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## 2014 Easement Highlights



The Virginia Outdoors Foundation permanently protected 27,348 acres of farmland, forests, and other open space through 126 conservation easements in 2014. Virginia's Southside continued to be a hotspot with 26 easements on about 12,000 acres, led by a 3,400-acre easement on a tract of working forestland in Charlotte County. Other project highlights around the state included:

- A 1,220-acre easement in Amelia County that protects working timberland bordering Namozine Creek for approximately five miles and containing a majority of the historic eastern approach to the Namozine Church Civil War Battlefield.
- A 334-acre easement on an Augusta County farm that has nearly a mile of frontage on Mossy Creek in a section that is open to the public for trout fishing.
- Two designated Virginia Century farms in Campbell and Botetourt counties, the latter of which shares two miles of its boundary with the George Washington Jefferson National Forest and contains four archaeological sites dating as early as 6,000 BC.
- More than 1,100 newly protected acres in Caroline County that help to buffer Fort A.P. Hill from encroaching development.
- A 113-acre easement on a Carroll County farm that

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39 Garrett St., Suite 200  
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468 Main St., Suite 400-B  
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#### Central Region

1010 Harris St., Suite 4  
Charlottesville, VA 22903  
(434) 293-3423

#### Shenandoah Valley Region

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(540) 886-2460

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900 South Main St.  
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(540) 951-2822

#### Tidewater Region

P.O. Box 909  
Tappahannock, VA 22560  
(804) 443-3029

# Flexibility is the Key to Durability

## *Letter from the Executive Director*

In May 1967, George C. Freeman, Jr.—one of the architects of Virginia’s voluntary land conservation programs—spoke to the Loudoun County Rotary Club about the newly created Open Space Lands Act and Virginia Outdoors Foundation. Open-space easements were a relatively new concept, he said, adding, “Like any new, theoretical concept, it can best be understood in the long run by practical application.... Ultimately, the successful use of the open-space easement will depend upon its acceptability and appeal to landowners.” Part of that appeal, he explained, is “flexibility.”

Today, VOF has more experience with the practical application of open-space easements than most. We protect 750,000 acres with nearly 4,000 easements—more easements than any other land trust. Despite daily challenges, the conservation values protected by our easements endure. When people ask us about the key to our success, the word “flexibility” comes to mind.

Flexibility is essential to protecting the kinds of working, livable landscapes that are the heart of VOF’s portfolio. In a recent survey of landowners who donated easement to VOF since 2000, 90 percent said they manage the protected land for agricultural production and forestry—raising livestock, growing crops, planting orchards and vineyards, and otherwise contributing to Virginia’s \$70 billion a year agriculture industry. Agriculture is a dynamic business, and the fact that so many easement properties are used for farming is a testament to the dynamic nature of easements.

As a legal document, the strength of an easement depends upon two things: the words on the page, and the legal interpretation of those words. Legal interpretation is rarely black and white—that’s why we have courts. But courts can be costly and frustrating avenues to resolve disputes. Our preference is to have a clear sense of a landowner’s goals from the outset, and then provide a flexible framework that allows those goals to be reached without jeopardizing the conservation values we are charged with protecting.

Creating this framework is a bit like designing the framework of a building. If you make it too rigid, even mild winds can cause failure. But if you make it flexible, it can better withstand the storms, hurricanes, tornados, and earthquakes that nature throws at us.

Stewardship of easements is dependent upon close partnerships with landowners. By staying informed about landowners’ goals and plans for the land, we can identify and resolve issues before they become problems. When a conflict does arise, having a partnership based on transparency, accountability, and good faith allows us to work cooperatively toward resolutions. Flexibility on both sides reinforces trust, which results in a more durable relationship.

Thousands of people have placed a great deal of trust in VOF to protect open space for future generations of Virginians. We have encountered many storms over the years, and expect more to come. Thanks to the wisdom of Mr. Freeman and others, and the flexibility of open-space easements, we will endure.



