



MIDDLE PENINSULA CHESAPEAKE BAY PUBLIC ACCESS AUTHORITY

MEMORANDUM

TO: MPCPPAA
FROM: Lewie Lawrence, Dir of Regional Planning
DATE: December 6, 2005
RE: December PAA Meeting

MEMBERS

Essex County
Mr. R. Gary Allen
Treasurer

Town of Tappahannock
Mr. Gayle Belfield

Gloucester County
Hon. Louise D. Theberge

King and Queen County
Mr. Ronald A. Hachey

King William County
Mr. Frank Pleva
Vice Chairman

Town of West Point
Mr. Trenton Funkhouser

Mathews County
Mr. Steve Whiteway
Chairman

This announcement serves as notice to call a meeting of the Public Access Authority on Friday, December 9th, 2005 at **11:00 a.m.** At the April 2005 meeting it was decided future meetings would commence at **11:00 a.m.** The meeting will be held in the MPPDC Board Room. Lunch will be provided.

The agenda and related material follow. I call your attention to the report from Yellow Wood related to Public Access. If you have any questions, please do not hesitate to call or e-mail. I can be reached at 804-758-2311.

AGENDA

1. Welcome and Introductions
2. Approval of October 2005 minutes
3. Financial Report
4. Public Comment
5. Old Business- Coastal Experience Web Site – Contract signed with DEQ
6. Road Ending Protocol - Contract signed with DEQ
7. CELCP Update
 - a. CELCP Phase 1-
 - b. CELCP Phase 2
8. Browne Tract
 - a. Hunting Registration Packets
 - b. MPDSB Grant Proposal
9. Dragon Run Steering Committee – Public Access Report
10. Wetlands Banking- Future Role for the PAA
11. Other Business-
12. Chairman observations
13. Next Meeting
10. Adjourn

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**MIDDLE PENINSULA CHESAPEAKE BAY PUBLIC ACCESS AUTHORITY
MINUTES**

**October 14, 2005
Middle Peninsula Planning District Commission
Saluda, Virginia**

1. Welcome and Introductions

The Middle Peninsula Chesapeake Bay Public Access Authority held its meeting in the Middle Peninsula Planning District Commission Board Room in Saluda, Virginia, at 11:00 on October 14, 2005.

Chairman Whiteway called the meeting to order. Members and Alternates present were Chairman, Stephen Whiteway, Mathews County Administrator; Vice Chairman, Frank Pleva, King William County Administrator; Louise Theberge, Gloucester County Board of Supervisors; Ron Hachey, King and Queen County Administrator; and Trent Funkhouser, West Point Town Manager. Also present were Lewis Lawrence, Director of Regional Planning MPPDC; Tom Brockenbrough, Regional Planner MPPDC; and Sara Stamp, Regional Planner MPPDC.

Chairman Whiteway welcomed everyone in attendance.

2. Approval of August Minutes

Chairman Whiteway requested a motion to approve the August Minutes. Mr. Pleva moved that the Minutes be approved; Ms. Theberge seconded the motion; motion carried by unanimous vote.

3. Treasurer's Report

The Treasurer's Report was reviewed by Mr. Lawrence. There were no expenditures during the reporting period. The funds on deposit are grouped with MPPDC funds and do not earn interest for the Authority. Mr. Lawrence will set up an LGIP account to earn interest with the funds received for CELCP acquisitions. Mr. Hachey moved to accept the Treasurer's Report subject to audit; Ms. Theberge seconded; motion carried by unanimous vote.

4. Public Comment

There were no public comments.

5. Old Business

Mr. Lawrence reported Vanguard Web Studios had been hired to assist the River Country Tourism Council in developing the Coastal Experience Web Site. The funding source is a \$35,000 grant the MPPDC has received from the Virginia Coastal Zone Management Program to develop a web site including a searchable web database to be used as a tourism tool to learn what opportunities a visitor can explore in the Middle Peninsula. Mr. Lawrence indicated the MPPDC would not have received the grant from VCZMP if it did not already have the Public Access Authority in place developing opportunities for those who visit the area and have access to the water.

The Authority has received 500 aluminum PAA placards to be placed at each Authority site to denote the boundaries for access. The placards have reflective tape for increased visibility. The Virginia Department of Forestry has recorded the deed for their portion of the Browne Tract.

6. Road Ending Protocol

Mr. Lawrence provided a matrix of five sites under consideration under the grant to research and transfer road ending sites to public access. He is preparing to issue a Request for Qualifications for the project. The intent of the project is to complete a white paper on how to handle various scenarios and then determine if the site should be transferred to the Authority or to the locality. The number of actual sites to be completed will depend on issues such as fee simple or prescriptive easements, and if the easement has been discontinued or abandoned. The consensus was to proceed with the existing sites with the option of including additional sites if resources allow. With only five sites there is no need to prioritize them at this time. Mr. Funkhouser indicated there may be some sites for the Town of West Point such as right of ways owned by either the Town or VDOT. Mr. Pleva mentioned the possibility of evaluating Sandy Point where people have used the beach.

7. CELCP Update

NOAA has agreed to the proposals for purchasing sites using CELCP funding. A portion of the funds have been taken from the original amount available for administration. Currently there is a site available in Middlesex County which may be used for match in the amount of \$300,000. Discussion focused on whether or not sites in Middlesex should be used by the Authority as the County is not a member. There appears to be no legal problem as the match simply has to be located within the Dragon Run Watershed and the Authority is not taking title to the property in Middlesex. As a minimum, the Authority will notify Charles Culley and Marcia Jones of Middlesex County about the match as a courtesy. Mr. Lawrence will investigate whether sites in Middlesex are able to be matched directly to VCZMP and not be processed through the Authority.

No new sites have been identified. Pete Shepard is still working on the Spencer Tract in Gloucester. It is possible the Middle Peninsula Land Trust will fund a second federal appraisal on the site. CELCP funds can be used to reimburse for the expense for the appraisal if the appraisal comes back high enough to purchase at the asking price and the Authority closes on the deal. The consensus was to wait and see if the price on the land comes down while the Authority explores other properties. The Authority is waiting on the contract before proceeding with the transfer on the Haworth property as well as the property at the Rt. 603 bridge.

8. NOAA Fellowship Application

Mr. Lawrence has resubmitted the NOAA Fellowship application. As the MPPDC has already been approved for a Fellow and did not receive one during the most recent matching workshop, the PDC does not have to compete with other applications seeking Fellows. The scope has been modified to remove the coastal experience component as the PDC has already received a separate grant for that purpose. The development of management plans for CELCP sites has been added to the scope.

