



Special Project Request

INFORMATION HANDBOOK

The Greenfield Project

"We may not know their names, but we can at least say we know they are here"



Gary Crone

6/15/2021

CONTENTS

Contents.....	1
1 Background.....	3
2 Goal and objectives.....	3
3 Timeline	3
4 About the cemetery itself.....	4
5 How did we find the actual cemetery site?	5
6 explaining to others why they should care	6
7 Why this is a good news story for the community	7
8 Why knowing is better than not knowing.....	8
9 Were any experts consulted for this project	9
10 Key questions and answers	9
10.1 Is the existence of the slave cemetery already public knowledge?	9
10.2 Who owns the family cemetery and the slave cemetery?.....	10
10.3 What is the general condition of the Greenfield plantation property?.....	11
10.4 What is the current setting/landscape surrounding of the cemetery?.....	11
10.5 Does FTS have a file on the cemeteries?.....	11
10.6 Are we required to let anyone know about the cemetery?	12
10.7 What is V-CRIS; what happens to the data entered into V-Cris?	12
10.8 Does inclusion in the National Register open us up to other issues?	13
10.9 Will Virginia law require landowners to maintain the cemetery?	14
10.10 Can people from outside Fawn Lake visit the cemetery if located?	14
10.11 Is there a process for people from outside to visit the cemeteries?	15
10.12 Will the location of the cemetery attract more people to the dam?	15
10.13 What is the level of community interest and support for this issue?.....	16
10.14 How public should we make the information about the cemetery?	17
10.15 Can the state provide any technical assistance for the cemetery?	19
10.16 Can heirs or landowners relocate the bodies in the cemetery?	19
10.17 Will the state provide financial assistance to our Cemetery?	20
10.18 What is the cost to locate the cemetery and who is going to pay it?	20
11 What is your way ahead?	21
12 References	23

DISCLAIMER

The information provided in this handbook does not, and is not intended to, constitute legal advice; instead, all information, content, and materials available or referenced in this handbook are for general informational purposes only. Information in this handbook may not constitute the most up-to-date legal or other information. This handbook contains links to public websites. Such links are only for the convenience of the reader, user, or browser; the author of this handbook does not recommend or endorse the contents of the public party sites.

Readers of this handbook should contact their attorney to obtain advice with respect to any legal matter. No reader or user of this handbook should act or refrain from acting based on information in this handbook without first seeking legal advice from counsel in the relevant jurisdiction. Only your individual attorney can provide assurances that the information contained herein – and your interpretation of it – is applicable or appropriate to your particular situation. Use of, and access to, this handbook or any of the links or resources contained within the handbook do not create an attorney-client relationship between the reader or any user of this information and the author of this handbook, the Fawn Lake HOA committee members or their respective HOA employers.

The views expressed at, or through, this handbook are those of the individual author writing in his individual capacity only – not those of Fawn Lake HOA, and/or HOA committee or any of its members. All liability with respect to actions taken or not taken based on the contents of this handbook are hereby expressly disclaimed. The content in this handbook is provided "as is" and no representations are made that the content is error-free.

THE GREENFIELD PROJECT

1 Background

The Greenfield project consists of volunteer homeowners in Fawn Lake who share a common belief that the unmarked African American slave cemetery on Fawn Lake property should be located and surveyed to ensure the site remains protected, preserved, and appropriately recognized.

Fawn Lake is a planned gated community existing of several hundred one-and-two story homes located on what was formally portions of Civil War battlefields and the Row/Estes Greenfield Plantation.

Within Fawn Lake, the National Park Service has identified Civil War era trench lines along the main road leading into the community for preservation and the Greenfield plantation family cemetery was apparently fenced and initially maintained by NTS. However, few of the Fawn Lake community are currently aware a slave cemetery also exists on Fawn Lake property.

Considerable information is available validating the existence of the unmarked slave cemetery however the exact location and dimensions of the cemetery, number of burials, and names of those buried in the cemetery is currently unknown.

The area surrounding the cemetery location has been subject to development, including a nearby dam and raceway. According to contemporaneous reporting, the location of the slave cemetery and the family cemetery were not disturbed by construction of the Fawn Lake dam or raceway.

2 GOAL AND OBJECTIVES

The goal of the Greenfield Project is to locate the unmarked Greenfield Plantation African American cemetery behind the Fawn Lake Dam and record the location of the cemetery and grave sites within the Virginia Cultural Resources Information System to ensure the cemetery is remembered and protected in its present condition.

3 TIMELINE

The expected timeline for completion is 6-8 months and is dependent upon several factors. The first is a decision by the HOA to identify and locate the cemetery. Once the board has decided to go forward, it must also determine the best means for conducting a successful archeological survey of the site and how the survey will be funded. If the HOA decides to hire a local archeologist, the HOA will need time to review any submitted proposals and to select an archeologist.

Once a party is identified to conduct the survey, the entity conducting the survey will need time to schedule the survey, conduct the survey, complete a draft report to submit to the HOA and then time to finish the final report for submission to V-CRIS.

In addition, the HOA will need to ensure procedures and safeguards are in place regarding access to the cemetery location in compliance with Fawn Lake rules and regulations as well as local, state, and federal laws, as applicable. The HOA will also need time to develop and implement a strategic communications plan associated with this project to ensure internal and external stakeholders and influencers are aware of the project and how it plans to inform the Fawn Lake community and the public.

