

**CLARKE COUNTY**  
**Conservation Easement Authority**  
**THURSDAY – 18 FEBRUARY 2016 - 11:00 AM**  
**Camino Real Restaurant, 16 Crow Street, Berryville, VA**  
**AGENDA**

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes of the meetings of 21 January 2016
4. Stewardship Fund – balance as of  
31 January 2016                      \$91,188.91    Bank of Clarke County
6. Campaign for the Authority – see attached report
7. Discussion
  - a. Adding Railroad to property resource scoring
  - b. Transfer Fee
  - c. Mesilla pond
8. Easement Donation/Purchase
  - a. George Greenhalgh – DUR purchase
  - b. Cool Spring Farm, LLC – grant application
  - c. Tavenner – easement donation, DUR purchase
  - d. Susan Digges – ALE grant application
  - e. Ken Bell – easement donation
9. Report on Applications for Easement Purchase  
*Possible Closed Session to discuss real estate*  
*Motion to go into Closed Session pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property and Section 2.2-3711(A)(7) for consultation with legal counsel regarding specific legal matters requiring the providing of legal advice.*
10. Adjournment – to annual awards luncheon  
next meeting – Thursday March 16<sup>th</sup> 10 am

**CLARKE COUNTY**  
**Conservation Easement Authority**  
**draft Minutes – 21 January 2016 draft**

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday, 21 January 2016, in the A/B Conference Room, 2<sup>nd</sup> Floor Government Center.

**Present:** R. Buckley, L. Wallace, P. Engel, M. Jones, W. Thomas

**Absent:** G. Ohrstrom, B. Byrd

**Staff:** A. Teetor, B. Stidham, R. Couch Cardillo

**Call to Order :** Alison Teetor, Clerk to the Easement Authority, called the meeting to order at 10:00 a.m.

**Election of Chairman, Vice Chairman, and Treasurer**

Ms. Teetor asked for nominations of Chairman to the Authority. Ms. Wallace nominated Mr. Buckley for the position of Chairman for 2016. Ms. Thomas seconded. The Authority voted unanimously to elect Mr. Buckley as Chairman of the Authority for 2016.

Mr. Buckley asked for nominations of Vice Chairman to the Authority. Ms. Jones nominated Mr. Engel for the position of Vice Chairman of the Authority for 2016. Ms. Thomas seconded. The Authority voted unanimously to elect Mr. Engel as Vice Chairman of the Authority for 2016.

Mr. Buckley asked for nominations of Secretary/Treasurer to the Authority. Ms. Wallace nominated Mr. Ohrstrom for the position of Secretary/Treasurer for the Authority for 2016, Ms. Thomas seconded. The Authority voted unanimously to elect Mr. Ohrstrom as Secretary/Treasurer of the Authority for 2016.

**Agenda** On motion of Ms. Wallace, seconded by Mr. Engel, the Authority unanimously approved the agenda with the addition of an easement donation item 8.j.

**Minutes** On motion of Mr. Ohrstrom, seconded by Ms. Jones, the Authority unanimously voted to approve the minutes of November 19, 2015. The December meeting was cancelled due to lack of a quorum.

**Bank Account:** Ms. Teetor stated that the finance department is still working to establish the appropriate authority accounts which include donations, Board appropriations, and state and federal grants. Ms. Cardillo will provide an update on the donations.

**Stewardship Fund:** The stewardship fund has a balance of \$72,782.83 as of December 31, 2015. An additional \$18,773.73 was received from the State this year and will be credited to this account next month.

**Public Relations:** Ms. Cardillo reported that the total donations received for 2015 was \$57,206.00, this included a \$30,000+ donation as part of a stock option gifted to the Authority. In all there were 7 major donors, those donating more than \$1,000 with an average donation of \$174 excluding the \$30,000 from the average. Ms. Cardillo made the point that this shows that there are a variety of donation amounts. She suggested that Mr. Buckley acknowledge large donors with a phone call or note.

