

Union Hill: Real Property, Racism and Environmental Justice

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Introduction

Net worth is described as the total value of an individual or company expressed as total assets less total liabilities. For an individual or family, often the largest contributor to their net worth is the home and property they own. The terms “wealth gap” or “income gap” refer to the differences in prosperity between two groups; for examples, white Americans versus African Americans, or the 1% versus the 99%.¹ “Per the Census Bureau numbers, the median white household had \$111,145 in wealth in 2011, compared to \$7,113 for the median black household and \$8,348 for the median Latinx household,” reports Amelia Josephson in an article on SmartAsset.com. Using these figures, the wealth gap between the average white and black family in America in 2011 was \$104,033. Our report begins with the question: How did we get here?

While African Americans were never banned from owning property, the policies put into effect after slavery crippled wealth building opportunities for black Americans. Lending policies regarding home ownership—the red lining of black communities—increased the disparity. The quality of education offered to African Americans after the Civil War and through the Jim Crow era exacerbated the ability of black Americans to build wealth. These policies and others ensured African Americans couldn’t get financing to buy homes, while white Americans were offered much easier access. Between 1934 and 1962, 98% of home loans went to white families.² Most African American families were blocked from attaining the opportunity to grow wealth through home ownership.

Moreover, pernicious and even subversive policies which have allowed the placement of toxic polluting industries in or near marginalized communities continue today and further destroy opportunities for those who live in poverty and minorities to gain wealth in America.

¹ “What is the Wealth Gap, by Amelia Josephson, July 23, 2019, <https://smartasset.com/insights/what-is-the-wealth-gap>

² “The Racial Wealth Gap: Addressing America’s Most Pressing Epidemic,” by Brian Thompson, February 18, 2018, <https://www.forbes.com/sites/brianthompson1/2018/02/18/the-racial-wealth-gap-addressing-americas-most-pressing-epidemic/amp/>

Focus of Injustice and Resistance

We assert that Dominion Energy's 1) siting of the Atlantic Coast Pipeline (ACP) Compressor Station No. 2 in Union Hill in Buckingham County, 2) siting Compressor Station No. 3 in majority-minority Northampton County, NC and 3) building ACP's pipeline through environmental justice communities (indicated by 58% of the census blocks being designated EJ communities) continues this historical abuse of marginalized communities.

In May 2014, across West Virginia, Virginia and North Carolina, Dominion Energy began contacting landowners seeking permission to access private property to determine if their land was suitable to host a 42-inch high pressure fracked gas pipeline.³ The proposed pipeline was referred to as the "Southeast Reliability Project" at the time. While its letters requested landowners to sign a document allowing Dominion to enter their private property for "survey," Dominion ended their request by stating it didn't need permission from landowners to complete those surveys. So began the arrogant tactics used by a powerful public utility to bulldoze its way over people, private landowners, and communities with the assistance of the bureaucrats appointed and/or employed by local, state and federal governments. Dominion Energy had long been donating to the coffers of elected officials on both sides of the aisle, greasing their palms to pass every piece of legislation they sought in Virginia's General Assembly. The company not only used their campaign contributions to buy the support of legislators, it used its charitable foundation to distribute donations attempting to overcome community opposition to the Atlantic Coast Pipeline. Recipients of these funds include chapters of the NAACP, and other groups including the James River Association and Buckingham County Schools. In November of 2018, at a hearing held by Virginia's Air Control Board regarding its chosen compressor station site in Buckingham County, VA, Dominion announced a \$5 million fund set up for "improvements" to the Union Hill community, so long as the compressor station was built.

³ Throughout this report, we will use the term fracked gas instead of natural gas when referring to interstate pipelines designed to transport fuel extracted by hydrofracking from the Marcellus Shale region.

Previously, Dominion had purchased two pieces of land in Buckingham for its 57,000 horsepower compressor station, a polluting industrial power plant necessary for moving gas through the pipeline. Both properties offer the connection Dominion says it requires with the Williams Transco pipeline built in the 1940's. The properties are located just a few miles from each other. The first tract is in a rural area dominated by a non-minority population and is 148 acres for which ACP paid \$225,000. Its assessed value at the time was \$215,700. The second parcel is located in the Union Hill community, an area heavily populated by the descendants of freedmen, African Americans freed from slavery. This parcel assessed at \$61,000 is only 68 acres for which ACP paid \$2,500,000, ten times the average sales price per acre. Dominion ultimately chose the parcel in the environmental justice community of Union Hill as its compressor station site. Because of the shape of the Union Hill parcel, required setbacks, wetlands and the natural contours of the property, Dominion has had difficulty siting the compressor station on the 68-acre parcel, but insists on doing so. Despite the company and its representatives doing everything they could to divide and conquer the community, Union Hill has continuously resisted the pipeline and its compressor station for over five years.