4 ABOUT THE CEMETERY ITSELF

There is a small patch of common periwinkle just beyond our dam shaded by some old Eastern Red Cedars and hidden amongst the sweet gum and autumn olive. It is just a small place. But it is unlike any other spot in Fawn Lake.

Below the periwinkle, out of sight and out of mind are the unmarked graves of the Greenfield Plantation slaves. Probably 20-30 people. Some old. Some young. And some just infants, like Isabella and Rosetta who we know died at Greenfield and who are listed in the Spotsylvania Death index as slaves owned by Elizabeth and Absalom Row.



Figure 1 Suspected location of the Greenfield Plantation African American Cemetery

The Greenfield African American cemetery was an active burial ground for more than a hundred years. For some time after the civil war, it was still in use. When a former slave living nearby died, they were sometimes brought to the parlor for viewing in the old plantation house by invitation of their former owners then laid to rest in the old slave cemetery as it was known. This custom ended sometime prior to 1905.

The Row family sold their plantation in 1905, except for the family cemetery and an easement to the cemetery, to a farmer. The farmer leveled all the plantation buildings and cleared the land for cultivation except for two small patches. One patch where the family was buried and the second spot nearby, the old slave cemetery.

The land eventually passed hands until it became the development called Fawn Lake in the 1990s. After the Fawn Lake dam was built the two spots protected by the farmer eventually grew together as one and the area became part of the open land of Fawn Lake behind the dam.

In 2002, members of the community decided to fence in the family cemetery and initially maintained it. By this time the exact location of the slave cemetery was lost, and the stone grave markings scattered—all physical evidence of the cemetery erased and the burial sites all but forgotten.

5 HOW DID WE FIND THE ACTUAL CEMETERY SITE?

The slave cemetery remains unidentified, unmarked, and unprotected. Genealogist and Fawn Lake resident Gary Crone, working with local archeologists, a great, great grandson of the former plantation owners and county historical experts, has narrowed the likely location of the cemetery to a site roughly 60 feet in diameter on a relative bearing of 60 degrees and 180 feet from the center of the fenced-in family cemetery.

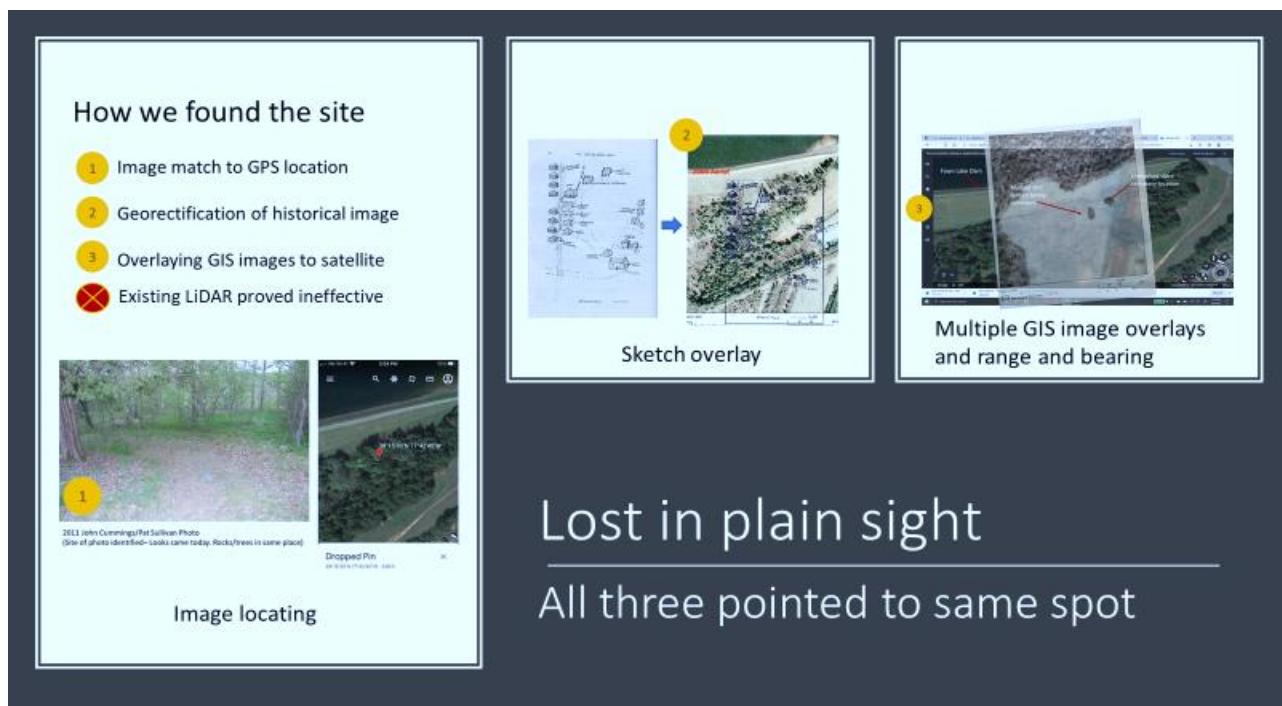


Figure 2 Methods used to find the cemetery

Consulted archeologists believe the identified location is precise enough to ensure a survey will reveal the location of the cemetery and grave sites. The site location is based on local observation and georectifications from a map of the plantation buildings in a 1937 WPA report derived from a family member who lived on the plantation in the 1800's, a 2011 photo by a living family member who recalls where his father told him the cemetery was located, and Spotsylvania County GIS images from 1953-1995 visibly showing the location of both the family and slave cemeteries.

