

FISHIN' POLE, PACK & PADDLE

FLOAT FISHERMEN OF VIRGINIA

FALL 2012 ISSUE

PRESIDENT'S PADDLE

Hello Gang!

I'm thankful and honored for the chance to serve the Float Fishermen. When I volunteered for the position, I was offered support and guidance from a number of people. Thank you all! I especially want to thank Brian Vande Sande for setting such a great atmosphere for me to come into.

It's been a sad end of summer/beginning of fall with the loss of past Presidents Bill Britton and Don Sims. Bill was taken after such a long and gallant battle. I know it is fair to say that he must have certainly felt the love and support from all of us as he left. The next was a sudden blow. On the last day of September Don was violently and senselessly taken. His legacy as "River Daddy" will live on and his stories will be told for years. I'm hoping his canoe will float as the lead boat on the Kids Float to honor his commitment to that event. The FFV will donate \$50 to the Special Olympics and \$50 to Camp Hanover.

Looking ahead, I hope for a good turnout at the Slate River property for the winter meeting to discuss a few things which may create some chapter interaction. The Chair and Directors will also be hoping to hear any fresh ideas folks have to promote higher involvement and turnout at our scheduled events.

In the spirit of our motto "The Continued Dedication to the Preservation of the Wild and Scenic Rivers in Virginia" let's encourage the younger generations to share our enthusiasm and carry on with the causes we support. Personally, The Kids Float is my primary focus and I will promote and support it wholeheartedly, in the hopes that it grows and spreads. Go Erica, Ginny and all the volunteers involved! Last year's event was the best ever. Patrick O' showed how big a kid can be; and boy did the other kids get it!

Finally, I'd like to ask everyone to take another look at the things our Conservation Chairman, Bill Tanger, is facing for us. After all, these causes are basically why we exist. In the last newsletter, which is viewable at our website, you can see some great examples. My hat is off to you, sir.

Best wishes to all and see you on the river!

Tony Adams, "El Guapo"

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CONSERVATION REPORT: WHAT'S NEXT?

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JACKSON RIVER CASE ENDS, BUT QUESTIONS REMAIN

By: Andy Thompson | Richmond Times-Dispatch
Published: October 19, 2012

The Jackson River is as beautiful a piece of water as you'll find in Virginia. It's also home to one of the Commonwealth's premiere trout fisheries. The former is why John Feldenzer and his wife bought property at The River's Edge, a development on the Jackson in Alleghany County. The latter is why Dargan Coggeshall and his brother-in-law, Charlie Crawford, went fishing on the river on Aug. 13, 2010.

From that date over two years ago until Oct. 9, the Feldenzers and the developers of The River's Edge were locked in a court battle with Coggeshall and Crawford over what, at first glance, appears to be a trespassing dispute. In fact, the civil case could have far-reaching implications for hunters, anglers and any outdoors-loving Virginian who cherishes their time on our rivers and streams.

For over two years, the plaintiffs have argued the defendants trespassed because they got out of their boat to wade fish. The plaintiffs claimed they owned not only the land leading down to the river, but the stream bed, itself, and they claimed to have the 18th century grants from the English crown and the Commonwealth of Virginia to prove it. Those grants, if valid, would supersede subsequent Virginia statutes that say, unless otherwise conveyed, the river bottoms of our non-tidal, navigable rivers are held in the public trust.

The case came to a conclusion on Oct. 9 in a Covington courtroom without offering any resolution or clarity on the larger issues it raised. With legal bills mounting (\$130,000 at the time of trial), the defendants decided they couldn't go on with the case.

They admitted touching the river bottom to fish and consented to the injunction the plaintiffs sought.

But the injunction only applies to Coggeshall and his brother-in-law. They're forbidden from going to that part of the Jackson again. The judge, however, did not rule on the question of ownership. Who owns that river bottom, private citizens or the state? The Feldenzers sought just that — to be declared "fee simple" owners of the riverbed through those statute-trumping grants.