Members discussed a date for the upcoming awards luncheon and tentatively agreed to February 18<sup>th</sup> at the Camino Real restaurant in Berryville at 12:00. As this is the regular meeting date, the business meeting will be held at 11:00 at the restaurant. Father Robert Barnes and Father James Orthmann will be present to accept the award. Similar to last year, the plaque will be presented and the bird bath will be delivered to the Abbey when the brass plate is finished and affixed to the bird bath later this spring. Ms. Cardillo also reported that she and Ms. Teetor met with Kelli Hart, Barns of Rosehill to discuss the photo exhibit. We are hoping to display in mid-march for 1 month. The notecards can also be on display for sale as part of the exhibit.

Ms. Teetor will get permission to hang the plaque near the Governor's Award in the elevator hallway. Ms. Cardillo asked members for ideas for the upcoming winter newsletter, stories will include a legislative update, information on grants, the awards luncheon, and an advertisement for summer interns to conduct easement inspections.

## **Discussion Items**

### **a. Submission requirements for structures exceeding square footage limitations**

Based on a recent approval of large indoor riding arena on an eased property, members asked staff to draft a policy outlining submission requirements when landowners propose to build structures that exceed the size limitations outlined in the deed and therefore trigger review by the Easement Authority. The standard size limit is 4,500 square feet of above-ground enclosed living area without Grantee's prior review and written approval. After discussion, on motion of Ms. Wallace, seconded by Ms. Jones, members unanimously approved the following submission requirements:

- A 3D rendering of the proposed structure detailing the structures dimensions, height, length, width and the proposed materials and colors
  - A site plan (may be provided by the landowner, not surveyed or engineered) showing the proposed location for the structure which includes measurements to property lines, well and septic system.
- Members also asked staff to see what other PDR programs require.

### **b. Adding railroad to property resource scoring**

At a recent site visit, several members suggested that additional points should be given for parcels that have frontage on railroads. Of particular interest is the Norfolk Southern Railroad which roughly parallels Route 340. Members were concerned that the track could be widened to two tracks which could increase train traffic. Ms. Teetor reported that she had discussed the issue with Mr. Ohrstrom who had concerns that the railroad doesn't fit into the conservation values and that having an easement on an adjacent property would not preclude expansion of the rail line. Members agreed to table the discussion until next month to get additional input from Mr. Ohrstrom.

### **c. Summer intern hiring criteria**

After the hiring process last summer members asked to have a discussion regarding the hiring criteria. Of particular concern was whether or not 2 interns should be hired in order to work together for safety. After discussion members agreed not to set specific criteria but set a policy that the objective is to provide a college internship.

## **Easement Donation/Purchase**

### **Ronald Shipman – new application – DUR purchase**

Ms. Teetor described the application for the 3 parcels owned by Mr. Shipman located in Calmes Neck (see staff report). The applicant had expressed interest in the DUR purchase option for the 2 remaining DURs. Ms. Teetor explained that based on the Authorities criteria for properties not eligible for use value taxation, the properties do not qualify for a DUR purchase. After discussion, on motion by Ms. Wallace, seconded by Ms. Thomas, members approved an easement donation of the 3 parcels provided that the applicant retire the 2 remaining DURs and merge the parcels.

### **Elizabeth Langhorne – easement donation**

A site visit was conducted December 8<sup>th</sup>. Ms. Teetor explained that the Lanhorne's are seeking final approval but won't record the easement until July for tax purposes. On motion of Mr. Engel, seconded by Ms. Jones, members approved the easement donation provided that the applicant retire the 2 remaining DURs and merge the parcels.

### **Johnny Hardesty – easement donation**

Ms. Teetor described the application for the 53 acre parcel owned by Johnny Hardesty. Mr. Hardesty would like to donate 1 DUR leaving 1 DUR and an existing pre-1980 house. He would like to retain the right to subdivide one lot. The parcels met 3 of the 4 criteria for acceptance, larger than 40 acres, retiring 1 DUR and scoring 63.98. On motion of Ms. Wallace, seconded by Ms. Jones, members unanimously gave preliminary approval and asked staff to schedule a site visit.