Brett Glymph, Executive Director  
(540) 347-7727  
bglymph@vofonline.org

## Survey Says ...

To better understand how Virginia's Land Preservation Tax Credits are being used by easement donors, the Virginia Outdoors Foundation commissioned a survey by Harrisonburg-based Responsive Management in October. Thanks to participation by 631 landowners via telephone, we learned much and were able to present the findings to legislators as we strengthen long-term support for our programs.

The survey focused on landowners who granted conservation easements to VOF since 2000, when the tax credit program was established. The results revealed that 90% of easement donors are managing protected lands for agricultural production and/or forestry, and that they are reinvesting many of the tax credits they receive back into their operations.

Other key findings included:

- 73% said the protected land is important to their livelihood, with 31% saying it's "essential."
- 87% said the tax credits were important in their decision to donate an easement, with 34% saying the credits were "essential."
- 61% used the credits to sustain, expand, or start a new agricultural or forestry operation.
- 19% used the tax credits to sustain, expand, or start a new business unrelated to agriculture or forestry.
- 51% used the tax credits to implement land management practices that specifically improved farm or forest productivity.
- 36% used the tax credits to pay down or reduce business-related debt.

The tax credits also appear to be fueling additional conservation benefits beyond the easement. About 70% of landowners said they used the tax credits to implement land management practices that benefit water, soil, wildlife, or forest quality or that provide other conservation benefits.

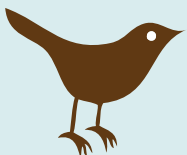
Furthermore, 96% of the respondents said they have recommended or would recommend to another landowner donating a conservation easement to VOF.

Says VOF Executive Director Brett Glymph, "VOF strives to protect land that is livable and workable for people, especially farmers and foresters who represent Virginia's leading industry. This survey shows that VOF easements are not just a tool for protecting the natural resources that make our Commonwealth a wonderful place to live, but also for protecting the resource base that fuels a significant portion of our economy."



## BY THE NUMBERS

**The Virginia Department of Forestry assigns Forest Conservation Values to all forestland in the state based on the level of benefits it provides in combination with the threat of development. The Virginia Outdoors Foundation protects approximately 300,000 acres of land ranked by VDOF as containing the highest Forest Conservation Value.**



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## STEWARDSHIP CORNER: Real Estate Transactions

*Answers to common questions from landowners about their easements.*

VOF staff regularly field questions from landowners about a range of topics related to their easements. Many of the questions share common threads and have common answers. To serve landowners better, we're going to cover some of the most frequent topics in this new section of the newsletter. In this edition, we answer common questions concerning easement owner/seller responsibilities and VOF policies relating to the transfer of easement properties.

### Should I notify VOF when selling the property?

Whether you are planning to sell all or a portion of the property, VOF does require prior written notice. Correspondence should be provided to your nearest regional office listed on page 2. You are also required to reference the deed book and page number, easement instrument number, or other appropriate information, such as dwelling rights or square footage allocations, in any deed of conveyance.

### What happens to the easement when I sell the property?

Open-space easements are held in perpetuity by VOF, meaning they last forever. In addition, the restrictions in your easement run with the land and are not tied to any specific easement donor or property owner.

### Can someone buy my property without agreeing to accept the deed of easement?

No, the covenants, terms, conditions, and restrictions contained in the deed of easement are binding upon the land and shall continue notwithstanding owner opinion or support.

### Is there any information I could or should provide to my listing agent or a potential buyer's agent about the easement?

VOF recommends that you make everyone aware in the transaction that the property is covered by an open-space easement. While the easement will be present in the chain of title, it is helpful for prospective buyers to understand the terms and conditions of the easement. VOF is happy to provide a courtesy copy of the deed of easement to anyone who asks.

### If a prospective buyer has questions about what they can and can't do on the property, should I answer those questions myself or should I direct the buyer to VOF?

VOF recommends questions from prospective buyers to be directed to regional stewardship staff. Informing buyers of what they can and can't do is a serious matter, one that generally requires a comprehensive understanding of the easement and the current conditions and/or improvements on the land. Only VOF stewardship staff can provide official determinations.

### If a prospective buyer contacts VOF about the terms of the easement, can VOF discuss the easement with them without my knowledge or permission?