Why Union Hill?

We have long wondered why Dominion/ACP would choose the environmental justice community, Union Hill, for its compressor station. The first parcel ACP purchased is 80 acres larger than the second parcel at 68 acres. The size of the first property would be better suited for the massive compressor station's footprint.

The cost of the first parcel was \$225,000 versus \$2.5 million for the Union Hill site--over ten times the price per acre of the first property.

Another difference: the communities, themselves. The community where the 148 acre parcel is located is mostly white. Interestingly, Buckingham County's Commonwealth's Attorney, E. M. Wright, Jr. is an adjoining landowner to the abandoned parcel purchased by Dominion Energy for its compressor station.

We think Dominion/ACP made a poor choice. Union Hill has been fierce in its fight to protect its community.

The Legacy of Environmental Sacrifice Zones

History has shown that low income communities and communities of color are those most often to breathe some of the least healthy air in the nation. For example, the nation's worst air quality is in the South Coast Air Basin in Southern California, where studies have shown that Latinos are twice as likely as whites to live within one mile of an EPA Toxic Release Inventory listed facility, and Latinos, African Americans, and Asian populations face 50% higher cancer risks than Anglo-Americans in the region. Advocates nationwide argue that because poor people of color bear a disproportionate burden of air pollution, their communities should receive a disproportionate share of money and technology to reduce toxic emissions, and that laws like the Clean Air Act should close loopholes that allow older, polluting facilities to escape pollution control upgrades.⁴

To address this problem, Walter Fauntroy, former District of Columbia Congressional Delegate to Congress, prompted the General Accounting Office to investigate environmental justice issues. The GAO released its findings that three-quarters of the hazardous waste landfill sites in eight southeastern states were located in primarily poor, African-American and Latinx communities. United Church of Christ's Commission for Racial Justice published *Toxic Wastes and Race in the United States*, which revealed that race was the single most important factor in determining where toxic facilities were located, and that it was the intentional result of local, state and federal land-use policies. Dr. Robert Bullard published *Dumping in Dixie: Race, Class, and Environmental Quality*, in which he showed the importance of race as a factor in the siting of polluting industrial facilities.⁵

Many southern communities have large minority populations partially because during colonial times their ancestors were enslaved by white plantation owners and those freedmen settled areas around those plantations. After Emancipation, some plantation owners gave their

⁴ Environmental Justice for All: A Fifty State Survey of Legislation, Policies and Cases (fourth ed.), Steven Bonorris, Editor, Copyright © 2010 American Bar Association and Hastings College of the Law. With citation, any portion of this document may be copied and distributed for non-commercial purposes without prior permission. All other rights are reserved. <http://www.abanet.org/environ/resources.html> or www.uchastings.edu/cslgl

⁵ Natural Resources Defense Council, <https://www.nrdc.org/stories/environmental-justice-movement>

slaves land and those freedmen settled in communities near the plantations they had worked. Others took up share cropping on their former “master’s” land. Still others purchased land.

Historical Context

In 2019 Virginia commemorates the 400th anniversary of the arrival of the first slaves on its shores. After centuries of racist policies, residents of Union Hill, an historic community settled by freed slaves, find that elected officials, laws and regulations at the local, state, and federal levels have failed to protect their real property, health, safety and welfare. Four hundred years of racist policies promoting both economic and environmental injustice are still enshrined in our laws and regulations.