The judge went on record saying there is no way he would declare the plaintiffs to be the fee simple owner of the river bottom, Coggeshall said., "So, all he would give them is 'prima facie' ownership. The injunction only applies to me and Charlie because we couldn't place a counterclaim. We don't own that land."

In declaring that the plaintiffs had evidence of prima facie ownership, the judge essentially said, "We have not heard from anyone in this courtroom

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FFV TAX EXEMPT STATUS: UNDER THE RADAR VS. UNDER THE MICROSCOPE

Article Submitted by:

Katherine Waller; Treasurer, Float Fishermen of Virginia

Kathleen M. [Kitty] Kimmel, CPA CGFM; Treasurer, Randy Carter Chapter of the Float Fishermen of Virginia

The culture of being a non-profit / tax-exempt entity has changed over the years. The IRS Form 990 – Reporting for Non-Profit Entities has been in existence since WWII, as well as the requirement to file this return. Prior to September 11, 2011, oversight for smaller non-profits felt informal and casual. However, the atmosphere for oversight of all non-profits changed after the events of September 11, 2001. Much of the money that entered the United States to support those terrorists came into the U.S. through tax exempt, non-profit entities. As a result, the IRS is exercising more control over the non-profit world.

All businesses must apply to the State Corporation Commission and establish the intent to operate as a business entity, whether for-profit or non-profit. The non-profit entity must go a step further and request permission from U.S. taxpayers to operate as tax-exempt. The IRS works on behalf of U.S. taxpayers to review these applications; determine eligibility; and finally grant permission.

Many may be familiar with a “501c3” tax-exempt organization. In addition to being tax-exempt, these organizations can issue receipts to donors; and donor contributions are tax-deductible on their tax returns – the American Red Cross, Goodwill, the Salvation Army, and United Way for example.

The Float Fisherman of Virginia Foundation is a “501c3” tax-exempt organization. They were established in 1993 for charitable, scientific, and educational purposes, including, without limitation:

- the conservation, preservation, maintenance and restoration of the streams, rivers and other natural resources of the Commonwealth of Virginia;
- the development, implementation and evaluation of conservation and preservation policies, methods and techniques; and
- the promotion of public awareness of, and the education of the public as to, the advantages and benefits of conservation and preservation policies, methods and techniques.

The state organization – Float Fishermen of Virginia is a “501c7 Social Club” tax-exempt organization. The state FFV filed for “501c7” status in 1991 for the purpose of providing educational, recreational, environmental, and other services related to boating, fishing, and other uses of rivers and streams in the State of Virginia. As a “501c7 Social Club,” we can accept donations, and while we can issue a receipt to the donor, the donor cannot claim the contribution to the FFV as a tax deduction on the donor’s annual tax return.

Whether operating as a for-profit or non-profit entity, both are required to file a tax return. In the case of non-profit entities, the purpose to file is to report to U.S. taxpayers that the organization is functioning according to the established and approved mission of the organization; and that it is indeed not making a profit. FFV returns are due May 15th of each year.

These returns are meant for public inspection. Members of the public rely on the Form 990 as the primary source of information about a particular organization when planning to contribute. Therefore, the return must be complete, accurate, and fully describe the organization’s programs and accomplishments. Guidestar (www.guidestar.org) establishes a page for each non-profit and hosts links to all available IRS filings. Both the Foundation and the state organization have pages on this site, and all tax forms that have been filed on behalf of the Foundation and the state FFV can be viewed on this site.

Rather than sending out reminders to non-profit organizations when tax returns are due, the IRS began a program in 2007 to automatically revoke the non-profit status of entities that do not file their returns in a timely manner. The state FFV was due to file the 2010 return by May 15, 2011. As it was not filed, our tax-exempt status was revoked in February 2012.

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TAX STATUS, continued from page 3

Upon receiving this notice, we have been working diligently to reinstate our non-profit status. This required a new application to the IRS – IRS Form 1024. The re-application packet was completed and submitted February 22, 2012. After initial IRS review, we have received an additional request for information on September 20, 2012 and based on the requirements in IRS Notices 2011-43 and 2011-44. Among other things, these forms require that the state FFV complete and file the IRS Form 990EZ for the 2008, 2009, 2010 and 2011 tax years. Deadline is October 25, 2012 to submit these additional items.

