the Virginia Outdoors Foundation. Eastern Shore Soil and Water also have held a number of easements; and TNC holds easements, mostly on land it has protected then resold to other private owners. The largest and most active agency is a homegrown organization, The Virginia Eastern Shore Land Trust (VESLT), which holds about 80 easements on over 14,000 acres in Accomack and Northampton Counties.

Conservation Easements Defined

A conservation easement is a private agreement where a landowner agrees to give up certain "rights" to protect the land's conservation value. Typical examples include giving up development rights – the owner agrees that the property can never be divided. Other restrictions are as varied as the land and typically try to reflect what

Easements represent another part of the puzzle on how to preserve our Eastern Shore.

the landowner considers special and worth preserving. Usually, these focus on areas providing significant wildlife habitat. Certain parts may be designated for commercial forestry – or it might prohibit commercial forestry in areas that are important to the family. Restrictions may limit changes to the historic home on the property or require certain habitat maintenance. It is a tricky balance, because these agreements become part of the property's deed forever, even after the property has been sold and resold. They need to be carefully thought through so that the restrictions do not become detrimental, lowering property value, and blocking changes that would allow better adaptation over time within a conservation context.

How It Works

A non-profit, like the VESLT, "holds" the easement and therefore has an interest in the property. That means that the organization becomes the guarantor that the agreement is honored into the future. The partnership with the current landowner is an important part of making these work well. Usually, the easement holder visits the property at least once a year and docu-

ments that the landowner is upholding the terms of the easement. Typically, whenever the owner makes a change on the property, they consult with their

easement holder to make sure that what they are planning is consistent with the easement and will not hurt wildlife habitat or conservation values. Ideally it becomes a shared stewardship of the land, where the 2 parties work together to make the land productive and pleasurable for the owner while maintaining its conservation value within the easement rules.

What is a good candidate for an easement? Typically, these are larger tracts of land – 50 acres or more. Smaller parcels may make sense if there is a special attribute to the land or if a smaller parcel abuts a larger one that is already conserved. The process of putting land into an easement is expensive and time-consuming. It involves making a donation to the easement holder that enables them to fund managing the easement forever. It involves lawyers to review the paper-

See Easements, Cont'd on p. 2

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work and certify the title. It requires appraisals to document how the restrictions are affecting the market value of the land. Any mortgage must be adjusted to incorporate the easement restrictions into the deed, and the mortgage holder must agree that the mortgage will now be subject to the easement terms.

Easement Value

The financial benefit of an easement for the owner is focused on the value of the easement donated to the non-profit holder. The appraiser tries to evaluate what the land is worth without an easement and its restrictions, and what it is worth after the easement is in place. That difference is the "value" of the easement and the owner gets tax deductions for that donation to a non-profit. There are also state tax credits in Virginia because our state wants to encourage land conservation. Those credits can be sold, so the owner can realize a cash value from that contribution rather than just reducing tax liability.

The easement "value" on the Eastern Shore is mostly created by development value. For example, if the property could be subdivided into multiple waterfront lots, it may have a much higher value than if it must be sold as one parcel. But restrictions

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on timber rights also can have a large impact on sale value, since harvesting timber is a common way to help reduce the costs of buying new land. Restrictions on house building, or on the size of the home permitted, also may be factors in the value. Really any restriction on the use of property can reduce its sale-ability and sales value.

The best easement candidates are where the owner has no interest in selling the land. If their use of the land is as working agriculture and forestry, or recreation such as hunting, hiking, or birdwatching, often the "restrictions" do not limit their activities on the land. The restrictions that lower the sale value of the land mean little if your hope is to keep the land. So, in those cases, you get a tax deduction without suffering any current loss.

