

Virginia Department of Historic Resources Battlefield Symposium

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Beechtree Group, LLC

- Presentation Objectives

- Who am I?
- How did I, as a landowner, come to learn about conservation transactions?
- Where have transactions closed?
- When and with Whom did they take place?
- Why did these owners enter into Battlefield Easements?
- Why have other owners avoided this opportunity?
- What have we learned that we can share to improve the process and attract other currently reluctant landowners?



- Who is Beechtree Group, LLC

- Jamie Craig – MIM, CCIM, CTA

- Native Virginian with a long family history in the state.

- Personal experience in Conservation Transactions

- Normans Ford Mitigation Project

- Beechtree Farm, Woodward Turf Farm, Quail Haven, and Harvester Farms at Remington

- Over a dozen projects for clients closed

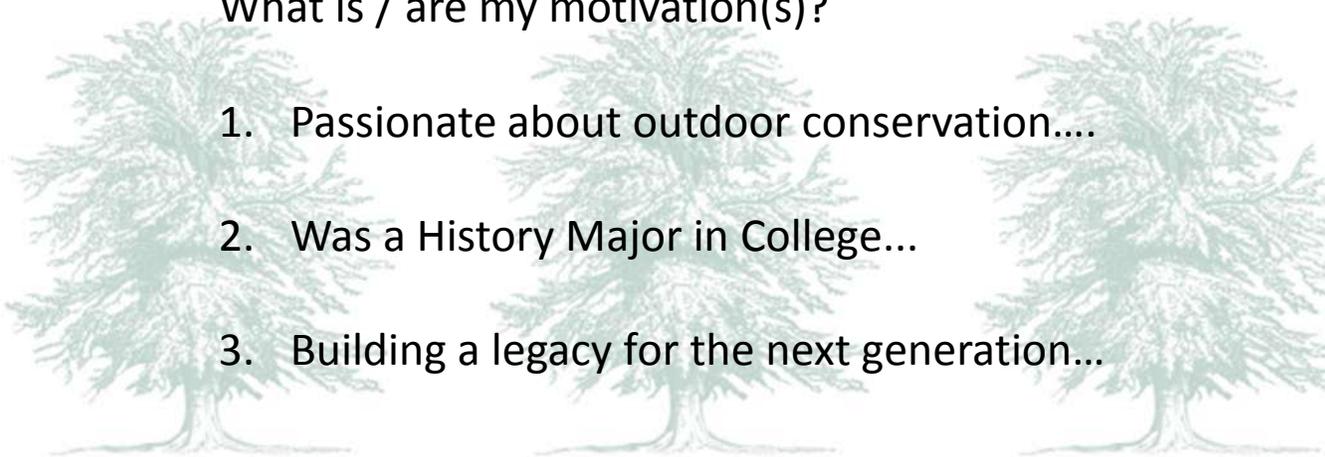
- Current projects and future expectations

- Past partnerships with Civil War Trust, VA Dept. Historic Resources, VA Dept. of Forestry, VA DGIF, VA DCR, TNC, etc.

- Over a dozen current projects across a wide swath of the state and in partnership with all of the above entities as well as a few others.



What is / are my motivation(s)?

1. Passionate about outdoor conservation....
 2. Was a History Major in College...
 3. Building a legacy for the next generation...
- 



- What is a Conservation Transaction?

- A transaction that enables a land owner to conserve their property in a manner that enhances the Historic, Cultural, Aquatic, Agricultural, Silvicultural or Environmental aspects of the property.

- In short, a complex multi-layer transaction requiring detailed knowledge of appraisal practices, IRS and VA Tax laws, legal knowledge of property rights, plus a dose of History, Biology, Forestry, and Horticulture for good measure, not to mention an understanding of grant processes at both the State and Federal levels.

- A source of funds for farmers to extract the equity from their land without having to sell or subdivide it.