No. If VOF receives a request for a determination or interpretation of the easement terms from a third party, such as a prospective buyer or their agent, VOF will always contact you first for permission to discuss it.

### What should I tell a prospective buyer who is concerned about the stewardship monitoring process of the easement?

Easement monitoring is a required and integral part of protecting the land. Once a year, VOF stewardship staff strives to make contact with the landowner and/or the property

through a variety of technological and in-person methods. VOF desires to build and maintain strong relationships with all of our landowners. We view this process as a partnership.

### What happens if I sell the easement and later hear or discover that the new owner is potentially violating the easement's terms? As the original donor, can I request a review and determination from VOF?

All citizens of the Commonwealth have the right to notify VOF of any activity that may appear inconsistent with the terms of the easement. VOF takes these notifications seriously and will investigate them as appropriate. If a problem is discovered, VOF will work with the current landowner to resolve it. We do not provide reviews or determinations to anyone other than the current landowner. Once a determination has been made and a report filed, that report becomes part of the public record. 



# EASEMENT ACREAGE BY LOCALITY

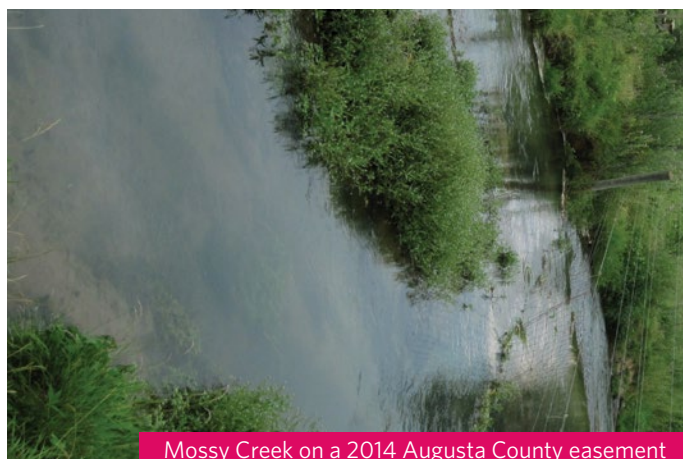
Locality	2014 Acreage	Total Acreage	Locality	2014 Acreage	Total Acreage
Accomack	433.50	1,655.50	King William	344.00	10,459.32
Albemarle	2,274.37	68,455.31	Lancaster	0.00	2,777.59
Alleghany	0.00	8,228.93	Lee	0.00	331.74
Amelia	1,996.50	18,481.51	Loudoun	187.90	24,767.30
Amherst	0.00	6,208.62	Louisa	0.00	6,797.95
Appomattox	191.82	3,432.39	Lunenburg	488.21	4,121.30
Arlington	0.00	0.64	Lynchburg (City)	33.00	122.37
Augusta	477.37	20,233.96	Madison	21.53	12,404.70
Bath	0.00	26,350.18	Mathews	0.00	731.72
Bedford	475.09	10,327.81	Mecklenburg	0.00	121.67
Bland	254.66	2,439.77	Middlesex	0.00	2,441.47
Botetourt	779.22	16,210.90	Montgomery	137.28	12,874.67
Brunswick	0.00	2,657.22	Nelson	634.74	11,174.56
Buckingham	1,768.12	6,240.85	New Kent	0.00	373.70
Campbell	1,142.59	9,738.19	Northampton	197.00	2,258.28
Caroline	1,474.63	7,537.75	Northumberland	6.07	2,334.08
Carroll	232.27	3,889.71	Nottoway	361.39	1,825.61
Charles City County	0.00	1,410.20	Orange	68.25	32,654.28
Charlotte	3,757.97	8,209.69	Page	50.87	2,432.03
Chesapeake (City)	0.00	542.71	Patrick	0.00	1,970.35
Chesterfield	0.00	559.03	Pittsylvania	465.00	6,774.35
Clarke	65.14	15,257.25	Powhatan	0.00	2,609.04
Covington (City)	0.00	424.00	Prince Edward	217.79	5,625.04
Craig	0.00	4,452.64	Prince George	0.00	1,965.45
Culpeper	266.14	10,698.45	Prince William	0.00	819.98
Cumberland	551.30	1,703.66	Pulaski	0.00	3,132.91
Danville (City)	0.00	73.15	Radford (City)	0.00	203.62
Dinwiddie	245.38	2,256.94	Rappahannock	0.00	29,831.27
Essex	286.75	19,722.37	Richmond	255.79	5,189.70
Fairfax	0.00	127.73	Roanoke	0.00	6,141.42
Fauquier	210.94	71,295.18	Roanoke (City)	0.00	653.32
Floyd	266.54	7,564.90	Rockbridge	644.98	37,956.10
Fluvanna	664.84	11,921.09	Rockingham	0.29	4,036.79
Franklin	466.94	7,916.11	Russell	0.00	2,968.48
Frederick	156.50	4,729.46	Scott	0.00	979.38
Fredericksburg (City)	0.00	128.96	Shenandoah	569.76	4,680.18
Galax (City)	0.00	50.00	Smyth	448.00	12,385.49
Giles	349.26	4,692.58	Southampton	0.00	1,364.36
Gloucester	0.00	1,228.86	Spotsylvania	0.00	3,962.72
Goochland	0.00	2,798.44	Stafford	0.00	2,565.14
Grayson	602.30	8,466.72	Staunton (City)	0.00	2.70
Greene	0.00	8,032.74	Suffolk (City)	0.00	902.24
Greensville	0.00	1,120.77	Surry	0.00	2,177.25
Halifax	1,118.78	14,686.95	Sussex	138.06	1,325.10
Hampton (City)	0.00	72.51	Tazewell	0.00	7,360.23
Hanover	-0.17	3,049.30	Virginia Beach (City)	0.00	341.51
Henrico	0.00	320.04	Warren	0.00	7,238.72
Henry	648.96	2,700.55	Washington	617.83	3,530.19
Highland	0.00	11,438.24	Westmoreland	73.00	7,088.49
Isle of Wight	0.00	38.73	Winchester (City)	0.00	115.27
James City	0.00	400.93	Wise	0.00	266.47
King and Queen	163.40	5,261.24	Wythe	41.00	10,754.54
King George	0.00	4,877.62	York	0.00	18.50
Figures are as of April 1, 2015.			<b>TOTALS</b>	27,348.26	758,259.62