Katherine and Kitty are assembling a packet of the required information items. Copies of all documents sent to the IRS will be available for inspection at the December 2012 business / planning meeting.

The Foundation's tax return for the Sept. 2011 through Aug. 2012 operating year was filed 15 October 2012. In January 2013, we will file a partial-year return to move the Foundation to operating on a calendar year basis. This will ensure that bank statement information agrees to tax return information and simplify the information and process going forward.

More important, though, is the huge debt of gratitude owed to the chapter secretaries and treasurers, and the state secretary and treasurer. They received frantic requests for information and provided as much as they had. The newsletter and financial report information has been incredibly helpful in completing the many sections of the IRS Form 990EZ. A huge debt of gratitude is also due to everyone working to keep the FFV web site filled with relevant information. All of this information provides evidence that the FFV is fulfilling its original mission to serve.

While we may not have been diligent in reporting to the IRS, we have made an incredible effort to keep the public informed of our activities through the web site. This observation is included in the packet and will hopefully have a positive impact on our re-application.

State vs. Chapter Organizations –

The FFV had and still has many opportunities to speak as one voice...all of the chapters together in support of a significant issue. Chapters are established to give each area of Virginia

the opportunity to address issues or perform tasks that do not have a statewide focus, but that are still part of the FFV mission. As such, if a Chapter collects chapter dues OR has a business checking account using the FFV Tax / EIN number, then that Chapter's financial and newsletter information must be included when filing the state's tax returns. Otherwise, each Chapter would need to apply to the SCC and the IRS as their own non-profit entity; and each Chapter would have to file their own tax returns.

WHAT'S NEXT –

In a word...prevention. When the FFV's tax-exempt status is restored, a plan will be in place to keep the status intact. Kitty Kimmel, the Randy Carter Chapter treasurer, is a CPA; has accepted the responsibility to file both the FFV and Foundation returns; and will file these returns on an annual basis, regardless of the required minimum filing requirements.

Another step will be to roll all chapter and the Foundation checking accounts over to BB&T and under the appropriate EIN / Federal ID number. This will reduce or eliminate the bank fees associated with chapter checking accounts. The bank statements will be more readily available for future tax preparation.

To view the variations of the IRS Form 990 and the associated schedules and instructions, go to <http://www.irs.gov/Charities-&-Non-Profits>.

The IRS makes it difficult to be a small non-profit today. But with the continued dedication and help of Float Fishermen volunteers, we can continue to fulfill our mission to provide educational, recreational, and environmental opportunities related to boating, fishing, and other uses of rivers and streams in the Commonwealth of Virginia.



LABOR DAY MEETING NOTES

After calling to order the Float Fishermen of Virginia's Labor Day Meeting on September 2, 2012 at Solitude on the James, President Brian Vande Sande asked for reports.

Minutes submitted by Linda VanLuik were approved as printed in the Fishin' Pole, Pack and Paddle and as posted on the organization's website.

Treasurer Katherine Waller stated that she has not heard a word for the IRS on our filing after four years of not filing as a tax-exempt organization. She will need to meet with all chapter treasurers since she needs accurate and complete information from them to complete the IRS filing.

In memory of long-time FFV member Bill Britton, a donation of \$65 dollars to Ducks Unlimited has been made in his name.

Currently, we have approximately \$19,000 total funds: \$8,500 in Certificates of Deposit; one CD is a short-term deposit; the other is a longer-term CD. Income includes River Tax from Memorial Day and sales from patches. There have been no unusual expenditures.

Membership Chair Tim Stuller reported that we have 225 family/individual memberships. He will work on updating the membership list so new members will receive their newsletters.