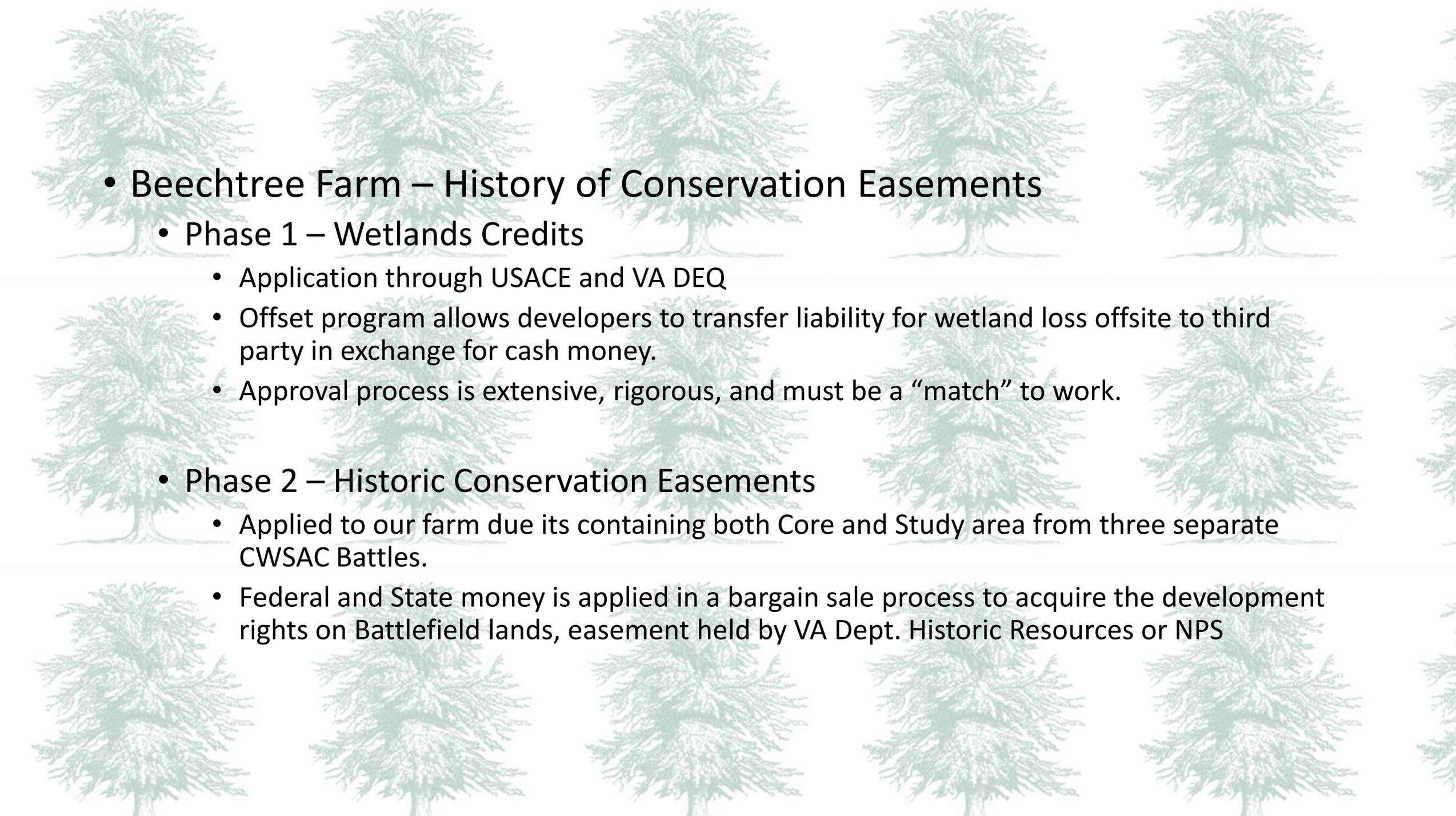
- Financial Enablers

- Fed IRS §170(h) governs charitable gifts of real and appreciated property

- VA State Code §58.1-513 – Land Preservation Tax Credit

- Grant Funds – Federal, State, Private sources

- Regulatory framework requiring mitigation for disturbance of certain ecological assets, i.e. wetlands, riverine, threatened and endangered, etc.



- Beechtree Farm – History of Conservation Easements

- Phase 1 – Wetlands Credits

- Application through USACE and VA DEQ
- Offset program allows developers to transfer liability for wetland loss offsite to third party in exchange for cash money.
- Approval process is extensive, rigorous, and must be a “match” to work.