The arrival of those first slaves in 1619 would later force a debate among the men who were drafting the Constitution of the United States. The Constitution never mentions the words “slave” or “slavery.” To present a draft the Southern states would ratify, there were so-called compromises made. Those compromises included allowing the states to count all non-free persons as 3/5 of a person, free states could not protect non-free persons of another state, and the year 1808 was determined to be the earliest any attempt could be made to change the first and fourth clauses of the ninth section of Article I (which allowed slavery).⁶ Thereby, the slave trade was allowed to flourish from 1619 until it was abolished in 1808 by Thomas Jefferson. However, Jefferson, a slave holder himself, failed to address the injustice of those slaves already held in bondage in the United States. African Americans were allowed to languish in slavery for another 55 years. In 1850, Buckingham County’s total population was 13,894 of which 59% were slaves, 8,161 human beings.

⁶ POWERS FORBIDDEN TO CONGRESS: Section 9. [1] The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person. [4] No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

Setting the stage for the Civil War, in its 1857 *Dred Scott* decision the US Supreme Court held that African Americans were never to be allowed to be citizens or vote in the United States. Additionally, *Dred Scott* said slaves had no standing to sue the government.⁷

President Abraham Lincoln issued the Emancipation Proclamation⁸ which stated: “that on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any State or designated part of State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free...” In the spring of 1864, the United States House of Representatives failed to pass the 13th Amendment which would have abolished slavery and involuntary servitude except in the case of punishment for crimes committed. The US Senate passed the Amendment in April, 1864. With renewed pressure from President Lincoln, the House of Representatives took up the Amendment again and on January 31, 1865 passed it by a vote of 119 to 56, just over the required two-thirds majority. The next day Lincoln approved the joint resolution from Congress and submitted the 13th Amendment to the states for ratification. Lincoln would never see the 13th Amendment ratified as he was shot at Ford’s theatre and died on April 15, 1865. Georgia ratified the 13th Amendment on December 6, 1865 thereby officially ending slavery in the United States. In 1866, Congress passed the first Civil Rights Act. This act invalidated laws put into place by the “rebellious” states which effectively kept blacks in slavery.

The Reconstruction Acts were passed in 1867 and 1868 by the US Congress. These acts required black men be granted the right to vote, the 14th Amendment to be ratified and disenfranchised some who had been former Confederates. To be readmitted to the United States after the Civil War, those states which had seceded from the Union were required to write and its people ratify new state constitutions. These new constitutions also required approval of Congress.

⁷ *Dred Scott v. Sandford*, 60 U.S. 393 (1857) Dred Scott was an enslaved black man whose owners had taken him from Missouri, which was a slave-holding state, into the Missouri Territory, most of which had been designated free territory by the Missouri Compromise of 1820. Scott sued in court for his freedom in Missouri state court, which ruled that he was still a slave under its law. He then sued in U.S. federal court, which ruled against him. He then appealed to the U.S. Supreme Court.

⁸ *Emancipation Proclamation*, January 1, 1863, Written by President Abraham Lincoln, the Proclamation was issued during the third year of the Civil War. It was limited in many ways and applied only to states that had seceded from the United States. Additionally, the freedom it promised was dependent on a victory by the US military.

Virginia was known at the time as the First Military District. Led by Judge John Curtiss Underwood, Virginia convened its Constitutional Convention in December of 1867. As a result of the disenfranchisement of those Confederates who had sworn allegiance to the South during the Civil War by the Reconstruction Acts, Buckingham County's census of voters showed 1,799 black and 1,072 white voters. One hundred five (105) delegates were elected to draft the new Constitution, 24 of whom were African Americans. Among those African Americans was a delegate from Buckingham County, Virginia, Mr. Frank Moss. Moss was elected as Buckingham's delegate on October 22, 1867. Moss' family had been free for many generations before his birth. In the book, "The Hidden and The Forgotten" written by local Buckingham County African American historian Charles White, Moss is described as being "intelligent, fearless and articulate." In his book, White relates a story of Moss' seat being contested when he arrived at the Capitol in Richmond. Moss demanded to be seated as a member of the Constitutional Convention. Supported by letter from the Governor of the First Military District, Brigadier General John Schofield led the Credentials Committee to vote in his favor and seat Moss as a delegate to Convention. Moss spoke against a proposal to exempt land from taxation on January 28, 1868 stating "we may as well have stayed home." He believed land taxation to be an integral part of the new Constitution and he would ultimately become one of the least liked black legislators. He was known as "40 acres and a mule Moss" because he was fervently against sharecropping and insisted that former slaves were entitled to a portion of the land they had worked as slaves. Moss was elected to the Virginia Senate from 1869 to 1871 and in the Virginia House of Delegates from 1874-1875.⁹