Ms. Teetor updated the Authority on the status of pending easement applications. Edith Thompson withdrew her application stating she just wants to sell the property. Mr. Greenhalgh has run into issues with the title and will need a court order to vest title. The Cool Spring Farm grants have tentatively been approved but have to go

through final approval by the Department of Historic Resources board. Linda Armbrust's easement was recorded December 2, 2015. Susan Digges deed of easement is being prepared it is hoped that the easement will be recorded by June 2016. Ken Bell is having plats drawn up for the merger of the properties.

**Report on Applications for Easement Purchase**

On motion of Mr. Engel, seconded by Ms. Thomas the Authority unanimously approved going into Closed Session pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property. On motion of Mr. Engel, seconded by Ms. Thomas, the Authority unanimously approved reconvening in Open Session. Mr. Engel moved, seconded by Ms. Thomas, to certify that to the best of the member's knowledge:

(i) only public business matters lawfully exempted from Open Meeting requirements under Chapter 2.2-3700, et sec., of the Code of Virginia, as amended, pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property, and

(ii) only such public business matters as were identified in the motion by which the Closed meeting was convened were heard, discussed, and considered in the meeting by the Authority. The vote on the above motion was:

Ms. Byrd	Absent	Ms. Wallace	Aye	Mr. Buckley	Aye
Mr. Engel	Aye	Ms. Thomas	Aye	Mr. Ohrstrom	Absent
Ms. Jones	Aye				

No action was taken subsequent to the Closed Session. Regarding the Tavenner DUR purchase members agreed to uphold the previous offer of \$40,000 for the retirement of one DUR.

**Adjournment** There being no further business, Ms. Jones moved and Mr. Engel seconded that the Authority adjourn to Thursday February 18<sup>th</sup> at 11:00 am, at the Camino Real Restaurant for the annual awards ceremony. The motion was approved unanimously.

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Randy Buckley, Chair

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Alison Tector, Clerk to the Authority

Starting Tax Year: 5514 Ending Tax Year: 5514 Starting Date: 01/01/2016 Ending Date: 01/31/2016

DATE	DEPT	CL	TICKET/SEQ.	DISTRICT NO./NAME	TAX AMT	PEN. AMT	INT. AMT	ADJ. AMT
1/05/2016	CONEAD		1790001	CONSERVATION EASEMENT	12,076.16	.00	.00	.00
1/08/2016	CONEAD		1800001	CONSERVATION EASEMENT	689.00	.00	.00	.00
1/13/2016	CONEAD		1810001	CONSERVATION EASEMENT	25.00	.00	.00	.00
1/19/2016	CONEAD		1840001	CLARKE CO CONSERVATIO	200.00	.00	.00	.00
1/27/2016	CONEAD		1860001	CONSERVATION EASEMENT	136.00	.00	.00	.00
1/28/2016	CONEAD		1870001	CONSERVATION EASEMENT	100.00	.00	.00	.00
1/29/2016	CONEAD		1880001	CONSERVATION EASEMENT	50.00	.00	.00	.00

CLASS TOTAL	13,276.16	.00	.00	.00
DEPT TOTAL	13,276.16	.00	.00	.00
FINAL TOTAL	13,276.16	.00	.00	.00
ALL ITEMS	7			

TOTAL ITEMS BY YEAR  
5514 7

*Squire Inc. + 192.70*



2 East Main Street  
Berryville, VA 22611

January 2016

Reporting Activity 01/01 - 01/31

Page 1 of 4

ADDRESS SERVICE REQUESTED

COUNTY OF CLARKE VIRGINIA  
CONSERVATION EASEMENT STEWARDSHIP  
101 CHALMERS CT STE B  
BERRYVILLE VA 22611-1387

Managing Your Accounts

- Phone (540) 955-2510
- Toll-Free 1-800-650-8723
- EAGLE-24 Banking 1-888-378-1881
- Online Access [www.bankofclarke.com](http://www.bankofclarke.com)
- Mailing Address P.O. Box 391  
Berryville VA 22611