2014 HIGHLIGHTS *continued from page 1*

helps to protect a rare bog willow and the federally threatened bog turtle.

- Easements protecting two properties listed on the National Register of Historic Places: Locust Grove in the City of Lynchburg, and Locust Hill Farm in Pittsylvania County.
- Two easements in Nelson County totaling 634 acres that protect more than three miles of frontage along Rockfish River, a state-designated scenic river.
- Multiple easements on more than 1,000 acres in Smyth and Washington counties that protect several miles of frontage along both the main stems and tributaries of the north and middle forks of the Holston River.
- A 732-acre easement in Halifax County that has more than 2.5 miles of frontage along the Dan River and contains the site of an Indian encampment documented by the University of North Carolina.

In all, VOF protects about 760,000 acres across 106 localities—an area nearly the size of Rhode Island. A breakdown



Mossy Creek on a 2014 Augusta County easement

of easement acreage by locality can be found on page 5. VOF easements help to protect, among other things, 350,000 acres of prime farm soils, 300,000 acres of the state's best forestland, 4,000 miles of stream and rivers, and 100,000 acres in state and federal rural historic districts.

## Legislators Scale Back Conservation Tax Incentives

Two powerful tax incentives for voluntary land conservation have been scaled back as a result of budget negotiations in Congress and the Virginia General Assembly.

At the federal level, an enhanced income tax deduction that allowed conservation easement donors to deduct up to 50 percent of their adjusted gross income (up to 100 percent for qualifying farmers) expired at the end of 2014. As of January 1, 2015, the deduction is limited to 30 percent of adjusted gross income.

At the state level, the cap for Virginia's popular Land Preservation Tax Credits was reduced from \$100 million per year to \$75 million. Legislators also reduced the amount of tax credits that can be utilized against state income from \$100,000 per individual per year to \$20,000 per individual for 2015 and 2016, with the amount increasing to \$50,000 per individual in 2017

and beyond. A few other technical changes to the program adjust the timeframe in which donors may apply for and use the credits.