Conservation Chair Bill Tanger was not present, but he sent notes. The Jackson River King's Grant/Trespass lawsuit is going to court in September. A proposed 45 acre park along Stroubles Creek in Montgomery County will require a wetlands delineation map. Access steps on the Roanoke River at Explore Park will be completed by the end of September. A recent Albemarle/Pamlico Basin workshop emphasized the problems Albemarle Sound faces. Gaining an improved access on the James River at Locher Landing continues. Efforts to remove the dam on the Pigg River continue. Despite the Atlantic Coast Fisheries Commission's recommendation that the menhaden catch be reduced, the state of Virginia remains opposed to any

reduction. Copies of posters showing Virginia Invasive Species are available for the price of postage. Please contact Bill if you would like one.

New President Tony Adams reviewed the opposition against uranium mining in Virginia; it could pose a threat to Lake Gaston, a substantial water supply to the Virginia Beach area. FFV will join a coalition being organized by the Sierra Club to keep a ban in place against uranium mining until it can be proven that it is safe to mine uranium in Virginia. A site-specific study has not yet been undertaken. It was moved and approved that the FFV will provide a physical presence in related meetings and support the coalition as events unfold. Tony will prepare a synopsis of the issue for publication in the next newsletter.

Webmaster Bob Born was not present.

Newsletter Editor Allison Herbert didn't have extra copies with her at the Labor Day meeting, but reminded those present that the Pole, Pack and Paddle is available via the website.

New Business included a discussion on why a paper newsletter is still being produced versus going all electronic; the major problem is not having an Email address for every member. Allison will work on options to be discussed at the December meeting. The December meeting will also include a discussion on reviving the VIP Float.

Nominating Committee Chair John VanLuik stated that in addition to the slate of officers announced at the Memorial Day meeting, Ginnie Peck has volunteered to take on the secretary's duties.

After thanking the Dickels with a bit of help from the Roanokers for providing Saturday's dinner, Brian Vande Sande passed the paddle to new president Tony Adams who recognized Rock Willoughby for getting him involved with the Float Fishermen. The meeting was adjourned so those who wanted to float could get on the river.

RIVER ACCESS UPDATES

...QUESTIONS REMAIN, continued from page 2

who has more (claim to the land than the plaintiffs). So, I'm going to let the case proceed."

Who has a greater claim to ownership, according to Coggeshall? You and I, citizens of Virginia, do. But the state attorney general refused to intervene to protect our right to access and enjoy ostensibly public waters, waters advertised as such by the Department of Game and Inland Fisheries, a state agency.

When I first wrote about this last year, Caroline Gibson, then deputy director of communications for Attorney General Ken Cuccinelli, told me in an email, "This is a civil trespassing case between private parties, and the Commonwealth generally does not intervene in disputes between private parties. The legal presumption is that unless proved otherwise, waterways and bottomlands are public lands."

But the plaintiffs never had to prove otherwise. Absent the state claiming superior title in court to that stretch of non-tidal, navigable river, all the plaintiffs (who paid hundreds of thousands of dollars for the property on the Jackson) had to do was draw the case out and let the legal bills pile up for the defendants. Without ever showing crown or Commonwealth grants that mentioned ownership of the river bottom, they effectively privatized their piece of the Jackson.

"It's a shame the landowners had to spend money to protect their property rights," the plaintiffs' attorney, James W. Jennings Jr., told the Associated Press. "These are not evil, nasty people. Property rights are honored in this country."

According to Coggeshall, the first time the river bottom was mentioned in the chain of title was in a deed from 1940. That's what gave the plaintiffs "color of title" and thus a "prima facie" claim to ownership.

The upshot of all this legalese isn't just bad news for a couple of trespassing anglers. It's bad news for us all. The template is out there now for landowners and developers.

And who knows how many more of these possible grant claims are out there on the Jackson, or the Shenandoah, or the James?

EXPLORER PARK OPENS: RIVER, LAKE & TRAIL ACCESS SITE

On October 10, Explore Park officially opened a new and improved river, lake and trail access at Rutrough Point, located at the end of Rutrough Road in Roanoke County. The site is at the confluence of the Roanoke River, Back Creek and Smith Mountain Lake.

