

Mr. S. G. Spencer

Saluda

J. K. McEwen

June 24

75

RIGHT OF WAY - Sedger Creek Landing

1101

Gloucester County

Recently I have received several inquiries concerning the status of the above transaction which originated by virtue of a letter from Mr. Walter L. Brown to me dated December 4, 1973 requesting that a certain portion of the above referenced landing be leased to him for his private use. It is now eighteen months later and after having received or written some forty-four letters pertaining to this subject within the Department, the matter is yet to be resolved. What follows is a brief history of what has transpired.

In the winter of '73 Mr. Brown came to this office and requested that he be allowed to enter into a long term lease with the provision to transfer said lease upon death or sale of his business. At that time he had been leasing a portion of Sedger Creek Landing since October 31, 1946, the first lease for a period of twenty years at the rate of \$1.00 per year. In 1965 he again entered into a lease agreement with the Department which was for a duration of five years at the rate of \$10.00 per year, said lease expired and he continued to occupy the premise until 1973 actively pursuing his marine railway-repair operation and seafood business. During the course of this twenty-eight year period Mr. Brown built and maintained several storage and warehouse buildings including, and not limited to, a seven-foot wide by one hundred and fifty-foot, plus or minus, wharf and docking facility, all of which was within the properties and confinement of the lease noted above. Having reached an age of approximately eighty years, Mr. Brown was desirous of selling his interest that he had built and developed through the previous twenty-eight years to Phelps Seafood Company, Inc. necessitating the transferable clause within a new lease agreement. The local watermen having knowledge of Mr. Brown's intention drafted a petition, which I received in February of 1974 expressing their opposition to the Department's continued lease particularly with transferable rights for Mr. Brown to sell his business. At this time Mr. W. E. Belvin, Member of the County Board of Supervisors, wrote and expressed his dissatisfaction with Mr. Brown's request expressing clearly an interest that the landing be retained as a complete public facility. Mr. Mattox was appraised of this situation and by letter of February 26, 1974 requested that a number of items be reviewed and clarified before proceeding. One of these items involved a Resolution clearly reflecting the position of the local County Board of Supervisors. This Resolution was received in June of 1974 generally agreeing to the lease requested by Mr. Brown with the exception that no transferable clause be allowed. Further restrictions and confines were requested by them which by necessity would exclude the docking facility previously enjoyed by Mr. Brown.

This information together with my recommendation was compiled at the District level and forwarded to Mr. Mattox's office in October of 1974 noting that the dock in question, particularly that portion beyond mean low water, was not felt to be in the jurisdiction of the Department and further that we concurred with the Board's request that Mr. Brown be allowed to lease a defined portion of the landing not to be transferable. Mr. Mattox by letter of November 13, 1974 acknowledged receipt and agreed to our recommendations

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further instructing the District to draft a suitable lease. The lease was prepared in draft form and reviewed by this office and Mr. Mattox's office during December and January of 1974-75 which is where the present responsibility rests. Recently, I have received a copy of a letter from Counselor William E. Moore representing Walter L. Brown requesting the disposition of the above case. More particularly however, I reference an enclosed Resolution from the Gloucester County Board of Supervisors requesting that the dock referred to on Sedger Creek Landing be construed as public property and accordingly taken into the highway system thereby falling within the confines of maintenance, maintenance replacement and construction where necessary commensurate with its use. The Department presently maintains two docks in Gloucester County similar to this dock, one of which is in Wicomico known as Timberneck Dock and the second is off Route 651 at Brown's Bay in Guinea.

The entire review has been to establish a perspective of the entire matter and to afford you the information necessary to evaluate the recent request by Gloucester County Board of Supervisors to incorporate the docking facilities into the secondary system. For your reference I am enclosing a copy of this Resolution along with other pertinent data which I consider to be important relative their request. The enclosed letters refer particularly to the disposition of the above case with respect to the Department's responsibility relative the dock. In several letters I have expressed a desire and position that beyond mean low water this Department has no jurisdiction. This is the case at point. Clearly the metes and bounds of the public landing are defined by virtue of the plat recorded in the Department files and it is not uncommon that waterfront property is bounded by mean low water. This, I believe, to be the case in point here in respect to this public landing. For the Department to claim jurisdiction beyond this point would encroach on other agency's authorities and responsibilities, not to mention the Corp of Engineers. It is my understanding however that the 1974 Legislature saw fit to appropriate money derived from a gasoline user's tax generated from commercial fishing vessels and that this dock clearly is used by commercial fishermen in the locality. I must appraise you, however, of the fact that should this particular dock be construed to qualify for these funds that there are no less than some twelve other docks in the four county Residency that will also qualify for these funds. I should note clearly Mr. Brown's emphatic denial that the present dock was built by others prior to his arrival in 1946 and that every board and nail on the existing dock, save some minor repairs by local watermen, has been the result of his efforts. Having addressed the situation accordingly, I believe there is serious doubt as to the Department's claim and subsequent possession of this facility even in light of the County Board of Supervisors request. I would hope that you would consider these facts and afford me the benefit of your recommendation.