9. Dragon Run Steering Committee Public Access Policy Paper

The Dragon Run Steering Committee is currently evaluating sustainable economic development of the natural resource base in the Dragon Run Watershed. The Committee wishes to develop a policy paper for access to the Dragon Run. Mr. Lawrence reminded the Authority they had previously reviewed the public right for ingress and egress on the Dragon. The public right is not the same as stewardship of the watershed. Mr. Lawrence presented graphics highlighting the right of the public to have ingress and egress to Dragon Run similar to the right of the public to have access to the road network. This example will be conveyed to the Steering Committee.

10. Other Business

The Authority has received a request for multiple copies of one of its brochures. Discussion focused on funding the printing expense. Mr. Lawrence sought clarification from the Authority on how to handle future requests. The consensus of the Authority was that disclaimers needed to be placed on the brochures about changing information as well as adding information on the facilities and the limitations of each site. Also, no mass distribution of brochures should be made to nonmember entities without Authority approval.

11. Chairman's Observations

Chairman Whiteway offered congratulations to Gloucester County on the recent announcement that land had been acquired for a new state park and reminded the Authority of its role in facilitating dialogue between the State and localities as well as helping to

convince the Department of Conservation and Recreation to consider a reduction in the minimum land area for state parks in areas with water based activities.

12. Next Meeting

The next meeting of the Middle Peninsula Chesapeake Bay Public Access Authority will be December 9, 2005 at 11:00 a.m. It was noted the meeting may be a good opportunity to invite new members of the local Boards of Supervisors to attend and to invite representatives of Middlesex County to attend as well.

13. Adjourn

Ms. Theberge motioned to adjourn, Mr. Funkhouser seconded; meeting adjourned.

Frank Pleva, Vice Chairman

Revenue and Expenditure Report by Project

Middle Peninsula Planning District Commission
Fiscal Year: 2006
Period 07/01/05 to 11/30/05

Run Date: 12/06/2005
 Run Time: 3:24:10 pm
 Page -1 of 1

Project Code & Description	Budget	Prior Year	Current	YTD	Proj Tot	Un/Ovr	% Bud
32001 PAA Brown /BFI Revenues					Project Period 07/31/2004 to 06/30/2010		
44010 MPLT/BFI Award	37,500.00	2,528.65	0.00	34,971.35	37,500.00	0.00	100.00%
44900 Miscellaneous Income	0.00	1,661.00	0.00	0.00	1,661.00	-1,661.00	0.00%
Revenues	37,500.00	4,189.65	0.00	34,971.35	39,161.00	-1,661.00	104.43%
Expenses							
54500 Lodging/ Staff Expens	0.00	686.65	0.00	0.00	686.65	-686.65	0.00%
56400 Consulting/Contractura	35,575.00	0.00	0.00	0.00	0.00	35,575.00	0.00%
57400 Public Officials Insura	1,925.00	3,503.00	0.00	0.00	3,503.00	-1,578.00	181.97%
Expenses	37,500.00	4,189.65	0.00	0.00	4,189.65	33,310.35	11.17%
Project Revenues:	37,500.00	4,189.65	0.00	34,971.35	39,161.00	-1,661.00	104.43%
Project Expenses:	37,500.00	4,189.65	0.00	0.00	4,189.65	33,310.35	11.17%
Project Balance:	0.00	0.00	0.00	34,971.35	34,971.35		

Opportunities for Sustainable Natural Resource-Based Development in the Dragon Run Watershed

Presented By:



**Yellow Wood
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October 21, 2005

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About Yellow Wood Associates, Inc.

Yellow Wood Associates, Inc. (Yellow Wood) of St. Albans, Vermont has 20 years of experience working with rural communities on issues related to community and economic development and natural resource use. Yellow Wood has gained a strong national reputation for creative problem-solving based on thorough research. The firm's research capability is enhanced by the way we work with our clients to clarify their goals and develop research questions which will yield information for more effective decision-making and productive action.

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Public Access Considerations for the Dragon Run

Introduction

The Dragon Run Steering Committee seeks to explore ways to sustainably use the natural resources of the watershed in order to strengthen the local economy. Ultimately, the Committee aims to help landowners find ways to earn enough off the land to pay their property taxes and resist pressure to suburbanize the landscape. To this end, the Committee has asked Yellow Wood to explore issues of public access on both private and public lands as they relate to the Dragon Run River.

The Law of Rivers establishes all rivers, including the Dragon Run River, as owned by the state and held in trust for the people by the state for their use. Access to the river may be over public land or private land. When public access is provided over public land, the public owner has a responsibility to provide information to users regarding how they are to enter and leave the property and how they are expected to behave while on site. Rivers are similar in this regard to highways or other transportation arteries. Signage, driver training, and rules of the road are required to keep users safe. It is the responsibility of the public sector to develop and enforce these rules, to establish, in effect, a code of conduct.

Private landowners with land adjacent to the river have an ever-present right to access the river. Whether, when, and how they choose to share this right with others is up to each owner. Owners who choose to provide access to and through their property will want to establish their own codes of conduct for users and inform users of public codes of conduct pertaining to public resources.

Public access is not an “all or nothing” proposition in which owners must choose between unlimited public access or no public access at all. A variety of techniques for *managing or controlling* public access are discussed in this report. With intention, access can be managed in such a way as to work for all parties. Controlled access can also provide new opportunities for natural resource-based economic development in the Dragon Run Watershed.

This guide is written for landowners and public sector representatives looking for answers to questions relating to public and private access. This is not a complete handbook, but merely a starting point. Those wishing to take the next steps in terms of developing a public access plan, or code of conduct, or assembling a committee, staff or volunteers to manage public access should expect to undertake additional research.

Current Conditions

The Dragon Run Watershed possesses both public and private access to the Dragon Run River; however, there is typically a great deal more private than public access. One of the top issues of public access in the Dragon Run Watershed is the lack of land-based public access to the Dragon Run River, including only a handful of documented access sites. While the Dragon Run River is pristine, the issue of access as related to economic

development concerns not only the river, but also the greater watershed. Existing limitations to public access include: limited public parking opportunities, limited access points (entry and exit) to the river (long distances between), lack of signage, maps, codes of conduct, etc.