- Phase 2 – Historic Conservation Easements

- Applied to our farm due its containing both Core and Study area from three separate CWSAC Battles.
- Federal and State money is applied in a bargain sale process to acquire the development rights on Battlefield lands, easement held by VA Dept. Historic Resources or NPS

Phase 2 – Historic Easement & Bargain Sale

- Bargain Sale

- Conservation Buyer wishes to “purchase” an easement.
- Contract to purchase at a fixed price.
- Easement valuation performed by qualified appraiser.
- Difference between appraised value and cash paid is the “Bargain or Gift”.

- IN VA:

- If the buyer is a Qualified buyer, then a “Gift” under §170(h) and §58.1-113 occurs.
- Gift triggers eligibility for VA Land Preservation Tax Credits.
- Process is rigidly defined and must be followed precisely or credits will be disallowed.

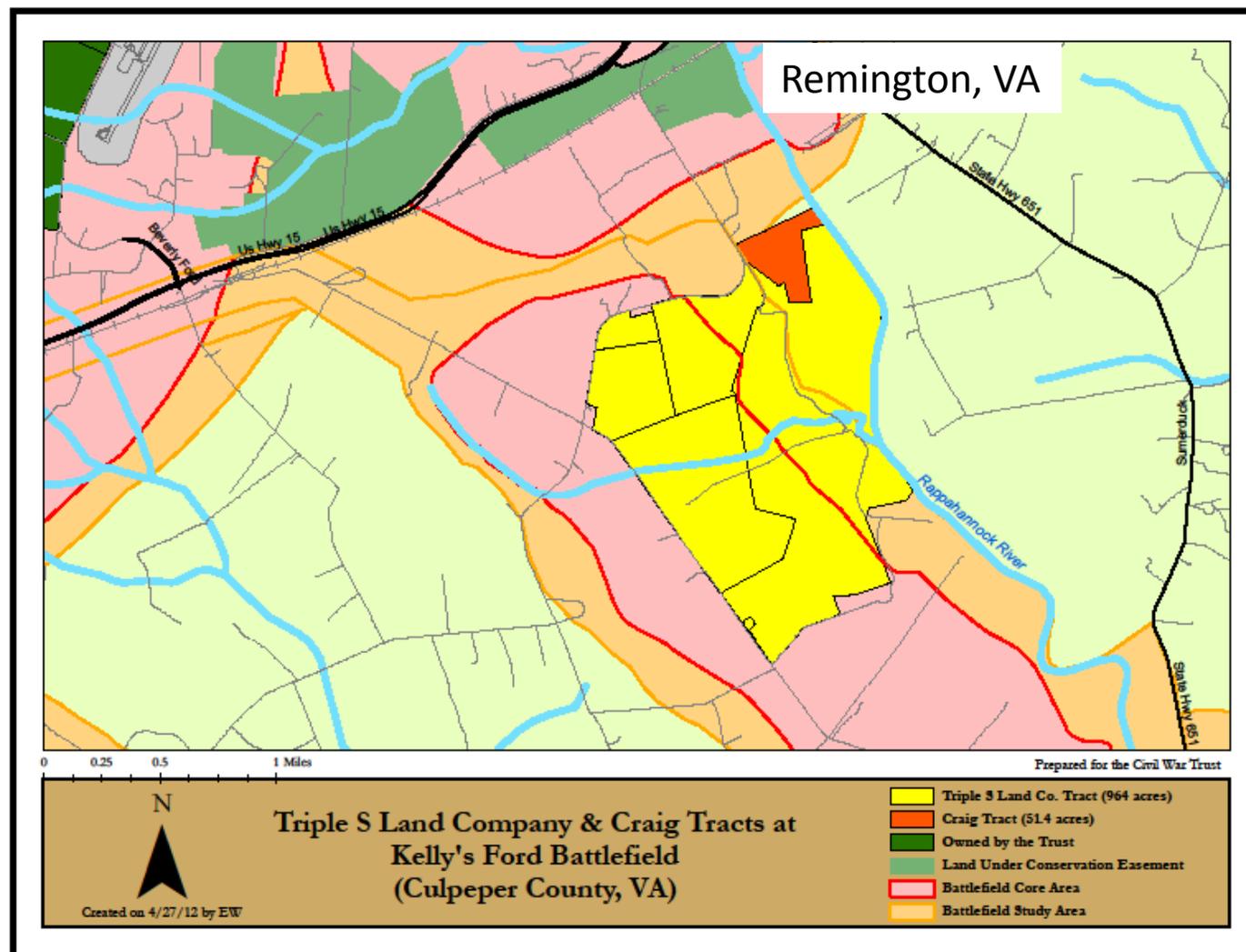
Kelly Ford Battlefield - 2011

State of the Battlefield - 2011

Disparate owners

No knowledge of the
significance or historic value
of the Battlefield

Random "metal detecting"