The cemetery appears to be in a small grove covered canopy with purple periwinkle ground cover and a large Eastern Red Cedar at the southwest corner. The cemetery apparently was never fenced, and the burial area appears to be more oval in area than rectangular, sitting on a low rise in the topography. There are overhanging scrub Autumn Olive and Sweetgum encroaching the site. The site is accessible via a dirt road near the marina parking lot and path through a thinly wooded area leading to the cemetery site or by a short path from the family cemetery.

As relayed by a local archeologist versed in locating unmarked African American cemeteries, when an archeologist is searching an overgrown area for unmarked African American cemeteries, they often look for periwinkle to guide them. It is sometimes said that the slaves planted periwinkle to keep the wild boar from disturbing the shallow graves. Others claim it is the presence of the bodies themselves usually buried without coffin or sometimes wrapped in cloth that changes the soil's chemistry that attracts the periwinkle and makes it grow. In either case it is a pleasant alliance.

Due to the lack of physical evidence beyond the presence of the periwinkle, a professional archeological survey is needed to locate and prescribe the exact site of the African American slave cemetery. The survey can be accomplished with minimal to no disturbance of the ground by site testing or other electronic means. Permission from the HOA is needed before an archeological survey can be undertaken to locate and delineate the cemetery and grave sites. No permits are needed.

6 EXPLAINING TO OTHERS WHY THEY SHOULD CARE

Most of the African American burial sites around Virginia are not the big ones being talked about in the local and national news. They are small clusters of 20-30 people. Often less. They are in the forgotten fields of the old plantations that are now amongst us where we live and work and play. Lying silently below our feet. Out of sight and out of mind. Paved over and built upon. But sometimes, when we are fortunate, we can still find and protect them. As we can in Fawn Lake.

Key Messages

- All the graves of all the people buried on our property deserve to be respected, remembered, and protected
- We may know not their names, but we can at least say we know they are here by locating the cemetery and their grave sites
- Fawn Lakers take great pride in helping each other. Right now, some members of our community are lost, and they need our help.

Fawn Lake is not just a place to live. It's a community. We take great pride in helping each other here. Right now, some members of our community are lost, and they need

our help. They are members of our community. Permanent members. They were here when we got here, and they will still be here when we are gone.

These lost souls once toiled the soil of Fawn Lake in bondage and were laid to rest, only to have their burial markers scattered and forgotten. We have an opportunity to let them know that life matters. And being remembered matters.

We can do something that will ensure their legacy is never lost again. We can find their unmarked resting places. Even though we may not know their names we can at least say we know they are here.

But you must go into this with the attitude that finding and protecting the cemetery is something you want to make happen. You can always come up with a hundred reasons not to do something. Or you can say we are going to consider our options and due what is right because managing the consequences of doing nothing is far worse than managing the consequences of acting.

This is your time to lead this community. Your time to set the agenda. There is nothing materialistic about this one. It's purely about looking inside yourself and saying I'm going to really make a lasting difference with this decision. It is time to delineate the cemetery and identify the location of the graves.

It is time to find the lost souls of Fawn Lake and welcome them into our community and make sure their final resting place is respected and not forgotten. And do what we can to protect and preserve the place where these once shackled souls were buried and forgotten. Not because we must. But because it is good to do so.

7 WHY THIS IS A GOOD NEWS STORY FOR THE COMMUNITY

This is a good news story for the community. By being good stewards of the cemetery land, we are acknowledging that all the graves of all the people buried on our property deserve to be respected, remembered and protected.

- Locating and identifying unmarked African American slave cemeteries is becoming a visible issue at the local, state, and federal level
- The Virginia legislature has passed laws making it illegal to disturb unmarked African American cemeteries (whether registered or not) and has recently taken measures to encourage their preservation and protection
- Preservation groups, local historians, political activists, and politicians are coming together across Virginia to protect and preserve unmarked African American slave cemeteries that are unregistered and long neglected
- This issue is not going away, our community should be proactive in addressing the unmarked African American cemetery located near the Fawn Lake Dam

8 WHY KNOWING IS BETTER THAN NOT KNOWING

Locating and delineating the cemetery has several advantages for the community.

- Provides an opportunity to lead from the front and set ground rules for accessing and preserving the cemetery, while doing something responsible and good
- If you ever decide to develop in the area, work is already done
- Ensures cemetery site is protected and not damaged in the future
- Identifying and locating the cemetery gives a level of respect currently only afforded the white slave owners
- Locating the cemetery completes the preservation and protection work begun by the community when FTS chose to fence and clean the family cemetery
- Good human interest and public relations messaging for the community, if the HOA chooses to make the location public
- Demonstrates Fawn Lake as good neighbor in the community and sensitivity to preservation and protection of local historical sites
- It's the right thing to do
- The community does not lose any control over the area that it already has
- Locating the cemetery provides a basis to impose greater restrictions on foot traffic around the back side of the dam and cemetery

Locating and delineating the cemetery does not appear to place any additional legal or financial burdens on the community beyond any expense in locating the cemetery. If the HOA chooses to make the location known to the community there may be an initial increase in traffic behind the dam to see the cemetery, but that traffic will likely be minimal and return to normal within a short period of time. Additionally, the HOA can place restrictions on foot traffic behind the dam, if it so desires.

9 WERE ANY EXPERTS CONSULTED FOR THIS PROJECT

The following is a listing of people consulted including their level of expertise. The list includes leading anthropological experts versed in finding unmarked cemeteries, technical experts, local archeologists, historians, heirs of the plantation, and local, state and federal officials. All these individuals were enthusiastic about this project.