Summary of Accounts

Account Type	Account Number	Ending Balance
NOW-Public Fund	XXX2089	\$91,188.91

Enjoying the benefits of e-Statements have never been easier! Enroll today and start experiencing e-Statements for yourself – quicker receipt of your statement, securely delivered to you without worry. Simply log on to Online Banking, and enroll under the options tab > e-Statements.

NOW-Public Fund - XXX2089

Account Summary

Date	Description	Amount
01/01/2016	Beginning Balance	\$72,782.83
	0 Debit(s) this period	\$0.00
	2 Credit(s) this period	\$18,406.08
01/31/2016	Ending Balance	\$91,188.91

Interest Summary

Description	Amount
Interest Earned From 01/01/2016 Through 01/31/2016	
Annual Percentage Yield Earned	0.40%
Interest Days	31
Interest Earned	\$0.00
Interest Paid This Period	\$28.35
Interest Paid Year-to-Date	\$28.35
Interest Withheld Year-to-Date	\$0.00
Minimum Balance	\$72,782.83

Deposits

Date	Description	Amount
01/14/2016	Telephone Trf Dep	\$18,377.73
01/31/2016	Accr Earning Pymt Added to Account	\$28.35

Daily Balances

Date	Amount	Date	Amount	Date	Amount
01/01/2016	\$72,782.83	01/14/2016	\$91,160.56	01/31/2016	\$91,188.91





ROBIN COUCH CARDILLO

February 12, 2016

Clarke County Conservation Easement Authority  
Fundraising and Public Relations Report  
February 2016 meeting

**Donor Statistics**

See attached Master Report

- 2016 total: \$262, 6 donors (includes three notecard purchases)
- Revised 2015 total: \$57,356, 158 donors (one additional donor with 2015 dated check)

**Ongoing**

*-Publicity*

- Media surrounding the Mackay-Smith Land Conservation Award
- Barns of Rose Hill – waiting for feedback on new timing for photo exhibit in March; Executive Director said that works for Barns and she'll give definitive date for reception; when finalized, will prepare media release

*-Donor outreach*

- Working with Alison and Randy on coffee with and/or calls to select major donors

*-Notecards*

- Update on notecard sale/distribution

*- 2nd Wingate Mackay-Smith Clarke County Land Conservation Award*

- Media invited; media release sent
- General script for event developed

*-Winter newsletter*

- In the works

*-Feeding the pipeline*

- "Bring 5 Names" (of donor prospects) launched; sending current database list to Authority members as reference to avoid duplicates