Public Access

The main public access point for the Dragon Run River is from 602 to 603. The public access at 602 is in poor condition, lacking parking or space. The Friends of the Dragon have a nicer access with larger parking areas at 603. However, the biggest limitation on the Dragon Run River, in terms of public recreational access, is water – there is not enough water for paddling most of the time. Canoeing and kayaking are appropriate uses for the area, with relatively low impacts on the resource and people. Many people appreciate the run between Route 602 and Route 603 because it has an easy put-in and take-out, it is convenient, public lands provide access on both ends, and the shuttle distance is short. This represents an example of a public/private partnership in which a non profit organization, Friends of the Dragon, purchased property to improve what would otherwise be limited public access across public property.

Another piece of property recently acquired and open to the public is the 274-acre Browne Tract¹. The Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA) purchased the Browne Tract with grants from the Virginia Coastal Program at the Department of Environmental Quality, in order to protect coastal resources and provide public access within the Dragon Run watershed, a tributary of the Chesapeake Bay. Of the 274 acres, 137 acres straddling the boundaries of Essex and King and Queen Counties in eastern Virginia will be managed for public access, while the remaining 137 acres in Essex County will be managed by the Department of Forestry. In developing the management plan for the Browne Tract, MPCBPAA staff attempted to group suggested uses into three alternatives: ranging from a focus on recreational usage and infrastructure development to a greater emphasis on natural resource preservation. In the end, they blended the alternatives in such a way to offer balanced recreational use with conserving the area's unique natural and ecological characteristics. Some characteristics of the plan include:

- Recreational use zones to geographically separate activities that have a high potential for conflict.
- Expand existing trail networks and create a limited number of new trails to establish linkages and accommodate compatible uses.
- Install interpretive and directional signs and kiosks to enhance the recreational and educational experience of visitors and control visitation in high-use areas
- Regulate maintenance of trails and facilities.
- Construct a footbridge across the Dragon Run to replace an existing structure and manage access to a particular parcel.
- Establish one or more multi-purpose, water access sites.

¹ *Browne Tract Management Plan*. Middle Peninsula Chesapeake Bay Public Access Authority.

- Establish larger “resource protection zones” and “special management areas” to demonstrate best management practices for managing timber and other natural resources in the area.
- Create corridors and open areas for wildlife movement.
- Maintain forested buffers along streams.
- Identify areas that contain important natural resources and limit recreation in these areas.

The College of William and Mary owns 121 acres, and Virginia Department of Transportation owns some property in fee simple and prescriptive easements for road and rights of way.

Private Access

In addition to its historic patterns of limited public access, the Dragon Run Watershed is owned mostly by private concerns (3,073 parcels in 2001). The largest parcel sizes are in King and Queen County with 52% of the land area. The watershed encompasses a total of 90,000 acres. Land cover is approximately 80-90% forested and wetlands, 17% agricultural, and 1% commercial/residential (about 1.3% impervious cover).

Certain forms of private access are well-established in the area of the river, specifically related to hunting. Seventeen hunting clubs lease 42,000 acres or 46% of the land in the watershed to hunt deer, turkey, and waterfowl. John Hancock Life Insurance Company is the largest single owner in the watershed with 26,000 acres; this is timber land mostly leased to hunting clubs. With regard to hunting², approximately \$300,000 was generated by hunting in 2002.

Nonprofit organizations and private businesses help to provide public access to the Dragon Run River as well. The Friends of the Dragon and Mattaponi Canoe and Kayak lead paddling trips along the river and, in the case of Mattaponi, rent canoes and kayaks and provide shuttles for those who would like to paddle it on their own. Meanwhile, the Friends of Dragon Run is an organization whose mission is to preserve and protect the river and the watershed, which is done by buying land, acquiring easements, and educating landowners and the public about why it is worth saving. The Friends of Dragon Run now owns 5 properties of about 300 acres, and hold conservation easements on another 50-60 acres. The group is currently in the process of acquiring 165 acres, in two parcels, from The Nature Conservancy. As an example of their public education efforts, they take about 200 people down the river each year to show them why it is important to protect the river.

The trend of increased public and non-profit ownership is opening up new opportunities for public access; demand for public access typically increases as population grows. While individual groups such as Friends of the Dragon Run and the Middle Peninsula Chesapeake Bay Public Access Authority have adopted codes of conduct pertaining to

² *Dragon Run Watershed Management Plan*. November 2003. Dragon Run Steering Committee, Middle Peninsula Planning District Commission.

their individual parcels and/or activities, so far there is no well-established, publicly supported code of conduct for the Dragon Run River as a whole. Once such a code of conduct is established for public access in the area of the river, private landowners may want to adopt some aspects of this code of conduct to pertain to access on their own lands.

Techniques and Structures for Controlling Public Access

Techniques and structures for controlling public access to public lands can be grouped into barrier approaches, permit/reservation approaches, and information and education approaches. Some of these techniques can be useful in controlling and managing access to private lands as well.

Barrier Approaches

Gates, Fencing and/or Other Barriers or Designated Entry Points

Gates, fencing or other barrier methods can be used to permit closure of public access points. Reasons for closure could include: trail construction, major repair, seasonal maintenance; seasonal periods of usage; critical habitat for species of wildlife; fire threat; periods of flooding or wet weather which could render access dangerous or damaging; where overuse would severely impact resource conditions; special events. Such closures could be for all uses of the area or based on specific circumstances.

Designated entry points can limit access to fewer entrances, so potential entry impacts (parking, etc.) can be minimized.

Parking is another way of managing and/or controlling access to public and private access sites. Parking, access points, restrooms, trails and rest stops provide infrastructure where you want to promote access. These types of infrastructure can be used to encourage, discourage, or limit use of a particular public access site, directing people and impacts to particular areas that can withstand the traffic, and not to areas that are particularly sensitive. Access can be managed through the sizing of facilities. For example, Kahn Ranch, in the Monterey Peninsula Regional Park District, has an access management plan that calls for a parking area to have a particular number of parking spots (10) and to be established with a pervious surface material to both control access and address environmental concerns.

Permit/Reservation Approaches

Use Permits

The Monterey Peninsula Regional Park District's Kahn Ranch Public Access Management Plan restricts access to the ranch using a permit system. These permits restrict access for a particular entrance to 10 vehicles only per day (no walk-ins, equestrians, or bicyclists), as well as days of the week (Saturday, Sunday, and

Wednesday). On non-use days, the gate is locked and posted. The number of permits would be determined by the carrying capacity of the area. Currently, no one knows the exact carrying capacity of the Dragon Run River, so it would be useful to start out with conservative allowances and increase them gradually as long as monitoring results are acceptable. This will allow public access managers in the Dragon Run Watershed to keep usage adaptive to conditions on the ground.