Impacts of Easements

So, what are the problems with easements? "In perpetuity" is an awfully long time. It is hard to anticipate all the ways that the land and its use may change over time within your family. That difficulty is compounded when someone buys the land who may have different needs or plans. If the new owner wants to install a pool and the easement prohibits new impervious surfaces, the easement owner will prohibit that construction. When buying land with an easement in place, restrictions must be reviewed carefully. While it is rare, there are times when a new owner, or an existing owner, or a grandchild of the original owner, wants to change something that is not permitted by the easement. Easements are not designed to be changed, and amendments are very rare – and expensive. Again, spending time thinking about the long-term impact of restrictions, balancing the tax benefit of those restrictions versus the potential for future conflicts, is a critical step in the process.

What is the community impact of conservation easements? The immediate community around an easement generally benefits from a rise in their home and land values. Land that is adjacent to conserved land usually

sells at a premium because conserved land minimizes the risk that the adjacent land will be impacted by changes on the conserved land. For example, it will never be filled with smelly industrial facilities, or be a junk yard or a strip mall, or some use that negatively impacts the enjoyment of an adjacent parcel. In the broader community, the benefits are more subtle. Easements preserve large open tracts that make our place seem more rural and wild. Rural spaces with a lot of open undeveloped space tend to have cleaner water, less issues with stormwater runoff, and more wildlife. However, conservation easements are private agreements and there may be no public access to these open spaces.

On the Eastern Shore, local taxes are seldom impacted by a conservation easement, since most of these tracts already incur the same taxes that a conservation easement land will pay. Land designated as a Forest/ Ag district, or in Accomack, land taxed by its land use, already has the lowest assessed value and so there will not be any change in local property tax. Unimproved land usually has the lowest service costs for local governments, since it requires few local services such as fire, police, administration, etc. Developed land typically requires a lot of services because of the density of residents, and often represents a net loss to local governments because of the cost of schools and other services required by developed areas. So having an affordable mix of both land uses is a part of good local finances.

Easements represent another part of the puzzle on how to preserve our Eastern Shore. While they do not fit everywhere, they represent an important part of conserved lands around the shore. If you would like to learn more about putting land into a conservation easement, you can contact VESLT, TNC, or any of the non-profits that hold conservation easements to understand more regarding the pros and cons of putting land under easement.

Eastern Shore of Virginia Ground Water Committee Rejects Characterization of Shore Aquifers

By Sue Mastyl

Most (69%) of precipitation on the Shore is returned to the atmosphere through evapotranspiration, which

Pope noted, "aligns with expectations."

An article in the July 14, 2023, *Eastern Shore Post*, "Shore aquifers strained by natural processes" (https://easternshorepost.com/wp-content/uploads/2023/07/20230714_ESP_up.pdf), which was reprinted from a June 22 article by Charlie Paullin of the *Virginia Mercury* (https://www.virginiamercury.com/2023/06/22/scientists-study-natural-processes-affecting-eastern-shore-aquifers/), drew concerns from the Eastern Shore of Virginia Ground Water Committee

(ESGWC) at their August 15 meeting.

Several members of the committee expressed concern about some of the language in

the article, which was based on presentations at the June 15 meeting of the Eastern Virginia Groundwater Management Advisory Committee. One of the presenters, Jason Pope, Hydrologist with the Virginia and West Virginia Water Science Center for the U.S. Geological Survey (USGS), and a consultant to the ESGWC, noted that the article didn't misquote any of his data or statements. However, the Committee noted that some of the statements in the article did not fairly characterize the status of the aquifers.

Status of the Shore's Aquifer

Pope's presentation focused on revisions to the Eastern Shore Groundwater Model, which is used by the Department of Environmental Quality to monitor the status of the aquifer and to assess permits for groundwater withdrawal. He noted that the Eastern Shore of Virginia is an "example of 'island-type' hydrogeology, with all freshwater recharge supplied by precipitation." The groundwater is "subdivided into an unconfined surficial aquifer at the top and the Yorktown-Eastover confined system, composed of 3 confining units and 3 aquifer units" (the Upper, Middle, and Lower Yorktown-Eastover).