# Fundraising Results: Clarke County Conservation Easement Authority

As of February 12, 2016

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Amount	\$13,345	\$19,090	\$20,871	\$25,649	\$26,396	\$25,843	\$23,530	\$42,266	\$36,260	\$57,366.00	\$262.00
# Donations	115	161	208	209	203	195	181	200	169	158	6
<b>YE Donor Appeal</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
YE Donor Appeal Amount	\$8,465	\$8,310	\$8,477	\$10,134	\$8,376	\$12,815	\$7,250	\$15,706	\$17,635	\$47,003	
Donor Respondents	73	59	87	86	76	68	50	69	51	61	
YE Prospect Amount	\$2,115	\$425	\$425				\$40		\$1,650	\$104	
Prospect Respondents	24	7	7				1		3	2	
<b>Winter Newsletter</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Dollar Amount	\$2,700	\$2,700	\$2,074	\$2,065	\$2,865	\$2,126	\$3,611	\$4,805	\$3,335	\$2,700	\$150
Respondents	23	23	19	27	32	21	32	39	26	25	3
<b>Spring Newsletter</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Donor: Dollar Amount	\$3,775	\$455	\$2,074	\$5,820	\$2,810	\$2,520	\$3,415	\$1,975	\$3,705	\$3,420	
Donor: Respondents	35	5	19	38	26	27	32	28	26	27	
Donor: Spring Newsletter: Dollar Amt	\$2,200	\$940	\$940	\$460	\$450	\$825	\$765	\$165	\$1,380	\$100	
Donor: Spring Newsletter: Respondents	16	16	19	10	4	11	5	4	9	1	
<b>Summer Newsletter</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Dollar Amount	\$2,370	\$2,370	\$2,020	\$1,330	\$1,883	\$2,735	\$1,580	\$5,040	\$3,215	\$1,927	
Respondents	20	20	27	22	33	26	21	22	27	22	
<b>Fall Newsletter</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Donor: Dollar Amount	\$2,210	\$2,210	\$765	\$260	\$7,300	\$2,946	\$4,630	\$2,660	\$2,325	\$1,250	
Donor: Respondents	12	12	5	7	25	26	30	27	14	3	
Donor: Taxpayer Fall Newsletter: Dollar Amt	\$1,430	\$1,430	\$90	\$1,405	\$65	\$605	\$715	\$240	\$760		
Donor: Taxpayer Fall Newsletter: Respondents	25	25	4	8	2	8	9	5	5		
<b>Over the Transom</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Dollar Amount	\$3,380	\$3,380	\$3,380	\$4,175	\$1,900	\$868	\$1,457	10,500	\$1,550	\$257	\$112
Donor Respondents	17	17	17	11	5	6	2	2	2	3	3
<b>Donor Thank-You Party</b>	<b>2006</b>										
Dollar Amount	\$1,105										
Donor Respondents	6										
<b>Photo Revenue</b>				\$747		\$57	\$67				
<b>Gift-in-Kind</b> (admin work donated by Kate Petranec)				\$346		\$473		\$469			



MEMORANDUM

TO: Easement Authority  
FROM: Alison Teetor  
DATE: December 10, 2015  
SUBJECT: Proposed change to Property Resource Score

At a recent site visit, several members suggested that additional points should be given for parcels that have frontage on railroads. Of particular interest is the Norfolk Southern Railroad which roughly parallels Route 340. Members were concerned that the track could be widened to two tracks which could increase train traffic. Attached is the current score sheet with the proposed amendment. Also attached are guidelines used by the Virginia Outdoors Foundation regarding infrastructure projects.

Staff recommendation is to add railroads to the Item 8 which gives 1 point per each 1/10<sup>th</sup> of frontage on Primary Highways and Scenic Byways.

**Recommendation**

Approve the proposed amendment to add Railroads to the Property Resource Score.

**CLARKE COUNTY**  
**CONSERVATION EASEMENT AUTHORITY**  
**Property Resource Score**  
 June 2002, amended May 2007

The Authority evaluates parcel(s) proposed for conservation easement based on criteria that scores the property for its agricultural, natural, scenic, and historic resource value. Scoring is based on a scale of 0-100. 45% of score is derived from the Clarke County Land Evaluation & Site Assessment (LESA), which determines the agricultural (or forestry) potential of a property. 55% is based on natural, scenic, and historic resources.

**LESA Score**

*Maximum points: 45*

The Land Evaluation and Site Assessment (LESA) Score rates the agricultural value of a property based on:

1. Soils,
2. Property Size,
3. Consistency with County Land Use Plan,
4. Adjacent Land Uses,
5. Adjacency to water and sewer lines, roads, and utility easements and Zoning/Subdivision status,
6. Adjacency to areas protected for agriculture,
7. Distances to towns or villages, and
8. Availability of water.

The conventional maximum LESA score is 100. For the purposes of rating property for conservation easement, the score is divided by one half and comprises half the total score. For open land, the soils are rated based on their potential for grazing. For forested properties, the soils are rated based their potential for growing specific varieties of trees.