Triple S Land Management

Fall 2009:

- Initially approached by a local “expert” on historic conservation easements.
- Promised a value of in excess of \$6 Million – CASH - through tax credit program – NO GRANT \$\$\$.
- Hourly rates, expenses, and time paid bi-weekly, with first bill totaling in excess of \$5k.
- Owners asked for my opinion and the opinion of legal counsel.
- Meeting with CWT indicated the “promised” valuation was ridiculous and would be overturned.
- Transaction cancelled and consultant agreement terminated.

Winter 2011/12:

- Adjacent property owners consider an industrial Bio-solids storage facility.
- Historic community worked in force to oppose due to historic nature of the area.
- Education process occurs; owners of Triple S request investigation into reality of a transaction.
- One more thing happens that pushes the buttons on the owners to move forward.

What changes the Owners Minds?



Owners had allowed limited metal detecting.

One lucky digger found this CONFEDERATE VA sword plate...

It has a name etched on its back...

The officer is identified through Hx reports...

The place of death for this officer is located...

As are his tunic buttons...

And, the “grapeshot” all around him that took his life when it exploded mid cavalry charge...

But the plate now belongs to a collector who paid \$\$\$\$ for the plate to put it in his collection...

And the owners got nothing but this photo...

Kelly 's Ford Interpretation Site



Quail Haven, LLC

Residual Part of the farm – 218 acres,
originally over 1,750 acres

In the family since 1917, 3rd generation
owner, not an active farmer, with no obvious
successor or fourth generation to take over.

Balance of farm was sold to Triple S Land
Management (964 acres) and the Chris and
Kim Johnson (487 Acres), and to me (52
acres)

Primary Questions:

1. Limits on future development
2. Limits on future fee simple sale
3. Limits on agricultural operations



Johnson Tract:

Critical conservation tract.

Intersection of FOUR Battlefields.