Reservations

A reservation system is another form of restricting use. Users would have to make reservations to use specific public access areas. A seasonal reservation system can also be effective, with proper enforcement.

Rules and Regulations

Rules and regulations can be used to control public access, as well as etiquette of different types of users. However, they must be posted or easily accessible if they are to be followed. In addition, rules and regulations must be enforced. Enforcement necessitates staff or volunteers to patrol the area. Fines at Kahn Ranch vary from \$50-200. Within the Dragon Run watershed, there seems to be concern about motor boats coming up the river from the Piankatank. Rules could be developed and tested to limit the type of boating activity, speed of vessels, etc. to accommodate these concerns. To prevent introduction of invasive species, rules and facilities for washing of horses hooves may be considered as part of any equestrian trail development that might emerge as part of a watershed plan.

Uses

A public access code of conduct should deal with appropriate uses of public access lands. Activities such as equestrian, hiking, bicycling, off-road vehicles, motorized boating, non-motorized boating, fishing, hunting, etc. should be determined to be appropriate or not, based on environmental conditions. In addition, usage by commercial groups (such as hotel/resort sponsored recreation, outfitters, etc.) should be discussed. A plan should identify differing degrees of public access for different parcels and types of uses of the land.

Public Information/Education Approaches

Those in the Dragon Run Watershed see their region as unique in many ways, not least its natural resources, scenic beauty and recreational opportunities. As a result, one important goal for the Dragon Run Watershed is to educate the public about this uniqueness, in an effort to protect and keep those elements that contribute to its uniqueness intact. Increased public access is one way of allowing those within and outside of the watershed to acquire knowledge about the region and its importance. Interpretive trails, guided experiences, and tape recorded messages at special locations are among the many tools available to raise public awareness of the uniqueness of the river and its watershed and the steps being taken to protect it.

Signs and Maps

The usage of public access and private property signs is a mechanism for keeping access limited to appropriate areas. A trail map is another way of accomplishing this goal. Such signs and maps could be sited at appropriate locations to remind people of local laws and ordinances relating to public access, as well as any special circumstances associated with the particular site, including proper use and use restrictions, “share the trail” messages, notice of local leash laws, restrictions to public access, identification of unlawful or hazardous uses, respect for natural areas and hazards, precautions and sensitivity of particular wildlife habitat areas and other natural areas, visibility and vegetation management, etc.

Seasonal Controls

One way of controlling access and/or minimizing impacts of access on natural resources is through seasonal controls, or creating designated time and areas available for public access. For example, in the Citizens Forest Management Plan for the Three Southern Utah National Forests,³ the Forest Service “seasonally closes areas to boating and other activities during the occupancy season of bald eagle, or other listed species, where these activities have the potential to conflict with nesting or reproductive behaviors.”

Seasonal controls do not have to be connected to endangered or listed species, however. In some cases, seasonal controls may be concerned with the most appropriate times of year to participate in particular recreational activities, such as boating, horseback riding, bicycling, or hiking, so that natural areas are minimally impacted. For example, hiking at high altitude alpine locations is typically discouraged in early spring as it can impact the sensitive flora found there. Also, horseback riding or mountain bicycling may be discouraged after heavy rains (or in early spring after snowmelt) so as not to unduly impact the trails.

Some seasonal controls may be developed in an effort to curb soil erosion. In Victoria, Australia,⁴ for example, many four wheel drive tracks in Bunyip State Park are currently seasonally closed between mid June and the end of October each year, in order to protect track surfaces, water quality and the environment, and public safety. Tracks subject to seasonal closure are determined on the basis of gradient, aspect and soil capability. Tracks with a sustained gradient of more than 15% or 8.5 degrees are seasonally closed, for example. This seasonal control reduces the impact on the environment, in terms of less soil erosion, sediment runoff and turbidity.

Event Planning

Event planning can be another way of controlling and directing public access. Whether it's horse trails or a regional craft show, an access plan can help ensure that all the region's businesses and landowners are properly notified and have an opportunity to

³ www.redrockforests.org/Recreation_Desired_Conditions.html

⁴ Department of Sustainability & Environment and Parks Victoria. Draft Recreation Framework for Bunyip Public Land – Public Discussion Document.
http://www.parkweb.vic.gov.au/resources/mresources/bunyip_rec/bunyip_draft_fmwork.pdf

participate (or not) and benefit as appropriate. (For example, landowners interested in opening up their properties for overnight guests or for parking during an event could be given that opportunity.) The Dragon Run Festival may be a way of not only controlling and directing public access, but also educating and promoting public access that is not disadvantageous to the river or the watershed. Northhampton, Virginia has a bird festival which promotes the excellent birding that can be done there. Giles County, Virginia has instituted a bird and butterfly festival.

Safety

Codes of conduct should speak to issues of public safety, including conflicts between different forms of recreation (motorized vs. non-motorized, hunting vs. hiking, etc.). Where motorized vehicles are permitted, operators should be asked to proceed with caution of others. Speed limits could be posted and/or enforced. Glass containers could be prohibited from access areas.

First aid and emergency procedures should also be spelled out in a public access code of conduct. Depending on the access site, call boxes and mileposts may be necessary or useful to facilitate such procedures, making it easier for emergency and rescue personnel to respond to emergencies.

Maintenance

The better maintained an area is, the better it is likely to be maintained by the public. The public will treat an area more respectfully if it is well-maintained. Therefore, it is important for the staff (or volunteers) of any public access management initiative to have a plan for maintaining public access sites on a regular basis.

Monitoring

Monitoring of usage and condition of access sites will help to determine the value of such sites. Pre-public access data would be useful to know as a baseline; such data could include photographs and a comprehensive assessment of conditions, in order to determine impacts on such sites. Collection of public access and use data could be collected on a monthly basis. In addition, it would be useful to revisit the resource data with photographs and condition assessment.

Having a one year trial period is one plan for monitoring. The Kahn Ranch in the Monterey Peninsula Regional Park District is trying their public access management plan for one year. At the end of this year, the District will conduct a formal review and public hearing to consider continuation, revision or termination of future public access. Monthly written reports are submitted to the Board on public access and public resource issues.

Developing a Code of Conduct for Public and Private Access

Interests

Interest in public access along the Dragon Run River necessarily involves numerous parties, including non-profit owners, and the public sector and public sector owners.