Name	Occupation
Expert Advisors	
Mathew & Paula Turner	GeoModel (GPR)
John Hennessy	NPS, American Battlefield Trust
Dr. Lynn Rainville	Director of Institutional History at Washington and Lee University, Anthropological Archaeologist
Dr. Lauren McMillan	Asst. Prof. Mary Washington Center for Historical Preservation
Dr. Eric Larsen	Archeologist, Germanna Foundation
Varna Boyd	Dovetail Cultural Resource Group
Kerry Gonzalez	Lab Manager, Dovetail Cultural Resource Group
Spotsylvania Government	
Jodi Sacra	Records Room, Circuit Court
Faith Wheeler	Records Room, Circuit Court
Terry Dougherty	Curator, Spotsylvania County Museum
Virginia State Government	
Dr. Elizabeth Moore	Director, State Archeologist
Quatro Hubbard	Archivist
Central Rappahannock Heritage Center	
John Reifenberg	Collection Manager
Local Historians	
Pat Sullivan	Historian/Relative former landowners
John Cummings	Local Historian

10 KEY QUESTIONS AND ANSWERS

10.1 IS THE EXISTENCE OF THE SLAVE CEMETERY ALREADY PUBLIC KNOWLEDGE?

Yes. The existence of the cemetery is well documented. The location is not. The existence of the African American cemetery is well documented by the Row/Estes family and its heirs in historical documents about the Greenfield Plantation. There is also an historical sketch of the Greenfield Plantation buildings that depicts the location of the cemetery consistent with GIS and LIDAR imagery. Greenfield cemeteries are also identified in the public side of the DHR V-CRIS data base system under DHR ID 088-5007.

Greenfield was occupied by both northern and southern forces during the Civil War campaigns in Spotsylvania County. According to a 2nd great grandson of Absalom Row, the plantation owner, when the plantation was sold by the Estes/Row family in 1905, the farmer who bought the land leveled the buildings to farm the fields and left the site of the family and slave cemeteries untouched.

The pastures and cemetery locations are easily visible in county GIS photos from 1953, 1962, 1974 and 1995. The location of the slave cemetery appears untouched from the construction of the nearby dam. About 2002, NTS reportedly fenced in the family cemetery and initially maintained it. GIS photos in 2002 and 2007 show the family cemetery but the location of the slave cemetery is no longer visible.

10.2 WHO OWNS THE FAMILY CEMETERY AND THE SLAVE CEMETERY?

Based on the 1905 Deed of Transfer, when the Row family sold the plantation, they retained ownership of the family cemetery and obtained an easement allowing them future access to the family cemetery. The slave cemetery is not specified in the 1905 land transfer. As such, the slave cemetery most certainly is Fawn Lake property, while the family cemetery may likely still belong to the heirs. All land transfers going forward would likely contain the exclusion and easement for the family cemetery. However, an additional Title search may be necessary to conclude the current ownership and easement status of the family cemetery. It is unlikely, but currently unknown, that the slave cemetery is mentioned in any recorded land documents.

Unless the HOA or some other entity associated with Fawn Lake has entered into an agreement with the Row family heirs to maintain the cemetery, there is probably no legal duty for the HOA to maintain the family cemetery.

However, the community may have a duty to ensure access to the cemetery by family members and to maintain the fence that FTS constructed around the family cemetery if the action was taken on behalf of the Fawn Lake HOA or there is a record of the HOA entering into an agreement with the Row heirs to maintain the cemetery. Further research is needed to see if the HOA has a duty (unlikely) to maintain the family cemetery or a liability responsibility to maintain the fence around the family cemetery.

10.3 WHAT IS THE GENERAL CONDITION OF THE GREENFIELD PLANTATION PROPERTY?

The former plantation is now on undeveloped property of the Fawn Lake Community and adjacent property apparently owned by the State. The former plantation house is likely on state property, while many of the former outbuildings and the cemeteries are on Fawn Lake property. The unmarked African American slave cemetery dates from prior to 1795 to about 1875 and was part of the Greenfield Plantation.

The cemetery is co-located near the Greenfield family cemetery which is currently fenced and sporadically maintained. The likely site of the African American cemetery site is on a relative bearing of 60 degrees and 180 feet from the center of the existing family cemetery to the center of the suspected slave cemetery site. The location of the African American cemetery is visible on the 1953, 1962, 1974, and 1995 Spotsylvania County GIS photos as well as the nearby family cemetery.

10.4 WHAT IS THE CURRENT SETTING/LANDSCAPE SURROUNDING OF THE CEMETERY?

The cemetery is in a small grove covered with purple periwinkle ground cover and a large Eastern Red Cedar at the southwest corner. There are overhanging scrub Autumn Olive and Sweetgum encroaching the site. The cemetery apparently was never fenced, and the burial area appears to be more oval in area than rectangular, sitting on a low rise in the topography behind the Fawn Lake Dam.

The slave cemetery site is accessible via a dirt road near the marina parking lot and path through a thinly wooded area leading to the site or by a short path from the family cemetery. The site can also be reached from the back side of the dam by walking to the opening to the existing family cemetery and then using the existing short path from the family cemetery to the right when facing the dam.

10.5 DOES FTS HAVE A FILE ON THE CEMETERIES?

Apparently, Helen Bradley has recently told a Fawn Lake resident there is/was a computer file on everything FTS had on the cemeteries and that FTS erected the fence around the family cemetery but could not locate the slave cemetery. This is unverified information. It would be very helpful to have this file so we know what has already

been done to locate the cemetery, whether the HOA ever agreed to maintain the family cemetery, and whether there is anything of import to the current HOA.