Pope noted that "withdrawal patterns appear to have been fairly steady for the past decade or so," noting that fluctuations in the aquifer reflect changing environmental conditions (for instance, higher pumping and lower precipitation in the summer). He presented 2019 data from 202 observation wells, compared to the 94 wells used in 1994. The data was also analyzed by month instead of by year to more closely reflect seasonal changes. Pope included a new analysis focused on withdrawals from the surficial aquifer, approximately 75% of which are from dug agricultural ponds. In the summer, these withdrawals are 3 to 5 times the total well withdrawals from the Yorktown-Eastover aquifer, "highlighting the importance of monthly stress periods in simulating the Eastern Shore groundwater system."

Although Paullin's statement, "the water in those surfi-

cial aquifers is being depleted quicker than the surficial aquifers can be refilled in summer months," does reflect Pope's data, it doesn't tell the whole story.

While total withdrawals (for both the surficial and the deep aquifers) fluctuated from less than 7 million gallons a day (MGD) in the winter to more than 36 MGD in the summer, the yearly average has remained steady at about 15 MGD (as Paullin notes elsewhere in his article). And Paullin's

statement that "For years, the Eastern Shore has had trouble sustaining its aquifers" is not borne out by Pope's research, who added that the data show

"the year-round importance of the Yorktown-Eastover aquifers to the water supply of the Eastern Shore, the summer component of withdrawals from ponds, and the relatively small portions of well withdrawals from the surficial and paleochannel aquifers."

Evapotranspiration Is a Natural Process

The other statement from Paullin's article that concerned the ESGWC was that "evapotranspiration is harming surficial aquifers." Evapotranspiration, which is the combined process of evaporation from surface waters and transpiration from plants (the process by which plants breathe, allowing them to grow and putting oxygen into the atmosphere), is a "significant component of the hydrologic budget," according to a 2016 USGS paper by Ronald L. Hanson (https://geochange.er.usgs.gov/sw/changes/natural/et/). As Paullin's article noted, most (69%) of precipitation on the Shore is returned to the atmosphere through evapotranspiration; only 19% actually recharges the aquifer, which Pope noted, "aligns with expectations" – the system is in equilibrium, with no overall change to the aquifer over time.

Both of these issues – higher withdrawals from the surficial aquifer, including agricultural ponds; and evapotranspiration representing a large portion of the Shore's "water budget" – affect the surficial aquifer, and only in the summer months, with no overall change year-to-year.

ShoreLine comment: Although Mr. Pope's data show that the system is currently in equilibrium, we still must remain vigilant with respect to our groundwater — we need to watch for any new, large withdrawals, and to better understand the future impacts of climate change. The potential for more drought and hotter summers will mean less precipitation to recharge the system, combined with increasing demand. Adding sea-level rise, with associated increases in saltwater intrusion, to the mix means that monitoring our groundwater withdrawals, and using the surficial aquifer whenever possible, is critical.

Northampton County: Then and Now

Part 2 – Between the Lines

By Mary Miller

A look at a contemporaneous, well-cited scholarly analysis¹ of existing conditions 40 years ago, the beginnings and impacts of dramatic social and economic changes, and a prescient look at what was in store for the county's evolving dynamic. Data sources for analysis include US Census Bureau, VA Employment Commission, and other state and local records.

Forty years ago, Northampton County still had many aspects of an agrarian economy, one based on agriculture and seafood – growing, harvesting, packing, and processing. More than 68% of the population lived in rural areas of the county, and a large proportion of the hourly-wage jobs available were low-skilled agriculture-and seafood-based. But a major, stunning change was in the works.

The analysis¹ describes the blow:

"Originally the county contained numerous small canners and processors; however, a multiplicity of problems including transportation costs, ineffective marketing, inefficiencies due to small old plants and poor quality control, forced many of these facilities to close. Two firms now process the majority of local produce: Dulany Foods, a division of United Foods, Inc. in Exmore processes frozen fruits and vegetables, and G.L. Webster Company, Inc. in Cheriton cans fruits and vegetables. Dulany Foods announced that it was closing down its Exmore facility. The firm employs over 170 persons year-round and over 300 in the summer. It has purchased approximately \$2,000,000 of local farm produce annually. It is hoped that this important county facility can continue under other ownership and management."