Public sector owners and managers as well as non-profit owners are interested in promoting and managing public access, while preserving the resource and supporting the economy. Public access can have significant impacts on the economy, including attracting people (day visitors, residents or tourists) to the area to spend money in the local economy. The key to success in dealing with public access is managing the varying expectations and needs of all of these different interests, while protecting the environmental quality and integrity of the watershed.

Goals

The first step in coming up with a code of conduct pertaining to the Dragon Run River and adjacent lands is to clarify goals shared by all the players in the region. For example, an overriding goal for a public access code of conduct may be to manage lands for multiple objectives while preventing resource degradation, and as a tool for economic development, by using natural resources to generate income in order to allow people to hold onto their land. Another goal of such a plan may be to develop public education and information about the river in an effort to preserve its uniqueness, protect its health and allow for safe public access. Providing education and information about public access in the Dragon Run Watershed has important connections with craft development and the local economy and can be used to help promote sales of locally-produced goods and services.

Defining Constraints

The second step in coming up with a code of conduct is to consider the constraints within which the plan should operate, and how these will be defined. For example, are there some activities that should be barred from the watershed regardless of whether they occur on public or private land? Based on historic trends, how much growth in access should be targeted and over what period of time? How will the impacts of increased access be assessed? What baseline information is available in each of these areas? What are the areas that should be eliminated for public access due to environmental sensitivity, landowner preference, etc.?

Data

Some information about the Dragon Run Watershed, such as information about endangered species, existing access points, and natural resource inventory, is already known. It is important for those undertaking a public access management planning process to know what data they already have and what data would be helpful to acquire. For example, it would be useful to know what additional access points would be useful or necessary to increase public safety along the river. In addition, the Dragon Run Watershed needs to develop access points that are accessible by disabled people, whether they exist or need to be created.

Developing a Plan

Once the goals and constraints are identified, the code of conduct needs to be developed. A plan would address where access will be, what access means, what types of conduct are expected, what it would look like, what kinds of infrastructure (for example, parking) would be needed, and how access would be acquired, whether through easements or

outright purchase. One important feature of the plan should be the rate at which additional access will be opened up.

One model is from the Grand River Conservation Authority. Extensive biophysical studies were conducted on the natural characteristics (including species and habitat interactions), geological characteristics (such as river structure), and the human characteristics and activities along the river, including recreational activity. In addition, the public was consulted about their thoughts about public access on the Grand River. As a result of the studies and public consultation, an Access Management Plan was created, which deals with managing access to the river, while also protecting the natural environment along it.

Some components of the plan include:

- Fishing regulations, including a zone specifying the types of equipment and techniques that can be used, and a season for fishing.
- Access points for canoeists, anglers and hikers.
- Code of ethics for river users, encouraging best practices in and around the river, such as disposing of garbage, respecting private property, following fishing regulations and abiding by trail rules. This code will be posted on kiosks as well as in marketing materials.
- Guardian program, which is a team of trained volunteers who are ambassadors for the river, promoting proper public use of the reach; and, to encourage compliance with the regulations by patrolling the area and reporting violations to the Ontario Ministry of Natural Resources.
- Public awareness program, which is promoted through posters, pamphlets, information kiosks, media coverage and other means.
- Monitoring program for changes in use, water quality and other matters.

A code of conduct should create a clear understanding of the partners' roles in managing the resource. Memoranda of Understanding and Cooperative Agreements can be a part of such a plan.

Staffing

Another critical feature of a plan is staffing, whether professional or volunteer. At a minimum, there should be some point of contact for public access in the watershed available and known to landowners, guides, and users. The point of contact should be able to direct people to appropriate resources and service providers, answer questions with respect to rules, regulations and enforcement, and train volunteers. An access management plan without a point person or persons weakens the effort at managing public access and makes it highly unlikely that the access site will be managed effectively. Staff, whether a department, committee, or single person, are necessary to address landowner complaints, organize events, and be the point person for maintenance, enforcement and monitoring. This person or people can also serve as the gatekeeper to outside agencies that could potentially be involved in public access, such as ambulances, fish and wildlife departments, police and fire departments, etc.

Management and Monitoring of Access and Impacts on Resource Quality

A committee or person needs to be responsible for management and monitoring of access and impacts on resource quality. This would be spelled out in the code of conduct.

Depending on the amount of public access to manage, more than one person may be necessary. Providing a personal point of contact with landowners, conservation and access interests and the local community is the key to making people feel involved in the process. This contact would be responsible for troubleshooting and resolving disputes.

Degradation of natural resources can be addressed by instituting a monitoring process. By creating a baseline condition, and monitoring that condition regularly, the body charged with managing public access will be able to determine what the impacts on resource quality are of public access in the watershed. Once those impacts are known, changes in management can be made.

Elements of a Model

There are many models of public access. The key is to find models that are not only of an appropriate scale to the Dragon Run Watershed, but with a similar context. Elements of a model that would be useful to the Dragon Run would include:

- Seasonal and spatial controls
- Liability protocols
- Monitoring
- Staffing
- Rules and regulations
- Approved uses
- Public safety
- Enforcement
- Timing
- Trial period
- Signage and mapping
- Parking
- Regulatory jurisdiction
- Provisions for commercial users (outfitters, hotels, etc.)
- Potential impacts and ways to mitigate
- Managing and/or mediating conflicts between users
- Fees and fines
- Maintenance
- Public education

Local Resources

Resources that can help with issues relating to managing public access include recreation departments; outdoor clubs for hiking, biking, hunting, fishing, etc.; local universities with programs in environmental sciences or recreation management; watershed groups; etc.

Next Steps

A process for developing a code of conduct and access plan involves the following steps:

Public Education – This is necessary in order to alert the public about the process of developing an access plan and a code of conduct, and the public’s role in providing input to that plan.

Development of Management Goals and Objectives – Goals and objectives need to be developed in order to determine the direction of the plan.

Assessment of Existing Conditions (Public survey, public task force meeting, etc.) – Prior to initiating a plan, it is useful to assess the existing conditions of areas of public access. This establishes a baseline condition so that impacts to the resource can be monitored.

Identification of Public Desires for the Area – By involving the public, whether private citizens, private landowners, recreationists, business owners, and others, the public desires for the area can be discovered. This will help to guide the development of the code and the plan.

Development of Code and Plan – The code should reflect behaviors required to meet the access goals. The plan should address the areas mentioned on page 107 and 108.

Promotion and Education – For the code and plan to be followed, the public and private sectors must be educated about what it means for them.