10.6 ARE WE REQUIRED TO LET ANYONE KNOW ABOUT THE CEMETERY?

No. Even if you recognize the graves as an old cemetery, you don't have to report the existence of the cemetery to anyone unless the graves are being vandalized.

10.7 WHAT IS V-CRIS; WHAT HAPPENS TO THE DATA ENTERED INTO V-CRIS?

V-CRIS is the Department of Historic Resources' statewide electronic cultural resources GIS and database. It provides interactive views of information in the DHR Archives related to properties, historic districts, and archaeological sites, and presents evaluative information about the historic significance of resources.

Virginia's archaeological data is sensitive and protected under the Code of Virginia §2.2-3705.7 (10), the National Historic Preservation Act 54 U.S.C. § 307103(a), and/or the Archaeological Resources Protection Act 6 U.S.C. §§ 470hh(a). DHR limits access to detailed archaeological data accordingly.

DHR screens resumes or CVs for qualified individuals (SOI qualified archaeologists, historic preservation planners, agency, or tribal cultural resource managers). Qualified individuals are responsible for ensuring that sensitive archaeological data is not misused or inappropriately distributed by any authorized V-CRIS users in their organization.

Survey data is visible as soon as it is approved through the QC process by DHR staff. Concurrence information (National Register Eligibility data) for decisions made by Review and Compliance staff is updated on a roughly monthly basis.

Once an archeological survey is recorded, survey data is locked. The HOA does not have to make their survey public or share the data or results with the county. Routinely, only certified archeologists can see the survey in V-CRIS. Survey data is restricted from the public to protect sites from being looted. Archeologists can recommend whether the cemetery site should be considered further for inclusion in the National Register.

10.8 DOES INCLUSION IN THE NATIONAL REGISTER OPEN US UP TO OTHER ISSUES?

No. But the registration may provide State tax benefit and grant opportunities (36 CFR 60). Under Federal Law, the listing of a property in the National Register places no restrictions on what a non-federal owner may do with their property up to and including destruction, unless the property is involved in a project that receives Federal assistance, usually funding or licensing/permitting (36 CFR 60).

National Register listing does not lead to public acquisition or require public access (36 CFR 60). A property will not be listed in the National Register if, for individual properties, the owner objects, or for districts, a majority of property owners' object. (36 CFR 60). National Register listing does not automatically invoke local historic district zoning or local landmark designation (36 CFR 60).

Per state guidance, Cemeteries generally are not eligible for the National Register. The state is already aware of the Greenfield Plantation location and has not taken action to include it in the National Register. DHR considers cemeteries or burial places to be historic if they meet, or are likely to meet, the criteria for inclusion in the National Register of Historic Places.

Thus a cemetery would be considered historic if it is (A) associated with events that have made a significant contribution to the broad patterns of our history; (B) associated with the lives of persons significant in our past; (C) embodies distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or (D) have the potential to yield information important in prehistory or history.

While cemeteries are not generally eligible for the National Register, as archaeological sites, burials may meet Criterion D by yielding information important to our understanding of history or prehistory. The archeologist conducting the survey should be consulted prior to the survey to determine the likelihood of the cemetery qualifying under Criterion D for inclusion in the National Register.

10.9 WILL VIRGINIA LAW REQUIRE LANDOWNERS TO MAINTAIN THE CEMETERY?

There is no Virginia law that requires landowners to maintain cemeteries on their properties. As the owner of property that includes a cemetery, you are not obligated to do anything if you leave the cemetery alone. You may maintain the cemetery if you wish or allow descendants or other parties to do so. Virginia law protects all cemeteries from willful and malicious damage, whether by the owner or by others (§ 18.2-127).

Should you decide to remove and relocate the graves so that the area may be used for other purposes, you are required to file a bill in equity with the city or county circuit court for permission to do so (§ 57-38.1). This petition will require a good faith effort to identify and contact the families or descendants of the persons interred in the cemetery, as well as publication of a notice of intent in a local newspaper. If the cemetery is unmarked, and you wish to have the remains recovered by professional archaeologists, you will also require a permit from DHR (§ 10.1-2305). Unless otherwise ordered by the court, you will be responsible for all costs due to the relocation.

10.10 CAN PEOPLE FROM OUTSIDE FAWN LAKE VISIT THE CEMETERY IF LOCATED?

State law already allows family members to visit grave sites on private land, whether it is registered with DHR or not. So, the right already exists by state statute. However, unless the deed of sale for the property specifies certain conditions of the sale, most rights go to the new property owner.

The plantation Deed of Transfer in 1905 excluded the family cemetery from the sale and preserved a right of access easement for family members to visit the cemetery. There is no mention of the slave cemetery, as was the norm of the day. As such, it appears the slave cemetery passed to the subsequent landowners without restriction.

Virginia law requires landowners to allow access to cemeteries on their private property for the purpose of visitation by family members/descendants or plot owners, and for genealogical research. The individual requesting to visit the grave site must give reasonable notice and abide by any restrictions the landowner may place upon frequency, hours, and duration of access. Additionally, landowners are NOT required to create a special access route if one is not already present (§ 57-27.1).

If you are an adjacent property owner to where your family cemetery is located and you feel that your family cemetery has fallen into neglect, you may petition the city or county circuit court for relief, including permission to access the property and maintain the cemetery (§57-39.1). It is highly unlikely that anyone buried in the slave cemetery is an ancestor or relative of a current adjacent landowner.