Judge John Underwood led the group of delegates to draft a progressive constitution. While discussion included giving women the right to vote, the final draft gave the right to vote to all men ages 21 and older, both black and white. The new constitution also created elected local boards in all counties in Virginia, replacing boards which had been appointed and bringing democracy to the county level. It also required a public school system and that portions of the new Constitution were to be voted on separately. Those portions which contained clauses

⁹ *The Hidden and the Forgotten, Contributions of Buckingham Blacks to American History*, Charles W. White, Revised and reprinted 2017.

requiring disenfranchisement of former Confederate government members and supporters failed. However, Virginians ratified the remainder of the new Constitution by a vote of 210,585 to 9,136. After approval of the US Congress, Virginia's new constitution took effect in 1869. On January 26, 1870, President Grant signed the legislation and seated Virginia's Congressional delegation for the first time since secession. The Reconstruction Era was now in full force in Virginia. Sadly, it didn't last long as the gains made were lost when conservatives regained control of the Virginia General Assembly and began to pull back on protections for blacks.

On the night of February 24, 1869, the Buckingham Courthouse was set fire by an arsonist and burnt to the ground, destroying all its records since the County's formation in 1761. The courthouse had been designed by Thomas Jefferson. No one was ever charged with the arson. Buckingham's African American historian, Charles White, in his book, "The Hidden and The Forgotten," describes The Richmond Dispatch report this way:

"A sad calamity has befallen our county. The courthouse was set fire yesterday morning about 1 o'clock, and by daylight was a mass of ruins. The clerks' offices of the county were kept in the courthouse and there is not a single record left—everything lost. This county was organized in 1761, and the records relating back to its foundation have also been destroyed. No suspicion attaches to anyone, but the building was evidently fired with a view of destroying the clerk's offices."

Of course, there were many rumors as to why the courthouse would be set on fire, one of which was to ensure those freedmen who had been given property by their former masters or who had purchased property after the Civil War would not be able to prove ownership if all the records were destroyed by fire.

In 1896, in a decision now described by many as the worst ever made by the US Supreme Court, *Plessy versus Ferguson*,¹⁰ created what became known as the "Separate but

¹⁰ *Plessy v. Ferguson*, 163 US 537 (1896) was a landmark decision of the US Supreme Court which upheld the constitutionality of racial segregation laws for public facilities as long as the segregated facilities were equal in quality—a doctrine that came to be known as "separate by equal." Homer Plessy deliberately violated Louisiana's "Separate Car Act" of 1890 which required equal but separate rail cars for white and non-white passengers. Plessy was 7/8 white and 1/8 African American. When charged, Plessy's lawyers argued the Louisiana law was unconstitutional. The case went to the US Supreme Court which ruled against Plessy stating that the 14th Amendment established legal equality, it didn't require the elimination of all "distinctions based on color."

Equal” policy allowing segregation. Though the Plessy decision was never overturned, scholars point to the 1954 *Brown versus Board of Education*¹¹ decision which held that the “separate but equal” doctrine was unconstitutional regarding public schools and educational facilities, as Plessy’s demise.

In our 400 year history, African Americans endured 250 years of slavery, 100 years of Jim Crowe policies and finally in 1964 with the passage of the Civil Rights Act, African Americans gained their freedom.

Heirs Property Perpetuates Injustice

In Buckingham County, the community of Union Hill is a prime example of freedmen purchasing land from their former slave masters or their descendants. Many of those freedmen, not trusting in the white man’s judicial system, did not make wills believing their families and the land they owned would be safer if they stayed away from the courts. Additionally, our research indicates a difference between the deeds of white slave-owners and the freedmen who purchased property. Often, the freedmen recorded deeds written not in just their names; they included the names of their wives and children, including unborn children, giving them rights to the land upon the death of the original purchaser. This practice and freedmen dying without wills caused what is known as heiring, whereby all the heirs own the property in common, with no one having a controlling interest.

According to the US Census Bureau, 80% of the land owned by African Americans since 1910 has been lost because of heiring. Approximately 15 million acres was owned by previously enslaved African-Americans at the turn of the 20th century. Most of the land was farmland located in the South. In 1920, 925,000 farms were owned by African Americans.¹² This was almost 14% percent of all farms in the United States. Sadly, that is not the case today.