Monitoring and Evaluation – Periodically, the state of public access needs to be monitored and compared with the baseline in order to determine if these areas are being unnecessarily and negatively impacted. Based on this determination, changes may need to be made to the code and/or the access plan.

Issues Around Private Land Access

The dominant form of private land access in the Dragon Run Watershed today is through hunting leases. Opportunities exist to expand the uses of private lands to include such activities as hiking, biking, horseback riding, camping, educational services, sports lodges, etc. Landowners frequently express a variety of concerns with regard to opening their land up to use by others.

Landowner Concerns

Landowners as well as non-landowners are concerned about degradation of the resource (the river). Landowners are also worried about disrespect of their own land through overuse or misuse (e.g., trash, fires) resulting from “unrestricted” public access. One interviewee explains, “Taking care of land means roads, access for fire trails, harvesting, reforestation, enjoying it, keeping it clean of trash, we do that ourselves. We don’t want the

Dragon opened up to public access. Once you do that, you're putting a liability on me, even if the land is posted. They'll ruin the Dragon if they open it to the public. We've let people use it who contact us, to take canoes. The cub scouts, the boy scouts and other groups. We controlled who's on our land." Many private landowners are opposed to increased governmental presence with regard to the river, as they feel that they have been stewards of their own land for generations.

Responding to Landowner Concerns

Landowners often have concerns about public usage of their land, whether for hiking, biking, horse back riding, hunting, fishing, etc. Alberta TrailNet provides some interesting ways of involving landowners in the process of public access management.⁵ One idea is to hold workshops inviting landowners, trail users, and interest groups. Workshops could focus on concerns such as liability, rules and regulations, etc. Public sector representatives around the issue of access can also attend meetings of landowners to hear their concerns firsthand. It is not enough to hear concerns, however; another purpose of reaching out to private landowners is to solicit solutions to the issues faced. The Dragon Run Watershed may need to initiate a public access stakeholder group, of which private landowners would be a part, along with users, managers, etc. This group would be responsible for developing an access management plan, along with the codes of behavior and rules and regulations essential to such a plan's success. Representatives of the stakeholder group could also meet one-on-one with landowners adjacent to particular public access areas to hear their specific concerns and explore compromise solutions to individual property owners' problems. Dialogue is key.

Landowners may want to create a landowner cooperative, especially if, for example, an interconnected trail system is developed that crosses more than one private landowner property. Such a scenario would necessitate landowners cooperating with each other to ensure that such a system would not impact them and maybe would benefit them economically.

Landowner complaints relating to a particular user or group of users on their property should always be addressed and followed up on. Periodic surveys of affected landowners should be conducted to assess their needs and complaints and how they're being addressed. Funds should be set aside for damage mitigation for landowners. The stakeholder group or public access manager should help landowners repair damage, collect debris and clean up pollution left by recreational users.

Rewarding landowners for their generosity in allowing public access on their lands is one way of decreasing the tensions around landowner relations. Tax breaks or discounted license (hunting or fishing) fees are two ways of providing incentives to landowners. Other ways of showing deference to landowner concerns include: public education, better enforcement of laws, assisting landowners with legislation, educating sportsmen, not over-regulating, providing fisheries/wildlife management assistance, requiring mandatory written permission of users, assisting in cleanup, public ceremony of recognition, etc.

⁵ Alberta Trailnet, www.albertatrailnet.com

Opportunities for Public and Private Partnership in Economic Development Based on Public Access

There are many opportunities for public and private sectors to cooperate in provision of public access. For example, private companies or landowners could contribute to call boxes to assist with public safety. Public agencies could assist in enforcement and education relating to the Dragon Run River; the public sector could provide grants to support private enterprise development tying back into the health of the river. University students could assist in the necessary monitoring of the access sites on private lands. The county governments could report on what the river is for, how it is used, how it is protected, and monitoring. Citizen monitoring groups, such as Friends of Dragon Run, could monitor the river for impacts of access. Below is an example of a private landowner/hunting lodge that is providing public benefit in terms of public education for young people as well as through stewardship of the natural resources of the land.

Addieville East Farm

In Mapleville, Rhode Island, Addieville East Farm⁶ is one of the oldest farms in America, now a center for pheasant hunting, trout fishing, dog training and trials, and clay shooting. At Addieville, Geoff Gaebe employs land and forest management techniques for wildlife enhancement including creating areas for nesting, cover, feeding, and rearing young birds. This involves planting the right grasses, planting feed (corn), creating lots of edge, and managing forests of different ages. Mature forest forms the barrier between one hunting area and another because birds do not favor mature forests. Mr. Gaebe's 900 acres is managed to allow five hunting parties on the land at the same time without the risk of running into one another. Mr. Gaebe raises and releases approximately 35,000 pheasants on the property annually. As a result, Mr. Gaebe is concerned about soil acidity and is interested in ways to combat the effects of acid rain, by planting trees that naturally lower the acidity of the soil. In addition to catering to paying guests, Addieville hosts a number of activities for young people free of charge to teach shooting, hunting, fishing and dog handling skills. However, while he does teach these skills, Mr Gaebe explains that the hardest thing to teach is the love of the outdoors.

⁶ Addieville East Farm, 200 Pheasant Drive, Mapleville, RI 02839; (401) 568-3185; <http://www.addieville.com/>

Resources

Dragon Run Watershed Management Plan. November 2003. Dragon Run Steering Committee, Middle Peninsula Planning District Commission.

National Organization for Rivers
212 West Cheyenne Mountain Blvd.
Colorado Springs, CO 80906
719-579-8759. Fax 719-576-6238.
nationalrivers@email.msn.com
<http://www.nationalrivers.org/us-law-who-owns.htm>

A Landowner's Guide to Working With Sportsmen in Virginia,
<http://www.ext.vt.edu/pubs/forestry/420-035/420-035.html#L2>

Citizens Forest Management Plan for the Three Southern Utah National Forests
www.redrockforests.org/Recreation_Desired_Conditions.html

Department of Sustainability & Environment and Parks Victoria. Draft Recreation Framework for Bunyip Public Land – Public Discussion Document.
http://www.parkweb.vic.gov.au/resources/mresources/bunyip_rec/bunyip_draft_fmwork.pdf

Alberta Trailnet
www.albertatrailnet.com

Addieville East Farm
200 Pheasant Drive, Mapleville, RI 02839
401-568-3185
<http://www.addieville.com/>