10.11 Is THERE A PROCESS FOR PEOPLE FROM OUTSIDE TO VISIT THE CEMETERIES?

Since only one family member has requested access to the cemeteries on Fawn Lake, an informal process for relatives to visit the Row/Estes family cemetery was apparently followed. The last visit was in 2011. This policy can be expanded upon and extended to the slave cemetery. The slave cemetery is already accessible from the family cemetery with no additional maintenance or clearing required by law.

According to Pat Sullivan, a Row family descendent, the process (under FTS) was for him to contact the head of the HOA and give notice of a visit and the head of the HOA apparently contacted security and obtained a pass for him. Sullivan then drove to the marina parking and traveled by foot to the cemetery.

Since none of the graves are marked and the names of the people actually buried at the cemetery are unknown, it is unlikely that there will be many, if any, requests to visit the slave cemetery, even if the HOA makes the location known to the public. Even if a few researchers wish to view the site, the HOA can establish strict guidelines to control access to the cemetery. State law and regulations strongly support the owner's right to control and restrict access to the cemetery.

10.12 WILL THE LOCATION OF THE CEMETERY ATTRACT MORE PEOPLE TO THE DAM?

It is unlikely that interest in the cemetery will draw any more people over the long run than is already present in the area. There may be a temporary increase in visiting the cemetery site for a short period, but the site can be reached through the dirt access road without traversing the backside of the dam.

In fact, making the location of the cemetery known may make it easier to justify controlling foot traffic in and around the dam. It may be useful to restrict all access to

both cemeteries through the existing dirt road and to close access on back side of the dam to all foot traffic around the base and downstream slope of the dam itself.

10.13 WHAT IS THE LEVEL OF COMMUNITY INTEREST AND SUPPORT FOR THIS ISSUE?

There is significant potential interest in the slave cemetery within the community. Besides there being several history buffs in the community, the issue of locating and identifying unmarked African American cemeteries in Virginia and nationwide is gaining prominence in the media and with local preservationists across the state.

For example, On March 28, 2021, Adrian Perry asked on the Fawn Lake Connect page "Does anyone know the story behind the little cemetery on the other side of the dam?". This sparked an exchange on the Connect site that led to 11 other people answering her post and exchanging information about the cemetery, the plantation, and the history of the people who lived there. Additional postings from 6 others followed.

One of the posts included a reference to the slave cemetery that was unmarked. This prompted Gary Crone to ask, "Does anyone know if the slave cemetery is on Fawn Lake property too and whether it is marked in any manner? Interested in learning more about its location and condition. It sounds as if it's been neglected in the past and am wondering about its current status and what is known about the individuals buried there. Appreciate your help."

A short exchange occurred about the slave cemetery that included speculation about its location. A picture of the cemetery from a former Spotsylvania historical blog was found by Gary Crone which led to Crone asking the question "Just curious. Why isn't the slave cemetery fenced off and maintained the same as the family cemetery? Just because the headstones are now rubble does not change the fact that people are buried there. If boundaries can be located, and at all practical, maybe it's time to do something. Just thinking aloud." From there three other people offered to help and the research began.

After a short period of time some engaged in initially helping to locate the cemetery suggested our search would make good reading on the Fawn Lake social media pages as

there is a lot of interest in civil war and the history of Fawn Lake. Out of concern that a significant amount of additional research was needed before going public and that the HOA needed a chance to get briefed and up to speed on the subject before being barraged on social media, it was decided that Crone would continue trying to locate the cemetery and determine if it was practical to have it located and preserved before going public.

Based on the initial level of interest and the social significance of an unmarked African American cemetery on Fawn Lake property, the idea of locating it and delineating the grave sites for recordation purposes to ensure the cemetery is preserved and protected would likely prove a very popular idea in the Fawn Lake community. Especially since members of the community have already taken steps to preserve and protect the family cemetery.

10.14 HOW PUBLIC SHOULD WE MAKE THE INFORMATION ABOUT THE CEMETERY?

This is the most challenging question. Not because it is difficult, but because there are so many options. It will probably be better to have some idea of what you want to do, but not make any public announcement or final decision until you see the final survey report from the archeologist. A local DHR representative can provide advice regarding how similar situations from around the state were handled.

From a public affairs perspective, this is a good news story that needs to be balanced with maintaining control over the optics and the messaging. In the extreme, considerable publicity could make the cemetery a minor tourist destination for those interested in visiting African American cemeteries or for persons interested in the Greenfield plantation's role during the Civil War. At the same time, some public recognition, especially within the community would be appreciated and appropriate.

When considering what is appropriate respect for the recognition of the location of the cemetery, one might consider that it should be given the same recognition and respect as the family cemetery. This might lead one to believe the cemetery should be cleaned out and fenced just like the family cemetery. However, after considering the history and culture of African American burials, the location of the cemetery and the

state's preference to leave unmarked cemeteries in their present state, clearing and fencing the cemetery is not a good idea.

Based upon input from archeologists with expertise in locating and preserving unmarked cemeteries, as well as speaking with local historians, a better option would be to leave the cemetery the way it is, with the periwinkle and surrounding trees intact and undisturbed. If the cemetery is where it is believed, it is already in a natural and peaceful setting that does not and should not be disturbed. Leaving the site in its natural state also forgoes any need for routine maintenance by the HOA.