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Perhaps a highway policy establishing certain controls or regulations are now in order. When different ones abuse the purpose of the docking facility, i.e. tying up over night, storing crab pots along with other appurtenances affixed thereto, there is a real hassle when trying to control these measures.

If additional information is needed concerning the above, please advise.

JKMcE:mvw
Att.

J. K. McEwen
Resident Engineer

Cc: Mr. R. C. Christian
Mr. K. J. McBroom

Saluda, Virginia 23149
July 11, 1975

Re: Sedger Creek Landing
Gloucester County

Mr. Walter L. Brown
Perrin, Virginia 23135

Dear Mr. Brown:

At long last a decision has been reached concerning your request in a letter to me dated December 4, 1973 to lease a portion of Sedger Creek Landing as you have done since the second World War.

I have been instructed by our District Engineer to advise you that we feel that it is in the best interest of the Commonwealth not to renew your lease concerning this property. As to your personal property you are hereby instructed to remove same from the premises by October 1, 1975 at which time an inspection will be made with the understanding that should any of your property remain it will be considered property of the Commonwealth and removed accordingly. Further, I have been instructed to inform you that the dock which presently exists is considered to be a part of the real estate and not your personal property therefore you are not to remove any part of this facility.

I am sure the above information is not that which you had requested, however having studied the problem for a great deal of time and having consulted the County Board of Supervisors, local citizenry and others the decision has been reached. I trust that you will be able to continue your seafood and railway business at another location. If additional information is needed concerning the above, please advise.

Yours very truly,


J. K. McEwen
Resident Engineer

Cc: Mr. William E. Moore, Attorney
Gloucester, Virginia

Col. William W. Fries, County Administrator
Gloucester, Virginia

Mr. H. L. Chryssikos
Mr. K. J. McBroom
Mr. R. C. Christian

December 30, 1991

Mr. William H. Whitley
Gloucester County Administrator
P. O. Box 329
Gloucester, Virginia 23061

RE: Public Dock - Sedgers Creek Landing
Route 1101
Gloucester County

Dear Mr. Whitley:

I received a call this morning from a Mr. Perdue who is with one of the seafood processing plants in the Perrin area. He expressed concern that a number of clam boats had apparently tied up for the winter at the Sedgers Creek Dock and moored in the Perrin River around the dock making it impossible for work boats to get to the dock to load and unload their daily catches. He requested that we have the boats removed from the dock.

In reviewing the Gloucester County Code, Section 21-8, it would appear that the intent was to allow overnight mooring, but was not intended for mooring or docking for an extended period of time. The ordinance further gives the Board of Supervisors the authority to designate portions of docks or wharves for commercial use, recreational use, loading or unloading, etc.

I have not had a chance to get down to Sedgers Creek but hope to do so in the next few days. If the problem is as stated by Mr. Perdue then it may be advisable to have your Board designate a portion of this dock for loading and unloading. If this is done, then who would have the responsibility for policing?

Any thoughts you may have on this will be appreciated and if I may be of any assistance, please let me know.