Rutrough Point is well-known for boating, fishing, hiking, bird-watching and mountain biking.

The newly developed access includes a new parking lot for twenty-five vehicles, new steps down to the water, an informational kiosk with a trail map and a new driveway to off-load small john-boats. In addition, volunteers have completed work on erosion control waterbars to address sediment runoff.

Board member and project manager Bill Tanger directed the undertaking, which began in 2005 when issues arose over public access restrictions to the Point. After a long battle, including threatened lawsuits, the Explore Park board agreed to not restrict public access and to allow improvements.

The Rutrough Point area has often been the scene of numerous parking overloads as boaters, fishermen, mountain bikers and hikers jammed the small cul-de-sac at the end of Rutrough Road. The new parking lot should allow much greater use of the area's attractions.

The improvements were made possible by donations of time and materials from businesses and non-profits, including Float Fishermen of Virginia, Friends of the Rivers of Virginia, Creek Freaks, Coastal Canoeists and Boy Scout Troop 540 in Chamblissburg.

Day use will be at \$2 per person or \$20 per year, with fees going to pay for current and future improvements at the site.

WINTER MEETING DETAILS

Our winter business meeting is **DECEMBER 1, 2012 AT 11:00 AM** at the Slate River campground.

Winter Favorites Potluck lunch - choose a snack or a meal to share with your paddling friends...BYOB!

Join us for a corn hole tournament following the meeting.

For details, please contact Tony Adams at antonadams@comcast.net or (804) 248-1186

WE LOOK FORWARD TO SEEING YOU THERE!

DIRECTIONS TO THE WINTER MEETING

Please visit

<http://www.floatfishermen.org/slateriver.html>
for detailed directions

From points NORTH / WEST:

EAST on I-64 E toward RICHMOND to US-15 exit- EXIT 136- toward GORDONSVILLE / PALMYRA. RIGHT onto US-15 S / JAMES MADISON HWY. RIGHT at the fork to go on JAMES MADISON HWY / US-15. RIGHT onto VA-652 to Bridgeport, VA

From points EAST:

WEST on I-64 W toward CHARLOTTESVILLE.
VA-617 exit- EXIT 167- toward OILVILLE / GOOCHLAND. LEFT onto OILVILLE RD. RIGHT onto US-250 / BROAD STREET RD. LEFT onto FAIRGROUND RD. LEFT onto SANDY HOOK RD / US-522. RIGHT onto VA-6. STRAIGHT to go onto US-15 / JAMES MADISON HWY. RIGHT onto VA-652 to Bridgeport, VA

From points SOUTH:

US-460 E toward APPOMATTOX. VA-24 E / VA-131 S ramp toward ROUTE 60 / APPOMATTOX. LEFT onto VA-131 / VA-24 / UNION BLVD. Continue on VA-24. SLIGHT RIGHT onto US-60 E / JAMES A ANDERSON HWY. LEFT onto US-15 N / JAMES MADISON HWY. LEFT onto VA-652 to Bridgeport, VA

Continue on VA Route 652 past Bridgeport to campground on left across railroad tracks and bridge over Slate River. Look for Float Fishermen Sign.

The following members

have joined our organization in the last year:

JOHN ADAMS

DENNIS BUHMAN

HERB COLEMAN

MIKE CROWLEY & ANN MEYERS

GREG & ALAN DENARDO

TOM HIGGINS

TOMMY NELSON

LOUIS WALKER



The Float Fishermen of Virginia welcome you!

Editor's Note

The opinions expressed in FPP&P are those of the author and not necessarily those of FFV or its members. Articles and material for publication may be submitted to the FPP&P editor. Preferred format: E-mail with attachments in Word, RTF, and/or JPEG. Dates for submitting material for publication: 1st of February, April, August and November. The Editor reserves the right to edit as needed. Comments, criticism and compliments are always welcome.



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WINTER ISSUE



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