The changes to the Land Preservation Tax Credits reflected a bipartisan effort to deal with budget shortfalls while maintaining a robust investment in what is widely regarded as one of the most efficient and effective land conservation programs in the nation.

"Although we hate to see cutbacks to such effective programs, we understand the need for legislators to balance competing public priorities," says VOF Executive Director Brett Glymph. "Because VOF derives a significant portion of our revenue from the transfer of state tax credits, these cutbacks will have negative impacts on our own budget, but we are looking for ways to offset these impacts without impairing our ability to serve our partner landowners."

## Dominion Begins Undergrounding Project

Dominion Virginia Power is in the early stages of a multi-year effort to relocate some of its local residential overhead power lines underground to reduce outages during storms. This activity may affect particular Virginia Outdoors Foundation easements, so we have been working with Dominion to establish a VOF approval process that will ensure the conservation values protected by the easement are maintained. If you have any questions or receive communications from Dominion about this program, please contact your local VOF stewardship staff. To learn more about the program itself, visit [dom.com/underground](http://dom.com/underground).

# EASEMENT SPOTLIGHT

## *Pleasantdale Farm, Shenandoah County*

In the middle of Shenandoah County, in the heart of the Shenandoah Valley, on the western banks of the Shenandoah River, is the town of Woodstock. With main thoroughfares like Water Street and Spring Street, an amateur baseball team called the River Bandits, and Seven Bends State Park on the outskirts, water is a defining characteristic of the community. And as the county seat for one of the top agricultural counties in Virginia, so is farming.

Both of these characteristics are on full display at Pleasantdale Farm, a couple of miles west of town, just beyond Interstate 81 and scattered subdivisions. Spring Hollow Run, a tributary to the Shenandoah River that passes through town, originates there. So did Wade Hawkins, whose grandfather bought the place in 1940, and who now runs the farm with his wife and three kids.

Growing up, Hawkins watched neighboring farms be developed throughout the 1990s. His father and grandfather tried to purchase and save some of them, but couldn't compete with developers.

When Wade took over the farming operations, he wanted to prevent a similar fate for Pleasantdale. "It has taken years for my grandfather to build these soils up," he says. "I just felt it was our obligation as farmers—as stewards of the land—to protect it."


He started by working with the local and state agencies to implement best management practices such as fencing off springs, rotating crops and grazing, planting cover crops, building manure containment facilities, and creating a nutrient

management plan. "The land is taking care of us, and we're going to take care of the land," he explains. "We'll be the first ones affected if we do something wrong with the land, so we're doing everything we can to protect our livelihood."

One year, Hawkins read a magazine article about conservation easements as tools for protecting farms. He liked the idea of permanent protection. Running a start-to-finish cattle operation is expensive, he says, and like most farmers his family had many financial obligations. "If the cattle market busted and we couldn't make payments, I didn't want to see the bank come in and sell it, and then all of our hard work would be divided up. We knew that if we put it into easement, at least what we've done is going to stay there and somebody else can continue to thrive on our land."

Working with the Virginia Outdoors Foundation, Natural Resources Conservation Service, and the Shenandoah County Easement Authority, Hawkins placed 308 acres under easement in 2014. The payments and tax benefits he received have helped the family improve their financial footing, and the community has gained the protection of a property that not only protects the farming landscape, but also the headwaters of a key water resource.

For Hawkins, the easement is also about allowing his family to continue what his grandfather started.

"When we feed the animals in the big barn, the kids have their tricycles and little dump trucks and bulldozers in there pushing the feed up to the cows with us," he says. "It's the life I grew up with, and I want them to have that, as well." 





**Executive Office**  
39 Garrett Street, Suite 200  
Warrenton, VA 20186  
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SPRING  2015

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- ▶ Easement Spotlight: Pleasantdale Farm, Shenandoah County



The Virginia Outdoors Foundations protects more than 750,000 acres of farmland, forestland, and other open space—an area the size of Rhode Island.

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