Kahn Ranch Public Access Management Plan
Monterey Peninsula Regional Park District
60 Garden Court, Suite 325, Monterey, California 93940-5341
831-372-3196.
info@mprpd.org
<http://www.mprpd.org/krmgtplan.html>

Grand River Conservation Authority
400 Clyde Road, PO Box 729, Cambridge, Ontario Canada, N1R 5W6
519-621-2761; Fax 519-621-4844
<http://www.grandriver.ca/>

Appendix A: River Law

In discussing public access relating to a river such as the Dragon Run, it is important to understand river law. What follows are some basic tenets of river law from the National Organization for Rivers:

Law of Rivers⁷

A discussion of public access issues should begin with a solid understanding of the legal framework in the law of rivers. The U.S. Supreme Court has held that rivers have been public since ancient times of Greece and Rome. To this day, state constitutions affirm public ownership of all running waters. They typically say that “every natural stream” or “all surface waters” are owned by the state, for use by the public. Various state courts have upheld public access to running waters, calling it an “easement,” and saying, for example, “The capability of use of the waters for recreational purposes determines their availability for recreational use by the public. Streambed ownership by a private party is irrelevant. If the waters are owned by the State and held in trust for the people by the State, no private party may bar the use of those waters by the people.” Public access to streams, and trails along streams, is further supported by the legal doctrines of custom and prescription. *Willow River Club v. Wade*, 100 Wis. 86, 76 N.W. 273 (1898). *Taylor v. Commonwealth*, 102 Va. 759, 47 S.E. 875, 102 Am.St.Rep. 865 (1904). *Day v. Armstrong*, 362 P.2d 187 (Wyo. 1961). *People v. Mack*, 97 Cal. Rptr. 448, 19 Cal. App. 3d 1040 (1971). *Montana Coalition for Stream Access v. Curran*, 210 Mont. 38 (1984).

Which rivers are owned by the public?

The U.S. Supreme Court has held that the bed and banks under all rivers, lakes, and streams that are navigable, for title purposes, are owned by the states, held in trust for the public. Title in this context means ownership. This public-trust ownership extends up to the ordinary high water line, (or ordinary high water mark,) encompassing what is commonly referred to as the submerged and submersible land, as opposed to the upland. This type of navigability is called title navigability.

⁷ Taken from the National Organization for Rivers website: <http://www.nationalrivers.org/us-law-who-owns.htm>

What can the public do on rivers that are navigable for title purposes?

The three activities that the courts have traditionally mentioned are navigation, fishing, and commerce. But the courts have ruled that any and all non-destructive activities on these lands are legally protected, including picnics, camping, walking, and other activities. The public can fish, from the river or from the shore below the "ordinary high water line." (Note that the fish and wildlife are owned by the state in any case.) The public can walk, roll a baby carriage, and other activities, according to court decisions.

What public activities can government agencies lawfully restrict?

They can and must prohibit or restrict activities that conflict with the Public Trust Doctrine. What is known as "responsible recreation" must be allowed, but offensive or destructive activities can be limited to certain areas or prohibited altogether. Leaving trash, building fires, and making noise can and should be limited or prohibited as appropriate for the area.

State and local restrictions on river use have to be legitimately related to enhancing public trust value, not reducing it. Rivers cannot be closed or partially closed to appease adjacent landowners, fishermen who want to dedicate the river to fishing only, or to make life easier for local law enforcement agencies.

Can state governments expand public rights to visit rivers?

Yes. In many states, state courts and legislatures recognize a **floatage easement**, a public right to navigate even on rivers that might not qualify for state ownership for some reason. This floatage easement is a legal right to run a river even if it is assumed that the bed and banks of the river are private land. In some states such easements cover all waters in the state, except things like stock ponds and swimming pools.

Note that this floatage easement is a matter of state law that varies from state to state, but the question of whether a river is navigable, for title purposes, and therefore owned by the state, is a matter of federal law, and does not vary from state to state. This has caused much confusion. Even on rivers that are navigable for title purposes, many people mistakenly believe that there is only an easement for public passage, not actual state ownership of the bed and banks. Conversely, many people mistakenly believe that unless a river is navigable for title purposes, there is no public right to visit it, where in fact the state may confer a floatage easement on all rivers, regardless of their navigability for title purposes.

Note that a state floatage easement is something that comes and goes with the water: When the water is there, people have a right to be there on it, and when it dries up, people have no right to be there. But rivers that are navigable for title purposes are public land up to the ordinary high water line, so that even when the river runs dry, people still have the right to walk along the bed of the river.

What about walking briefly on private land while in the process of navigating a river?

Federal court decisions seem to allow for this but have not been conclusive. Some state courts have found that the public has the right to walk on the river bank, either as part of navigation or for other reasons. Also, some state laws allow certain trespasses under certain urgent conditions. If you are unable to proceed down a river due to unique circumstances or due to an emergency of some sort, state law may allow what would otherwise be a trespass.

What about getting to and from the river?

Normally there is no right to cross private land to get to or from a river (except perhaps in extreme cases as mentioned above.) For example, there is no right to walk across a farmer's field to get from a public highway to a river.

However, the state has a duty to maintain public access routes to rivers under certain conditions, as part of its public trust duties. Courts have found it unlawful for a state to close off an existing public access route when there are not other public access routes nearby.

A common problem involves highway bridges over rivers. The river, if navigable for title purposes, is public land up to the ordinary high water mark, and the highway is public out to the edge of its right-of-way. Usually there is enough space to legally park next to the highway near the bridge. But the adjacent landowner may build an impassable fence up to the bridge abutments and post "No Trespassing" signs on the fence, so people can't get from the highway down to the river. This is unlawful; there is a right of passage from the highway to the river. Courts have ruled that when one public route meets or crosses another, there is a right to proceed between the two.

What about motors on rivers?

People tend to think that the right to navigate includes a right to navigate with a motorized watercraft, but the courts see it differently. Recall that much of navigability law predates the invention of motors. The courts have held that state government agencies can allow motors in some areas and prohibit them in others. So while people have every right to navigate the navigable rivers of the nation, on many of those rivers they may do so only in human-powered craft (such as canoes, kayaks, rowboats, non-motorized rafts, etc.) There is no right to use motors in places where motors are prohibited. Simply put, motors have no legal rights.

Depending on the state, the decision to allow or disallow motors on a waterway usually must be made at the state level--local government agencies may need state approval to prohibit motors. Federal agencies, too, may need state government agreement to prohibit motors on a waterway in a state.