Sincerely,

D. M. Wagner
Resident Engineer

DMW/ae

MERIDIAN OF 1883 IN
 SURVEYOR'S RECORD
 BOOK 18 P 212

JAMES V. & MARGARET
 S. WILCOX
 DB 179 P 373
 DB 134 P 307

BENNIE H. BELVIN
 DB 147 P 274

BENNIE H. BELVIN
 DB 216 P 33

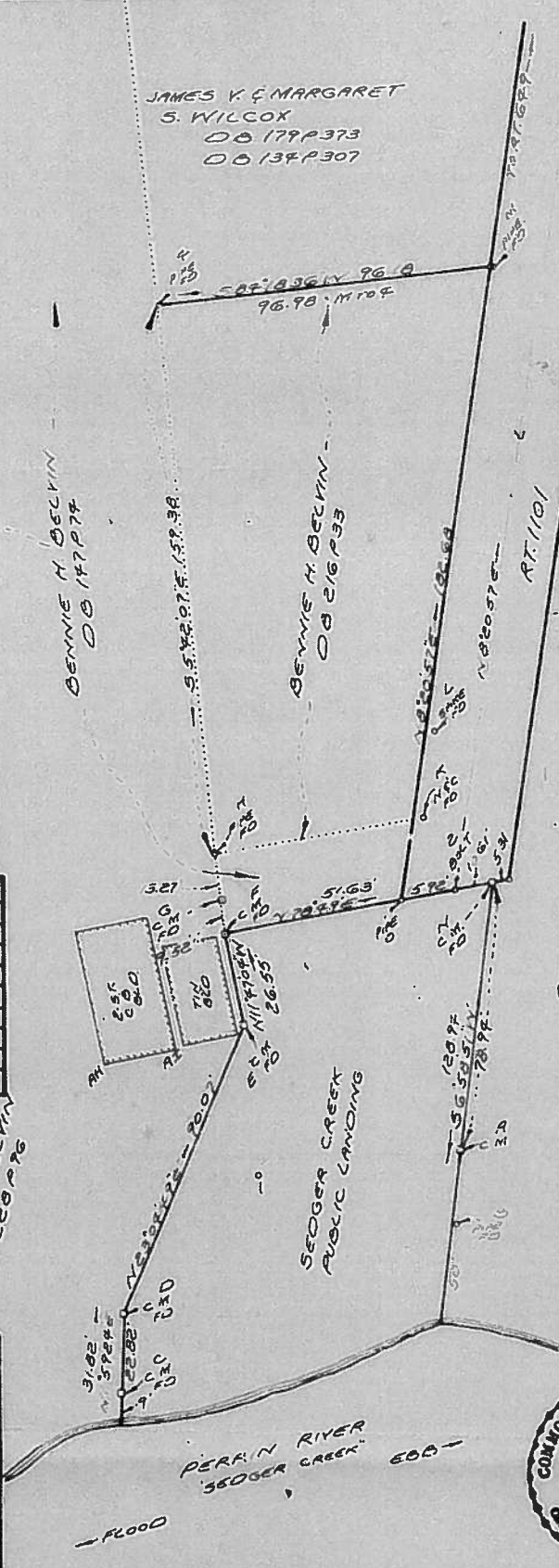
ROBERT PATRICK & GENERAL A. KEARNEY
 DB 162 P 229, C P 154 P 49

1-2	N34°38'29"E	101.72
2-3	N8°20'57"E	217.43
3-4	S67°13'17"W	126.53
4-7	S6°06'55"E	259.25

1-A	N82°48'56"E	59.10
1-B	S27°10'11"E	59.23
1-C	S32°38'44"W	72.53
1-D	S45°03'14"W	54.16
1-E	N3°52'48"W	44.70
1-F	N6°49'25"W	71.09
1-G	N6°39'22"W	80.61
1-H	N6°49'02"W	93.88
1-AH	N53°02'01"W	54.08
1-AI	N32°02'01"W	43.09

2-A	S0°36'43"E	76.30
2-B	S0°02'29"W	96.84
2-N	N78°41"E	10.61
2-O	S78°49"W	15.42
2-F	S78°49"W	67.55
2-G	S86°53'19"W	67.73
2-H	N82°07'57"W	67.62
2-K	N26°18'46"W	21.69
2-L	N7°30'31"W	46.38
3-P	S58°26'18"E	17.87
3-M	S27°06'27"W	44.23

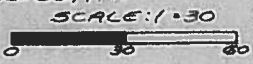
BENNIE H. BELVIN
 DB 220 P 76



PLAT SHOWING THE EAST AND SOUTH PROPERTY
 LINE OF BENNIE H. BELVIN JOINING THE SEDGER
 CREEK PUBLIC LANDING AND THE EAST AND NORTH
 PROPERTY LINE JOINING STATE RT. 1101 AND JAMES
 V. & MARGARET S. WILCOX YORK DISTRICT GLO. CO. VA.

AUGUST 29 1980

JAMES A. GRAY C.L.S.
 HAYES VIRGINIA



BOOK 17 PAGE 54