Shortly after that, the Webster facility in Cheriton, known locally as the KMC plant, sold off its equipment and closed down. Neither plant resumed operations.

When the processing plant carnage was over, "the census recorded 720 individuals unemployed but available for work. No professionals, managers, other blue-collar (workers), and only 11 male craftsmen were reported available for employment." Of the working-age population, over half "had less than 8 years of schooling."

The farming community was also jolted by the plant closings. A decision had to be made whether to continue labor-intensive fruit and vegetable production or make the change to new crops, which would eventually lead to increased mechanization and require fewer workers. All this combined to add to the continuing decline in the county's population, which had begun in the 1930s as workers migrated north for better job opportunities and steadier work.



"Very few new houses were being built, and the shelter of choice for many residents were trailers on small lots." Staff photo.

Then...

Many of those left without employment in the agricultural or seafood processing industries 40 years ago were also left with poverty and sub-standard housing. As noted in Part 1 (August 2023 ShoreLine), the county poverty level was about 27%, and the median household income was \$3,855. The food processing industry traditionally employed a large segment of the Black population, so they were particularly hard hit. Many young people, both Black and White, left the county in search of more opportunity, and those left behind were older, less skilled, and with few resources. Almost all of the county's housing units were either owner-occupied or rented year-round – only 15% were for seasonal use. The median value of owner-occupied housing was \$7,600. But over a third of the occupied units lacked basic facilities – no piped water in the home, no flush toilets, no bathtub or shower, incomplete kitchens, insufficient or no heating, and no septic tank or public sewer. Very few new homes were being built, and the shelter of choice for many were trailers on small lots.

Public facilities were failing. The 2 elementary schools were crumbling, the county landfill was leaking, private landfills and other sites were accepting industrial and other outside waste, and the county jail was in danger of being condemned and closed down.

In the early 1990s, when national press and TV^{2,3,4} covered a proposed 3,200-inmate, "super-max" prison in the middle of 3 traditionally Black communities, the living conditions for many in those communities also became part of the coverage. Dirt floors, outdoor privies, no running water, \$50/month rent for shacks with sagging roofs and leaking windows – all brought to national attention. Defeat of the prison project coincided with major changes in the county – its housing, its services, and its economic revival.

See Then and Now, Cont'd on page 5

... and Now

Even though the population has continued to decline, mostly due to fewer births than deaths, that now is mitigated by an influx of new residents, especially retirees. Substandard housing has almost all disappeared – Northampton County now has over 544 rental units affordable for low-income/elderly/disabled households, many rentassisted.⁵ The poverty rate has decreased by more than 10%, 2 new elementary schools have been built, the landfill has been closed and capped, the condemned jail was closed and demolished, and a "regional" jail was built as part of a new county court complex. There is no longer raw sewage being piped into waterways, and new communities, both high-end and for low-income households, have been built. Almost 90% of the residents over 25 years old have at least a high school education. But the median age of residents has increased from 34 to almost 50 years old – and the Black population has declined from 52% to 31%.

And finally, there were 2 economic and demographic predictions made by the analyst 40 years ago that were both accurate – that both tourism and retirees would be important to the county's future. Forty years ago, the county lagged behind the state in almost all business areas - except in goods and services that catered to tourists, travelers, and recreational sportsmen. Even back then, "Travelers spent \$2,693,000 in Northampton County – a substantial sum for a rural economy." And, data were already beginning to show that "net in-migration reflects the trend for retirees to settle in the county and for earlier out-migrants to return." Although the realization of both these predictions have had a positive impact on county revenue, the trend toward converting housing to short-term rentals for vacationers has once again left the county workforce with few choices for reasonably priced, adequate housing.

¹https://www.govinfo.gov/content/pkg/CZIC-ht165-n6-1975/html/CZIC-ht165-n6-1975.htm (all quotes are from this source)

2https://www.washingtonpost.com/wp-srv/local/daily/aug98/bayview051098.htm

³https://www.washingtonpost.com/archive/local/2002/12/15/va-community-uplifts-itself/746e9e8e-2711-437c-b1f2-fd275de937ab/; ⁴https://www.cbsnews.com/news/alice-coles-of-bayview-26-11-2003/

⁵https://affordablehousingonline.com/housing-search/Virginia/Northampton-County







Volunteers Kim and Jim Granger, flanked by Bike Tour participants, enjoy a beautiful fall day at last year's event.