If grave sites are identified, it may be appropriate to reset the black softball sized stone pieces (there are two such stones still at the cemetery site) on the graves that were deposited in the plunge pool of the principal spillway outlet of the dam. However, this is not required and would also identify the grave sites to would-be vandals.

One of the reasons the state safeguards the survey data in its V-CRIS data base from the public is to prevent grave locations from being known to vandals or grave robbers. While vandalism does not appear to be a problem with the family cemetery which has headstones, any well-intentioned decision to mark the graves should be balanced with the need to safeguard them from harm.

The Curator of the Spotsylvania County Museum has volunteered to construct and deliver an historical marker like the ones seen at local civil war sites around the county. This sign could be placed at the entrance to the cemetery, assuming the cemetery is where we think it is located. This is one way of publicly showing the respect of the community to the African American cemetery. While this would draw attention to the actual site location, it would not reveal the location on any grave sites. But the presence of one sign for one cemetery raises the question as to why the other cemetery does not have a sign.

An alternative would be to have a single sign located between the two cemeteries that recognizes both cemeteries that does not reference the exact location of either cemetery but just says "near this location", or language to that effect. This would

probably be better than having two signs. The two cemeteries are close enough together for one sign.

The HOA should develop a strategic communication plan in anticipation of making the location of the cemetery public if it chooses to make it public. The target audience could include members of Fawn Lake and those engaged in local historical research, especially those researching the Civil War period and African American cemeteries.

Methods used to reach the target audiences would include social media, tailored emails to interested parties, Fawn Lake Lifestyle Magazine, and/or the local Spotsylvania & City Star Weekly. If the HOA were interested in publicizing an event, in conjunction with having a ceremony commemorating such as a sign being placed at the cemetery, it would likely be covered in the local and regional print and media news. The issue with seeking publicity is deciding if you want the publicity.

10.15 CAN THE STATE PROVIDE ANY TECHNICAL ASSISTANCE FOR THE CEMETERY?

Preservation of historic cemeteries and burial sites in their original place and form is the preferred treatment option. According to the state, good cemetery maintenance strategies should incorporate the gentlest, most low-impact measures possible, and should address issues of long-term care (including the financial commitment necessary). Temporary or hasty solutions will only postpone a recurring problem and may inadvertently cause additional problems.

DHR advocates the adoption of innovative strategies for the long-term maintenance of historic cemeteries compatible with the cemetery's traditional form. DHR staff can provide broad-based technical assistance regarding the preservation of historic cemeteries. This assistance includes recommended options for the treatment and preservation of cemeteries, and information regarding the historic context and traditional form of regional historic cemeteries.

10.16 CAN HEIRS OR LANDOWNERS RELOCATE THE BODIES IN THE CEMETERY?

Disinterring (removing from a grave) or displacing any part of any buried human remains is a Class 4 felony under Virginia law (§ 18.2-126). Conviction is punishable by

two to ten years in prison and up to \$100,000 in fines. This law applies to all human burials, whether prehistoric, historic, or modern. Willful or malicious damage to cemeteries is against the law and is punishable by one to five years in prison and up to \$25,000 in fines (§18.2-127).

Heirs and descendants may petition the court for permission to relocate an ancestor's remains from any abandoned family cemetery (§57-38.2). But relocating human remains is an expensive process and the Virginia Preferred treatment of burial places is preservation in place. The costs of removing and relocating human burials are the responsibility of the person or entity requesting the court order/permit.

Virginia law also requires any property owner intending to obtain a court order to remove and relocate human burials from any abandoned cemetery on his/her property to make a reasonable and good-faith effort to notify the family and/or descendants of the buried individuals (§57-38.1 and §57-39). This is also an expensive and drawn out process.

10.17 WILL THE STATE PROVIDE FINANCIAL ASSISTANCE TO OUR CEMETERY?

Nominal assistance may be available. Currently, annual appropriations for grave and cemetery care are set at \$5 per grave. For example, an organization providing care for 30 graves would be eligible for an annual appropriation of \$150.00. A larger amount maybe provided under § 10.1-2211 for larger, one-time appropriations for "extraordinary maintenance, renovation, repair, or reconstruction" in certain designated cemeteries. These large, one-time appropriations must be preceded by an appropriation made for this purpose and are granted at the discretion of the Director of the Department of Historic Resources. Further research is necessary to determine if our cemetery qualifies for any of these funds.

10.18 WHAT IS THE COST TO LOCATE THE CEMETERY AND WHO IS GOING TO PAY IT?

Privately surveying the cemetery and graves will cost about 6-7 thousand dollars. There are two options currently available. Either one would most likely identify the location of the cemetery and some if not all the grave sites. The first option is to do a ground

penetration radar (GPR) search that would cost about four thousand dollars, based upon a proposal from GeoModel, located in Leesburg, Virginia. Their GPR service would mark the findings with flags but not survey or record the findings. Surveying and recording the GPR results would likely cost an additional two to three thousand dollars. The GPR search would take one day, is not intrusive, and does not require a permit.

The second option is a ground compression penetrometer survey. This survey would use probes to identify changes in subsurface soil compressions caused by the presence of a burial and human remains. This survey is also considered non-intrusive and does not require a permit. Dovetail Cultural Resource Group has submitted a proposal for \$6,917.00 to conduct a compression survey and to complete the delineation and recordation of the cemetery, as well as submitting the data to the DHR for inclusion in the DHR V-CRIS data base. Their onsite survey would last two days.