**Natural, Scenic, and Historic Resources Score**

*Maximum points: 55*

1. Number of Dwelling Unit Rights	5 points for each extinguished DUR
2. Within Prospect Hill Spring drainage basin or a wetland identified by the National Wetlands Inventory	1 point per each 2 acres in area
3. Adjacent to the Shenandoah River, Opequon Creek or to parcels containing the Appalachian Trail, the State Arboretum of Virginia, or under permanent open space easement	2 points per 1/10 mile of frontage
4. Adjacent to a perennial stream (other than the Shenandoah or Opequon)	1 point per 1/10 mile of frontage
5. Contains a perennial spring or sinkhole	10 points
6. Located within designated groundwater recharge area	5 points
7. Contains habitats of threatened or endangered species as identified by the Virginia Department of Conservation and Recreation or the U.S. Fish and Wildlife Service	15 points
8. Frontage on Primary Highways, Railroads, or Virginia Designated Scenic Byways	1 point per 1/10 mile of frontage
9. Ashby Gap and Snickers Gap Gateway Area or area of slopes greater than 25%	1 point per each 2 acres in area (or portion)
10. Historic Resources	(property can score in only one category)
a. National Historic Landmark	20 points
b. A structure (or site) listed on the National Register of Historic Places	15 points
c. Contributing structure in a district listed on the National Register	12 points
d. A structure determined eligible for listing on the National Register by the Virginia Department of Historic Resources	9 points
e. A structure determined eligible for listing on the National Register by the Clarke County Historic Preservation Commission either individually or as a contributing structure in a possible district	6 points
11. Preservation of Family Farm	
- Parcel has been owned by members of the same family,	
a. for over 50 years	10 points
b. for 30 to 50 years	5 points
c. for 20 to 30 years	3 points

MEMORANDUM

TO: Conservation Easement Authority  
FROM: Alison Teetor  
SUBJECT: Transfer Fee  
DATE: February 11, 2016

The Clarke County Conservation Easement Authority has limited local government funding for easement purchases and other associated expenses. An approach used by many localities across the Country is use of transfer fees to supplement local funding of conservation easement programs.

The Clarke County Conservation Easement Authority adopted a voluntary Transfer Fee Program. Grantors of conservation easements to the Conservation Easement Authority are requested to agree to provide in the Deed of Easement transferring the easement to the Authority provisions to provide for the payment to the Authority of a Transfer Fee, of one percent (1%) of the purchase price, upon any **future sale** of the subject property, **payable by the purchaser** at the closing on any such future sale. It is strictly voluntary.

*10. SUBSEQUENT TRANSFER OF PROPERTY/TRANSFER FEE.*

*A. Grantor agrees to notify Grantee in writing prior to closing on any inter vivos transfer, other than a deed of trust or mortgage, of all or any part of the Property.*

*B. At the closing on the transfer for value of all or any part of the Property, the purchaser shall pay to the Clarke County Conservation Easement Authority a Transfer Fee equal to one percent (1%) of the full consideration paid for the Property, or portion thereof, including improvements thereon, and including any contiguous land that is part of the same transfer, including improvements thereon.*

Approximately 20 persons have included the language in their deeds. James Turner was one such landowner. He purchased 3 parcels on the mountain side above Shenandoah Farms placed them in easement and subsequently sold them providing for approximately \$4,000 in fees to the Authority. Though all deeds state that sellers must notify the Authority of pending sales, this rarely happens, and staff general learns of a transfer from the land transfer records provided by the Clerk's office. Recently one of Mr. Turner's original properties sold again but no transfer fee was paid. Staff contacted the seller and buyer requesting the fee but neither party responded. Subsequently, staff contacted Mr. Mitchell to determine whether the fee could be recovered.

Mr. Mitchell's response was that it is probably not within the authority of the County or the Authority to impose this fee. For that reason, this has not been imposed, but rather used when the owner agrees. Accordingly, he recommends not trying to enforce this where it is resisted.