IT'S "WHEELIE" FUN TO VOLUNTEER

30th Between the Waters Bike Tour & Oyster Roast Needs Your Smiles

MEET NEW FRIENDS!
Volunteer for the Saturday, October 28, Bike Tour
or that evening's Oyster Roast

NEEDED for TOUR: Friday afternoon: Various duties including Set up, Road Signs and Registration; Saturday: Registration (morning), Lunch Helpers, etc. Contact Sally: ecapeville@aol.com 757-678-3551.

NEEDED at OYSTER ROAST: Saturday afternoon/evening: Servers, Parking, Check-in. Contact Donna: info@cbes.org 757-678-7157.

Do You Have a Covered Trailer You Can Share?

CBES needs to haul bike tour supplies from Wednesday through Sunday, 10/25-10/29.

Contact Sally: ecapeville@aol.com



RECYCLING CORNER

By Sue Mastyl

Back-to-School – Without Plastics

With students, teachers, and staff heading back to school, it's a good time to think about the plastic in school supplies, foodware, even our clothing, and what we can do to find alternatives. A recent webinar from the Plastic Pollution Coalition (https://youtu.be/e_aJdhyvWS8) outlined how we can rethink our practices, both for individual families and for school operations. Four organizations presented different approaches to reducing plastics in schools—

- Ahimsa (https://ahimsahome.com/) sells colorful stainless steel dishes (plates, bowls, cups, lunchboxes) for kids, and stainless steel cafeteria trays for schools. Dr. Manasa Mantravadi, pediatrician and founder of Ahimsa, noted that the cafeteria is a school's "single greatest source of carbon emissions, and the single greatest exposure for plastic chemicals."
- Cafeteria Culture (https://www.cafeteriaculture. org/), has taught zero-waste education to thousands of public-school students, focusing on alternative solutions. Debby Lee Cohen, founder of Cafeteria Culture, described their success in New York City, starting in 2009 with TrayLess Tuesdays, when the city discarded 850,000 Styrofoam lunch trays every day. By 2015, Styrofoam was eliminated from all city schools, replaced with compostable plates. Their story is documented in the film, *Microplastic Madness* (https:// www.cafeteriaculture.org/microplastic-madness.html; free for all K-12 schools in October and November 2023). They also sponsor an annual national Plastic Free Lunch Day, which will be held this year on Nov. 8, started by 5th-graders in one school, promoting alternatives such as serving unwrapped sandwiches from bulk containers, covered with foil until lunchtime; serving sauces and condiments from bulk containers, instead of individual packets; and providing utensils only upon request.
- Heather Itzla, founder of Wisdom Supply Company, a B-corporation selling plastic-free, vinyl-free, spiral-free school and office supplies, said they are transitioning to a nonprofit in 2024 to further the zero-waste approach, noting that you can't start a zero-waste classroom, "by going out and buying a bunch of zero-waste stuff." For 13 years, from preschool to 12th grade, "we are training children to be mindless consumers" with back-to-school shopping, 90% of which is plastic, packaged in plastic, backed by massive marketing, she noted. The key is raising awareness in classroom – "what did our parents and grandparents use?" she asked.



Blackberry Pudding

Blackberry picking – the purple fingers of summer. Whether you picked them wild in the northern woods or in the kitchen gardens of the south, those sweet-tart berries tasted like summer. Blackberry pie was the perennial treat of late summer – but here's a recipe that's a little easier, a little less fussy, but just as delicious. And, do I have to add, one that shows up in local cookbooks both north and south.