¹¹ *Brown v. Board of Education*, 347 US 483 (1954), another landmark decision by the US Supreme Court established state laws which had created racial segregation in public schools and facilities were unconstitutional because “separate educational facilities are inherently unequal” and violated the Equal Protection Clast of the 14th Amendment of the US Constitution.

¹² “Farming As a Political Act: The Connection between African-Americans and Land, Blog by Ashley McNeil, submitted by Hannah Traverse on 24 May, 2018; <https://corpsnetwork.org/blogs/farming-as-a-political-act-the-connection-between-african-americans-and-land/>

The Black Family Land Trust states that 94% of African American farmers lost part or all of their lands between 1993 and 2003. In 2004 there remained only 29,090 farms owned by African Americans, a 97% decline from 1920, three times the rate of white farmers.

Union Hill Study

We chose to study the Union Hill community because it was chosen by Dominion/ACP for the site to locate its 57,000 horsepower compressor station. For our study, we defined Union Hill geographically by those properties which touch Shelton Store Road through the agriculture lands approaching and then leaving the compressor station site crossing Union Hill Road until we reached James River Road. The compressor station site lies centrally in this area and was purchased by Dominion/ACP for \$2.5 million dollars from the descendants of white slave owners. We wanted to know:

- 1) How many parcels were owned by minorities.
- 2) How many of those parcels are heir properties.
- 3) How many acres would be taken for easements.
- 4) How much Dominion paid for those easements, and
- 5) If the compensation was comparable between all the properties?

The Many Failures of the Bureaucratic Process

The Federal Energy Regulatory Commission (FERC) permits pipelines in cooperation with other federal agencies including the US Forest Service, the Army Corps of Engineers, the Fish and Wildlife Service, the Department of Historic Resources, the Bureau of Land Management. FERC leaves some decisions to the states, but also has a pre-emption clause, whereby decisions FERC purportedly has left to localities and states can be overridden. From the beginning, ACP's developers—Dominion Energy, Duke Energy, Piedmont Natural Gas, and Southern Company Gas—used the pre-emption clause against landowners and citizens who opposed the ACP. Local government agencies at the county and city level have responsibility for approving special use permits for compressor station sites, changes in zoning ordinances and meeting flood plain ordinances. The states have responsibility to determine if soil and erosion plans meet state

standards and if those plans would protect water quality, allowing the issuance of a Clean Water Act Section 401 water quality certificate. Permits to approve how much air pollution is acceptable when compressor stations are operational are also left to the State.

The permitting process is convoluted; it allows Governors to claim that pipelines are permitted by the feds and states have no part to play. There were many failures during the permitting process with the ACP. One of the most glaring was the failure of federal, state and local officials regarding environmental justice along the pipeline route, specifically with regard to the siting and operation of the compressor station in the Union Hill community.

In Buckingham County, the local planning commission and Board of Supervisors completely ignored local zoning special use permit requirements, allowing the ACP—which is a gas transmission line and not a utility—to use a utility exemption to obtain a special use permit.¹³ Further, they ignored evidence presented at hearings of disproportionate impact to a majority-minority community and requests by the public to conduct an environmental justice review of the site chosen for the compressor station.

Virginia’s Department of Environmental Quality stated in an email it had not conducted an environmental justice review of the Union Hill community before issuing the 401 water quality certification because it was not required to do so. Likewise, Virginia DEQ Air Permitting staff fell short before the first hearings of the State’s Air Board for the compressor station. Under immense pressure from the public and grassroots groups, DEQ’s Director of Air Permitting completed a cursory look at the environmental justice issue stating publicly that if permitting met the National Ambient Air Quality Standards, issuing a permit could not cause a disproportionate impact on the Union Hill community. In a most telling breach of public trust, Virginia’s Governor replaced two members of the state’s Air Board before they had the opportunity to vote on the permit, but after they voiced questions of DEQ staff and Dominion Energy executives at a hearing in November 2018.