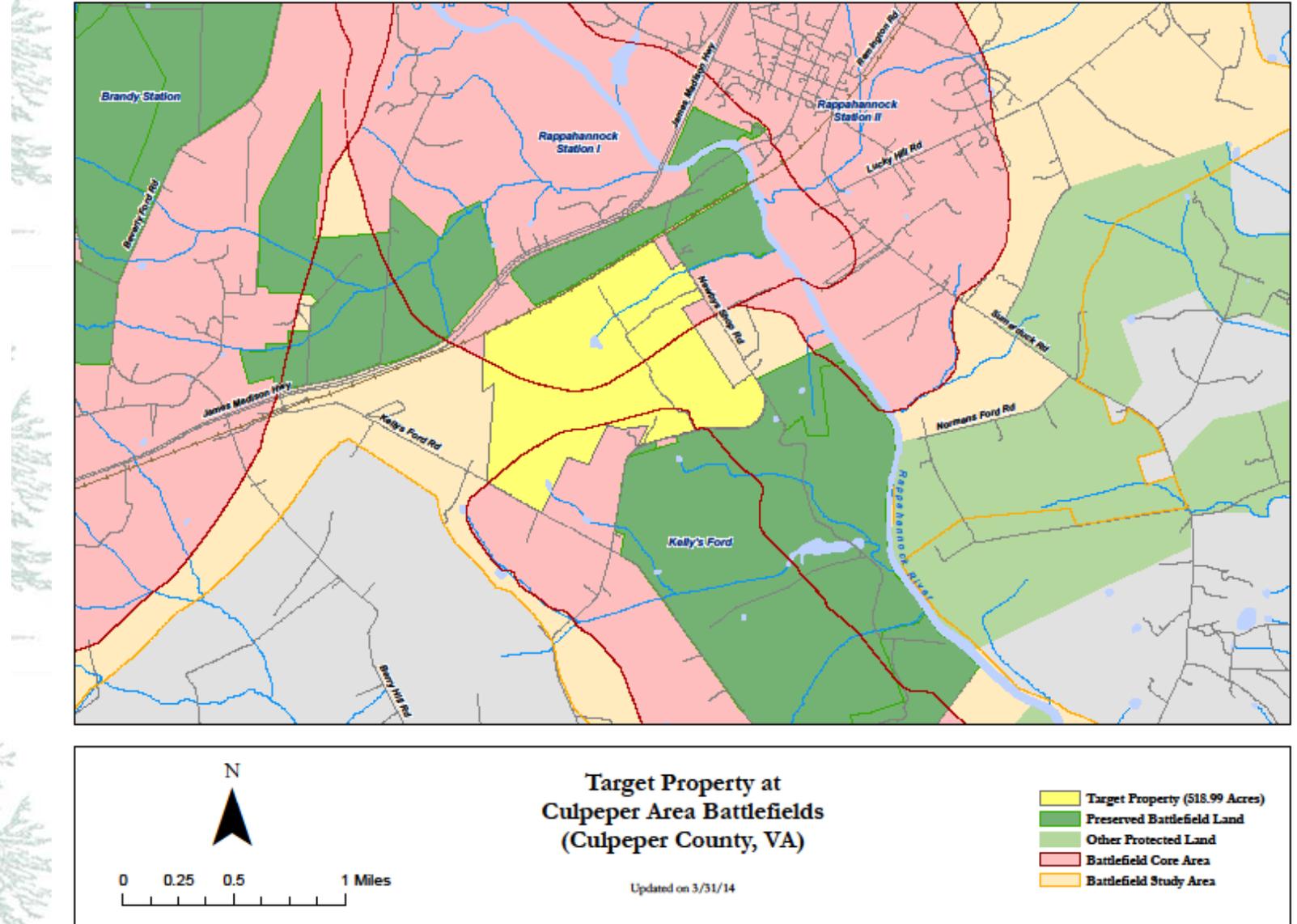
Willing owner who had been “Burned”

Actively seeking alternatives.

Keys to Protection:

Patience, Persistence, Protection

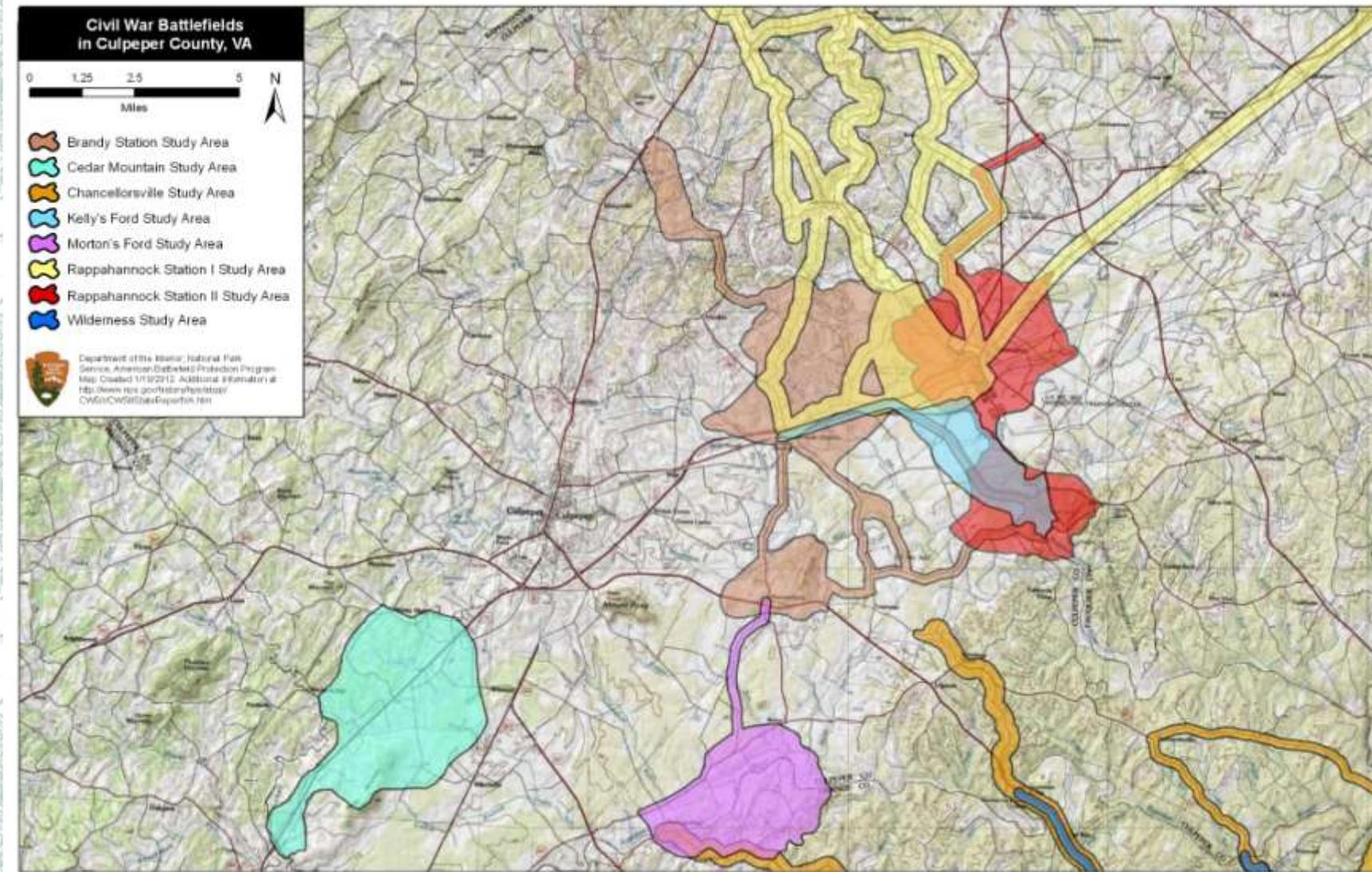
1. Three division rights
2. One house site per division
3. Ag and Timber Rights intact
4. Recovery of overgrown fields
5. Ongoing Ag and Timber activities