- 2 cups blackberries
- 1 tsp allspice or cinnamon
- 2 tsp lemon juice

Batter:

- 1 cup flour
- ³/₄ cup sugar
- 1 tsp baking powder
- ½ cup milk
- 3 tbsp butter, melted

Topping:

- ³/₄ cup sugar
- 1 tbsp cornstarch
- 1 cup boiling water

Butter a 9" square baking pan. Toss blackberries with spice and lemon juice, and place in the baking dish. Whisk together the flour, sugar, and baking powder in a bowl, then add milk and melted butter. Stir well. Pour evenly over berries. Whisk sugar and cornstarch for topping, and sprinkle over the batter. Gently pour boiling water over all. Bake at 350° for 45 to 50 minutes, until toothpick inserted in batter comes out clean. Serve with a little sweetened sour cream.

Mary Miller – The Kitchen Hive Reprinted with permission: https://www.talkrealnow.com











• Jessica Campbell, Lower School Program Director and 5th-grade teacher at Mount Madonna School in Santa Cruz, CA, described the school's initiatives to support student-led projects to reduce waste, including engaging with local government, understanding how plastic interacts in the environment, designing alternatives, fundraising, presentations, and civic action.

Keeping Track

Short-Term Rental Study

A study is underway in Richmond this summer as a result of a bill offered by retiring State Senator Lynwood Lewis and by race car driver Delegate Danny Marshall. The bill, as described by *Virginia Town and County* magazine: "Short-term rental property: locality's ability to restrict property managed by a Virginia realtor." The bill was withdrawn, but the concept of the state over-riding local zoning by an act of the General Assembly lives on. If such legislation is reintroduced and enacted, there would be 2 sets of local short-term rental regulations – 1 for units managed by realtors, and 1 for everyone else. The results of the study are due out in the fall.



How Magothy Bay Got Its Name

Mark Catesby, one of the first naturalists to come to the British colonies from England, reported around 1740 that Magothy Bay, between the ESVA mainland and Mockhorn Island, got that name because a "small fish called a Fat-back" was among those "drove on shore by the Pursuit of Porperses and other voracious Fish, at the general Time of spawning." These and herring, similarly "drove on shore," made up "the most extraordinary Inundation, of Fish ... usually in March such incredible numbers of Fish, that the Shore is covered with them a considerable Depth, and three miles in length along the Shore. At these times, the Inhabitants from far within Land come down with their Carts and carry away what they want of the Fish; there remaining to rot on the Shore many Times more than sufficed them; From the Putrefaction that this causes the place has attained the Name of Maggoty Bay." From *The Men all Singing* by John Frye. https:// scholarworks.wm.edu/book/3/.

CBES Candidate Forums

Watch for announcements soon for dates & locations! Forums for all contested seats in the November 7 election will be held as follows, to give Shore voters an opportunity to hear the candidates' positions on matters of concern and consequence.

State Legislators Forum

Member, House of Delegates & State Senator

Accomack County Forum

District 2, District 4, District 5 Supervisors & Clerk of Circuit Court

Accomack School Board Forum

District 1, District 3, District 4, District 8, & District 9

Written questions will be accepted from the audience. All 3 forums will be live-streamed on WESR 103.3 FM.

CBES neither supports nor opposes candidates for public office.

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From Jerseys to Jackets, Athletic Shirts to Vests, enjoy wearing Shore Artist Bethany Simpson Durham's vibrant painting, nicknamed "Willis Wharf Wild Goose Chase."



Check out 10 items for gifting or keeping:

https://jakroo.com/store-front?storeId=rJfWco8sh Jakroo Custom Apparel folks are available to assist you. Current orders require about 2 weeks of turnaround time.

You don't have to be a cyclist to enjoy!

Are You Tired of Litter on the Shore?

Join Waste Watchers for an Open House

September 15, 2023 2:00 to 4:00 PM

Eastern Shore Community College

Workforce Development Center

Panel discussion with Community Leaders and Strategic Planning for combating roadside litter

Refreshments will be served First 20 participants will receive a gift bag Sponsored by ESVA Waste Watchers Citizens for a Better Eastern Shore P. O. Box 882 Eastville, VA 23347-0882

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