Dr. Lakshmi Fjord had completed a door-to-door survey of the Union Hill community and found that 83% of those surveyed were African American. This study was peer reviewed

¹³ “Pollution Report: Unfair, Illegal and Unjust,” Blue Ridge Environmental Defense League Technical Report 16-342 (2016) available at http://www.bredl.org/pdf5/161207_air_pollution_report-FINAL.pdf

and yet the DEQ's Air Permitting staff discounted it and the Air Quality Board ultimately ignored it, voting to approve the air permit for the Union Hill compressor station in January 2019. The Charlottesville office of the Southern Environmental Law Center has filed a lawsuit on behalf of the Union Hill community appealing the Air Board's approval of the permit.

In August, 2018, the Governor's Advisory Council on Environmental Justice issued a report clearly stating that all permitting for both the Mountain Valley and Atlantic Coast Pipelines should be paused. The report also made clear that the siting of the compressor station in Union Hill was "environmental racism." The Governor ignored the report. The ACEJ re-confirmed its unanimous vote in favor of the report at its next meeting. The report was again dismissed by the Governor. Next, Cabinet Secretary Matthew Strickler issued a terse statement. According to Blue Virginia:

Strickler's one-page letter all but ignored the Council's findings, prompting the Virginia State Conference of the NAACP to say that it was "troubled by Strickler's 'inadequate' and summary dismissal of the serious, pressing and legitimate issues raised by the Governor's own Advisory Council."¹⁴

Finally, at its October meeting, the ACEJ was informed by Senior Assistant Attorney General Paul Kugleman that the committee didn't legally exist because these types of Board's must be reconstituted at the beginning of a new Governor's term, or at least annually by the date they were formed. This Council was originally created on October 31, 2017 by then Governor Terrence McAuliffe. ACEJ's report was well-researched. Nevertheless, Governor Northam ultimately disbanded the Advisory Council on Environmental Justice. Clearly, four hundred years of racism has a hold on the Governor of Virginia.

Study Area

The methodology employed in this report began with searching the federal database for eminent domain lawsuits filed by ACP against landowners in Buckingham. There were 38.

¹⁴ Blue Virginia, "October Surprise! Governor Ralph Northam, Secretary Matthew Strickler tell Advisory Committee to Go Away, Literally," by John Sokolow, October 25, 2018. <http://bluevirginia.us/2018/10/october-surprise-governor-ralph-northam-secretary-matt-strickler-tell-governors-advisory-council-on-environmental-justice-to-go-away-literally>

From this information, we completed over 120 hours of research in the Buckingham Court Clerk's Office to determine ownership of the properties, if the properties were heir properties, and if easements had been obtained by the pipeline developer. Of the 38 federal eminent domain lawsuits filed by Dominion/ACP in Buckingham County, we determined as many as 19 were heir properties.

For this study, we chose properties along the route of the proposed Atlantic Coast Pipeline which have been designated to host the pipeline as it approaches and leaves Compressor Station 2. Compressor Station 2 is a 57,000 horsepower toxic, polluting industrial facility which, if built, will be located on 68 acres in an agriculture zone in a rural area surrounded by a majority-African American community. A study completed by Anthropologist, Dr. Lakshmi Fjord indicates within 1.1 mile of the compressor station, the community is 83% African-American with a population density of 99 people per square mile. Buckingham County, as a whole, is 35% African-American, and has a population density of 29 people per square mile.¹⁵ We chose these properties because they fall within the Union Hill community. Geographically, we began with properties adjoining Shelton Store Road through the agricultural area approaching the compressor station site then leaving the compressor station site crossing Union Hill Road until we reached James River Road. Our research includes a total of 15 properties excluding the compressor station site. Determining ownership, verifying that the pipeline will cross the properties, if easements had been obtained, the amount of compensation paid for the easements, and if the properties were heir properties were key goals of our research.

¹⁵ *Union Hill Community Household Study Site and Methods Report: A Community Participatory Action Research Project, Part II, Households: Demographics, Health, Land Use, Family Heritage*, Dr. Lakshmi Fjord, December 2018.