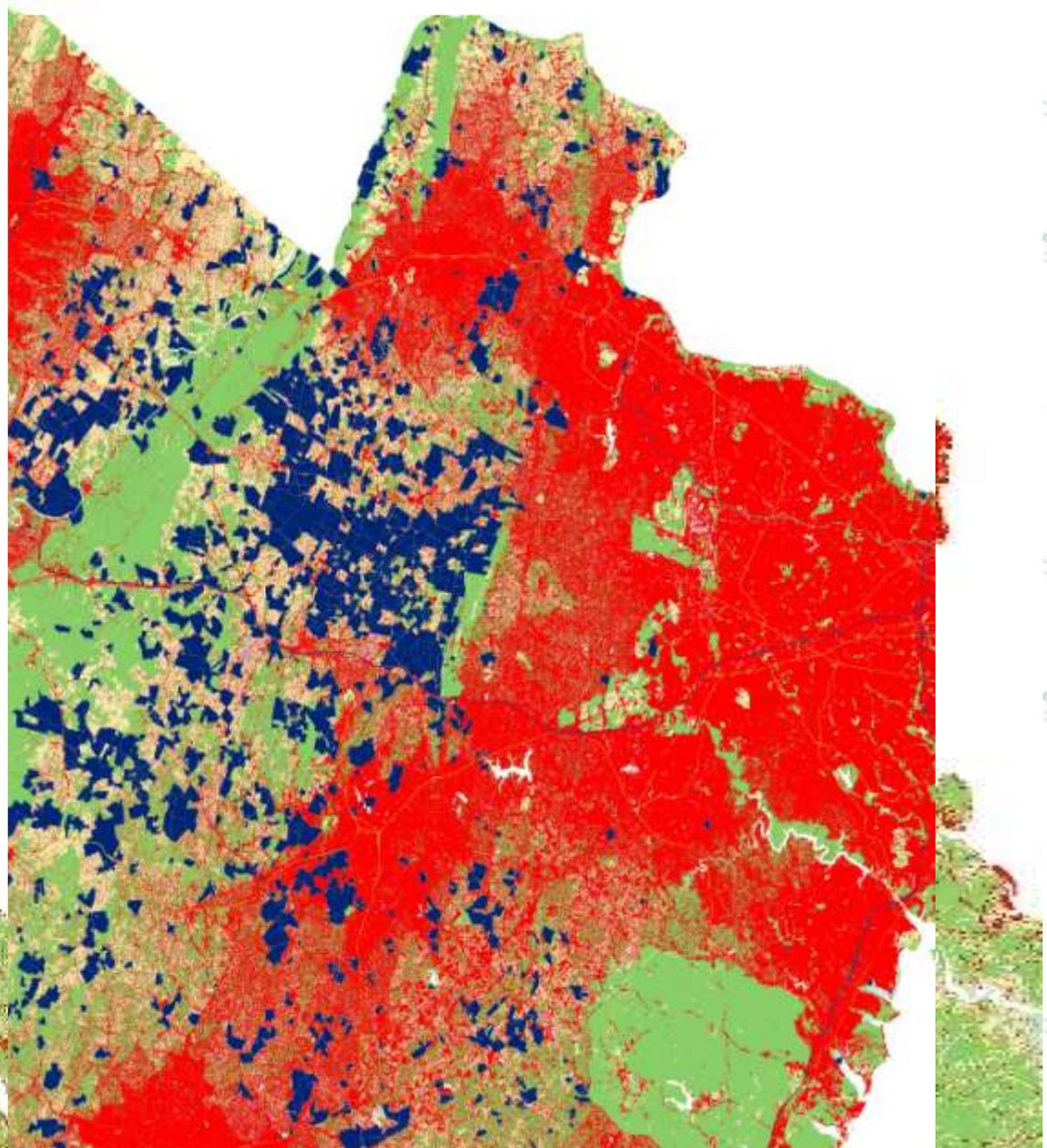
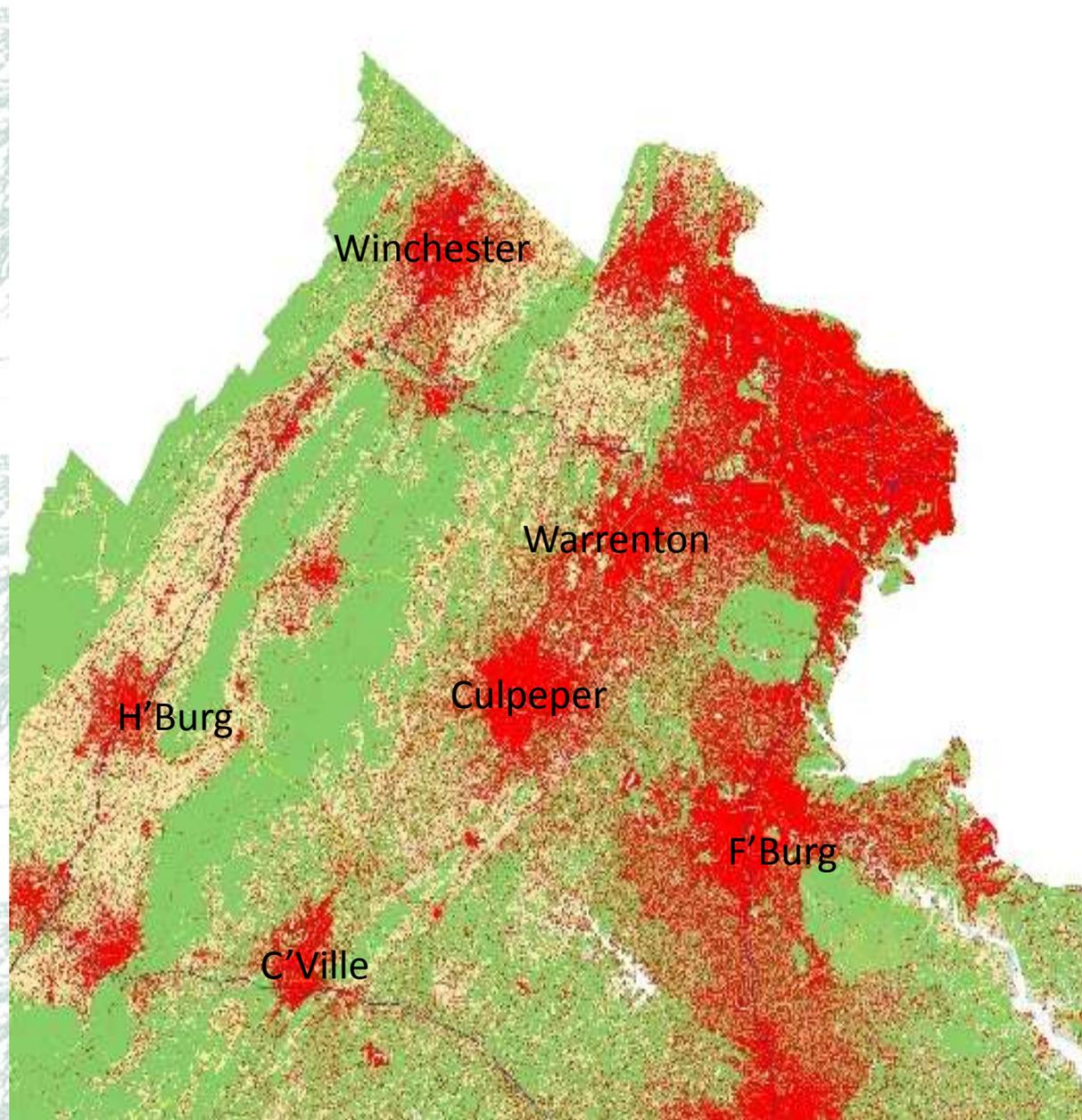