The cost of either survey could be funded through the HOA or it with funds raised from the community. With the HOA funding the survey it could retain complete oversight and control of the survey and its report. While having the community fund the survey would relieve the HOA of allocating the funding and placing the project on a more "voluntary contributions" status, the loss of control and additional logistics for establishing, maintaining, and controlling a community led funding effort might make volunteer funding less desirable than simply budgeting for the survey through the HOA.

11 WHAT IS YOUR WAY AHEAD?

1. Review this handout and agree that recording the location of the cemetery and grave sites within the Virginia Cultural Resources Information System is something you want to do.
2. Identify any outstanding questions about the project.
3. Determine if the questions can be answered by further research or if they need legal analysis.
4. Resolve all questions you can answer through additional research before contacting your attorney.

5. Determine if FTS has a file on the cemeteries; obtain and review it.
6. Formulate a set of narrow legal questions for the HOA attorney to review and answer. Questions for the attorney might include:
 - a. Does completing the survey and recording the survey results in the V-CRIS data base create any additional liability, financial or legal duties upon the HOA, Fawn Lake community, or its residents and what are they?
 - b. If, later, the cemetery or plantation site are included in the National Register, does the inclusion of the cemetery or plantation adversely impact or restrict any future use or value of Fawn Lake property?
 - c. What tax liabilities or savings, if any may incur from entering the African American cemetery in the V-CRIS data base or National Register?
 - d. Who owns the family cemetery? Who owns the African American cemetery site? Are their enforceable easements on either?
 - e. Will the location of the cemetery need to be included in any future legal documents on file with the county or any future legal transactions?
7. It may also make sense to check with your insurance carrier to ensure there would not be any changes in your policy or premiums if the cemetery is identified or if you place a historical marker at the site of the cemeteries.
8. Assuming it wishes to proceed, the board will need to review proposals for doing the survey and determine how it wants to cover the expense of the survey.
9. The board should opt to retain control of the survey results until it decides whether it wants to release the information to the public.
10. Since the survey will take place in the open, the board should decide prior to the survey what it wants to tell the community is happening at the dam, if anything.
11. Before the survey is completed, the board should begin discussing whether it wants to release the survey results to the public and whether they want to place a marker at the site or do any other form of physical recognition.
12. A strategic communications plan should be developed if the board decides to make public the survey findings or the location of the cemetery.

12 REFERENCES

Barnum, M. (1937). (rep.). *Greenfields* (pp. 1–4). Fredericksburg, Virginia: Works Progress Administration of Virginia.

Cemetery Preservation: Frequently Asked Questions. DHR. (n.d.).
<https://www.dhr.virginia.gov/archaeology/cemetery-preservation-frequently-asked-questions/>.

The Colonial Williamsburg Foundation. (n.d.). *Periwinkle Initiative*. Slavery and Remembrance.
<http://slaveryandremembrance.org/partners/partner/?id=P0087>.

Dovetail Cultural Resource Group. (2021, January 13). <http://www.dovetailcrg.com/>.

GeoModel. (n.d.). <https://geomodel.com/>.

Grave Matters: The Preservation of African-American Cemeteries. Grave Matters - The Chicora Foundation. (n.d.). <https://www.sciway.net/hist/chicora/gravematters.html>.

Home. Saving Graves. (n.d.). <https://www.savinggraves.net/>.

LIS Virginia Laws. (n.d.). *Title 57. Religious and Charitable Matters; Cemeteries*. § 57-27.1. Access to cemeteries located on private property; cause of action for injunctive relief; applicability. <https://law.lis.virginia.gov/vacode/title57/chapter3/section57-27.1/>.

Locating Unmarked Graves By Probing. (n.d.).
<http://iagenweb.org/mitchell/mcpcrp/pcrl/locating.htm>.

Mansfield, J. R. (1960). (publication). *Greenfield* (pp. 1–6). Spotsylvania, Virginia: Spotsylvania Historical Society.

Sullivan, P. (1970, January 1). *Greenfield*.
<https://spotsylvaniamemory.blogspot.com/2013/10/greenfield.html>.

Sullivan, P. (1970, January 1). *Spotsylvania Memory*. December 2013.
<https://spotsylvaniamemory.blogspot.com/2013/12/>.

Sullivan, P. (1970, January 1). *Spotsylvania Memory*. October 2014.
<https://spotsylvaniamemory.blogspot.com/2014/10/>.

Sullivan, P. (1970, January 1). *Spotsylvania Memory*. September 2011.
<https://spotsylvaniamemory.blogspot.com/2011/09/>.

Title 18.2. Crimes and Offenses Generally. § 18.2-128. Trespass upon church or school property. (n.d.). <https://law.lis.virginia.gov/vacode/title18.2/chapter5/section18.2-128>.

128/#:~:text=2.%20Crimes%20and%20Offenses%20Generally.%20Chapter%205.%20Crimes,shall%20be%20guilty%20of%20a%20Class%203%20misdemeanor.

U.S. Department of the Interior. (n.d.). *How to List a Property*. National Parks Service. <https://www.nps.gov/subjects/nationalregister/how-to-list-a-property.htm>.

U.S. Department of the Interior. (n.d.). *National Register Bulletin, 41*. National Parks Service. National Register Bulletin 41 (nps.gov).

VCRIS logo Virginia Department of Historic Resources. (n.d.). *VCRIS User Guide*. IIS Windows Server. <https://vcris.dhr.virginia.gov/vcris/help/>.

Virginia Law. Code of Virginia Code - Chapter 3. Cemeteries. (n.d.). <https://law.lis.virginia.gov/vacode/title57/chapter3/>.