Of course, there is often great political support for motorized use, so state government agencies are often politically pressured to allow motors. The main problems with motorboats relate to their noise and to their speed, especially within the confines of a river. On navigable rivers, adjacent landowners are legally obligated to tolerate navigation, but not necessarily motor noise, which inherently migrates from the river to the adjacent private land and can be quite intrusive.

In considering whether to allow motors, agencies should keep in mind that there is no legal obligation to allow them, and, on the other hand, there is a legal obligation under the Public Trust Doctrine to conserve river resources for a whole range of uses, not just motorboats. Therefore agencies should only allow motorboats at times and places where they are not a major impact on other uses. One legally valid solution is to only allow the kind of quieter motors made possible by new technology. Another is to only allow motors at certain times.

What about commercial river trips?

People tend to think that under the free enterprise system, businesses should be able to operate commercial trips anywhere. But the courts see rivers as public resources, and state and federal courts have upheld the authority of government agencies to limit commercial river trips on waterways or prohibit them altogether. Note that the courts view this authority as arising from the government's general authority to control commercial operations, not from an authority to control or prohibit river navigation per se--the courts have rejected government agency attempts to prohibit noncommercial navigation, although noncommercial navigation may be limited under certain conditions related to the public trust.

What about mining in river beds, for gold, gravel, etc.?

Courts have upheld government authority to regulate or prohibit mining in rivers, because of the damage it can do to publicly-owned river resources.

What about construction and bulldozing along a river?

The U.S. Army Corps of Engineers grants "section 404" permits for alteration of riverbeds. A number of rural landowners have paid hefty fines for bulldozing along rivers to build dikes and other structures, mistakenly thinking that they were bulldozing on their own land.

What about river pollution?

State and federal regulations limit or prohibit water pollution. Hefty fines can apply, even to city utilities departments and other public agencies.

In 1972, Congress passed the Clean Water Act. Before the Act, river conservationists had to claim injury and sue polluters to prevent them from polluting waterways. Since the Act, however, it has become a felony to discharge wastes into waters without acquiring government permits that follow set guidelines. The Safe Drinking Water Act was passed in 1974 to require states to comply with federal safety guidelines.

What about ownership of the water itself?

The water itself may be allocated by water courts to various users such as farmers and city utility companies that divert the water from the river. But the higher courts have ruled that public ownership and the Public Trust Doctrine must also be considered in water use regulation. Courts have specifically rejected the argument that public trust values on rivers were "subsumed" into water rights allocations. Courts have held that the public trust applies to natural water resources regardless of their navigability. (Flowing water is a public resource in any case.) This public trust extends to even very small streams.

How do I determine if a certain river is public, and what public uses should be allowed on it?

You call the State Lands Office, and the State Attorney General's Office. (The official name of these two offices may vary from state to state.) State law may say that all waters in the state are open to navigation, and may also grant permission to walk along the shore under certain circumstances. If state law allows the uses you are concerned about, then you don't need to look further. If it doesn't, then the question becomes whether the river meets the federal test of navigability for title purposes. If a river appears to be navigable per the federal

test, but riverside landowners, or a government agency, or the state legislature says that the river is not navigable, (or if they restrict public uses in ways that conflict with navigability and the public trust doctrine,) then you have a problem, which you can help resolve mainly by educating people about navigability and public ownership of rivers, as discussed below.

Appendix B: Landowner Questions and Answers

As a landowner, how do I prevent usage of my land by recreationists?

A sure way for landowners to prevent people from using their land, if that's their decision, is to post their boundaries. Other options include restricting vehicular access to remote boundaries using fences, gates, trees or hedgerows. Landowners can also notify local game wardens, recreation commissions or sheriffs that their lands are closed to recreational uses.

As a landowner, how do I manage access to my land?

If landowners decide to allow public access to their lands, there are ways of managing access so it does not become unwieldy. Landowners should determine the location and extent of access, as well as who may have access and for what activities. For example, providing limited roadside parking discourages uninvited parties, littering, and vandalism and encourages reasonable distribution of recreationists.

One option includes allowing open public use or not posting the land. Users would need at least verbal permission from the landowner; however this is difficult to enforce. It is possible to charge user fees for access to unposted land, but practically, this is difficult to do.

Another option for landowners who want to manage access to their land is to post the land, while issuing written permission cards to those allowed to use the land and prosecuting trespassers. Landowners can require users to check in and check out before and after they use the property. Permits can be limited in number or by valid days and times.

A third option, already widely used in the Dragon Run Watershed, is to lease recreational access to clubs or associations. Such landowners usually charge, at a minimum, enough to pay taxes. Several neighbors with smaller tracts of land can band together to attract a hunting club for example. Lease agreements should spell out the responsibilities of club and landowner. Clubs would be required to pay in advance for the lease, provide a current certificate of insurance, post the property, pick up all litter, stay off roads in wet weather, help put out fires, keep a record by species of each year's wildlife harvests, and obey all game laws. The landowner would be released from liability for the safety and actions of the sportsmen, but would remain liable for willful or malicious failure to warn against hazardous conditions, uses, structures, or activities.

Yet another option is permitting daily use by the public for fees. This option may make more sense in the case of hunting activities. The landowner would post and patrol his own land, prosecute violators, and issue permits in exchange for fees. This set-up requires more infrastructure than most landowners would be willing to initiate.

Forming a landowner cooperative with neighbors is an option for sharing recreational opportunities with neighbors and friends and perhaps others for a fee.

Landowners interested in encouraging public access to their land, especially if it has access to the river, can donate or sell an easement to a local land trust. These conservation easements can specify who is allowed to use the land and for what purposes, what parts of the land are open for users, responsibilities of the landowner to maintain access, situations in which access would be retracted, etc.

As a landowner, what is my liability with regard to users of my land?

Many private landowners are concerned about legal liability for recreationists who use their land; this often prevents private landowners from sharing access to their land. The Virginia General Assembly has addressed this concern in Virginia Code Section 29-130.2, as amended in 1982. Paragraph (b) of the code states:

A landowner shall owe no duty of care to keep land or premises safe for entry or use by others for hunting, fishing, trapping, camping, participation in water sports, boating, biking, hiking, sightseeing, hang gliding, skydiving, horseback riding and bicycle riding, collecting, gathering, cutting or removing firewood, nor shall a landowner be required to give any warning of hazardous conditions or uses of, structures on, or activities on such land or premises to any person entering on such land or premises for such purposes except as provided in (d) hereof.