MEMORANDUM

TO: Conservation Easement Authority  
FROM: Alison Teetor  
SUBJECT: Request to Fill Pond – Elsea/Mesilla TM# 28-A-44  
DATE: February 11, 2016

William Truban, attorney for Mr. Elsea contacted me and requested a letter stating that filling in a pond on the above referenced property is permitted. The property is held in Conservation Easement by the County and recorded in Deed Book 483 Page 75. He wanted written confirmation that filling the pond would not be in violation of the terms of the Conservation Easement.

I conducted a site visit of the property on February 10, 2016. On site I observed a large amount of fill material (dirt) which looked to be acceptable for fill. Upon inspection of the pond, I observed a large amount of trash and debris in the pond area, including mattresses and household trash (see attached photos).

In addition, I reviewed the recorded deed of easement, paragraph 8 of the easement states:

*TRASH: Accumulation or dumping of trash, refuse, or junk is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural products, or agricultural byproducts on the Property, as long as such practices are conducted in accordance with applicable governmental laws and regulations. The dumping into, or filling in of, any pond, wetland, or waterway is prohibited, except as may be permitted by applicable laws for the purpose of combating erosion. The dumping, storage, or placement on the Property of stumps, brush, grass, or other land-clearing debris from off-site is prohibited.*

Based on this paragraph it would appear as though Mr. Elsea is in violation of the terms of the easement as there has been dumping of trash in the pond, and that he would not be permitted to fill the pond.

He has asked to fill the pond as it does not hold water. I told him verbally that he will need to remove the trash, the question for the Authority is whether you would consider amending the Deed of Easement to allow for ponds to be filled at the discretion of the Authority. If he is permitted to fill the pond, he will need a land disturbance permit.





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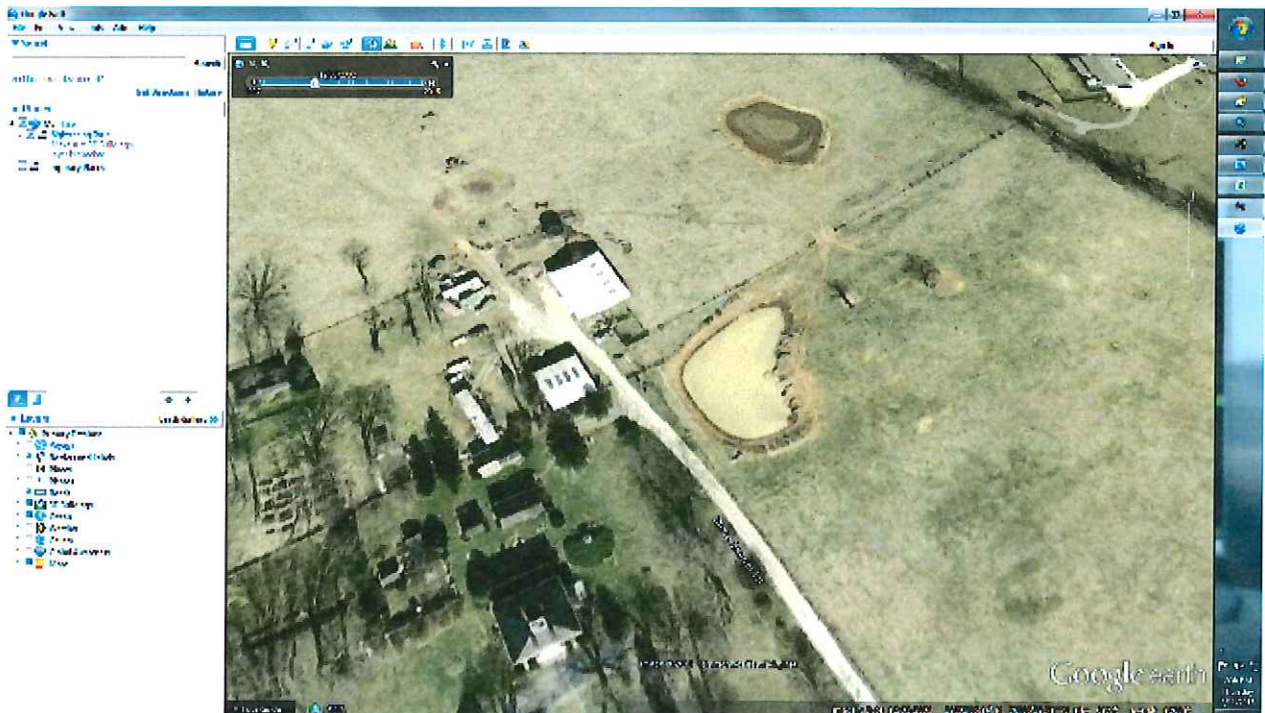