Chris Johnson
In his own words...



Culpeper County – 8 Distinct Battle areas.





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Strengths

- Strong support for most future Agricultural uses of the property.
- Financially rewarding to owners who retain knowledgeable representation.
- Clearly defined limits in the easement for owners and Grantee's.

Weaknesses

- “Legal creep”
- Increasing volume of recitals make document unwieldy & intimidating.
- All or nothing – very limited future flexibility for changes if needed.
- Number of entities that must approve project.
- Changes in posture mid transaction from funding sources.
- Limits on certain types of Agriculture

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Opportunities

- Owner education.
- Sponsor Education and certification.
- Increased funding at state levels.
- Focus, focus, focus by CWSAC level of importance & opportunity.
- Build large contiguous blocks of conserved properties-highest all around benefits.
- Battlefields are perfect for this.
- Hunting preserves?

Threats

- Loss of grant funding sources.
- Heightened IRS and VA Tax scrutiny scares wary owners away.
- Lack of trained professionals with real estate, finance, and tax knowledge –
 - Attorneys do not have all the information,
 - real estate agents have less,
 - And, accountants do not see the big picture.
- Grantee must take ownership of conservation values if they are signing the 8283 and agree to “defend or amend” if challenged by tax authorities.

Closing Remarks on improving the process:

- Education of property owners / promoters on the financial benefits and risks:
 - No definitive model exists, each transaction is a one off, adding risk to owners side.
 - Examples exist of owners who donated Core lands but failed to gain grant funds. Why?
 - Too many non-qualified “professionals” / entities promoting conservation without training or knowledge.
 - No Appraiser certification required by IRS or VA Tax – “caveat emptor”
- Two-tier approach to the easement construction:
 - Core lands will be protected as defined today.
 - Study area will be less restrictive:
 - Allow for higher impermeable coverage for Ag buildings,
 - Permit Green houses as exempt ag uses.
 - Allow nursery areas (earth disturbance) for stock growth.
 - Promote/orient future construction in the study area away from most critical areas
- Easement Grantee:
 - Must agree to defend/support valuations if they sign the 8283 form.
 - The onus should NOT be solely the owners since the Grantee sees far more of these than the Grantors.
 - Grantee’s have a moral obligation to speak if valuations are ridiculous and out of synch with past transactions
 - BAD PRESS for acceptance then reversal – adds to wariness of future participants and creates concerns about validity of the process.
 - Failure to own the transaction creates ill will, is harmful to future transactions, and creates ill will toward Grantee and the entire conservation community.



“If not us, then who...
And if not now, then when?”

Winston Churchill



Please feel free to follow up with me directly at:

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