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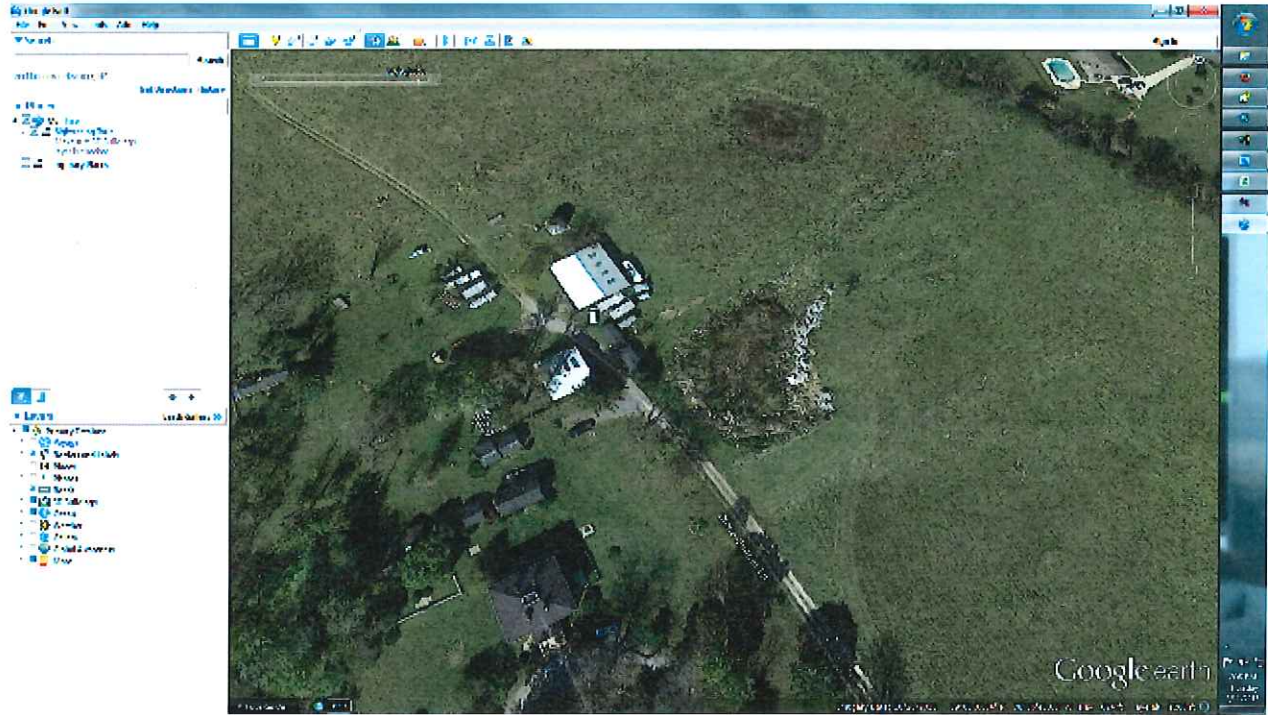


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