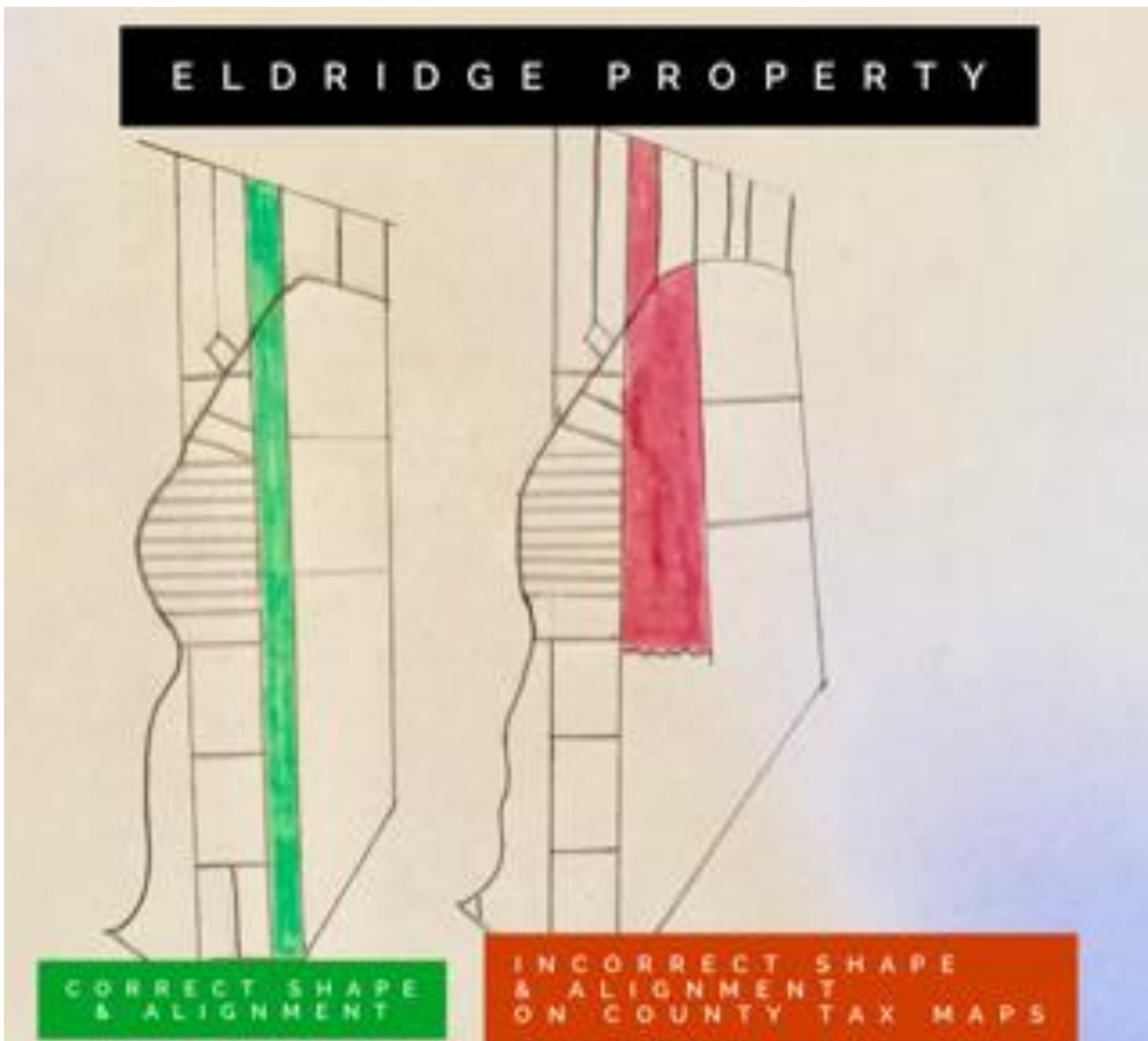


In an attempt to determine the length of time a particular family had owned the property and if the property had been given to a freedman or purchased from a slave owner, we also completed genealogic research on the families of the heir properties. However, because the courthouse was burned to the ground in 1869, it was nearly impossible to establish and prove ownership prior to that date. Documents from the Buckingham Historical Society were helpful in locating surrounding plantation homes, as well as family and slave cemeteries. Not unexpectedly, it was much more difficult to learn about the history of the freedmen who settled Union Hill. Who were the parents of those freedmen? Where were they buried? On which of the many plantations in the area did they struggle to survive during their enslavement? For the most part those questions remain unanswered. The slave cemeteries are mostly overgrown with trees and brush, offer no names and if a grave is marked at all, it was by a field stone. Men, women and children who were the backbone of the South's economy, who toiled every day to make others wealthy, who were owned by white slavers will for eternity remain anonymous.

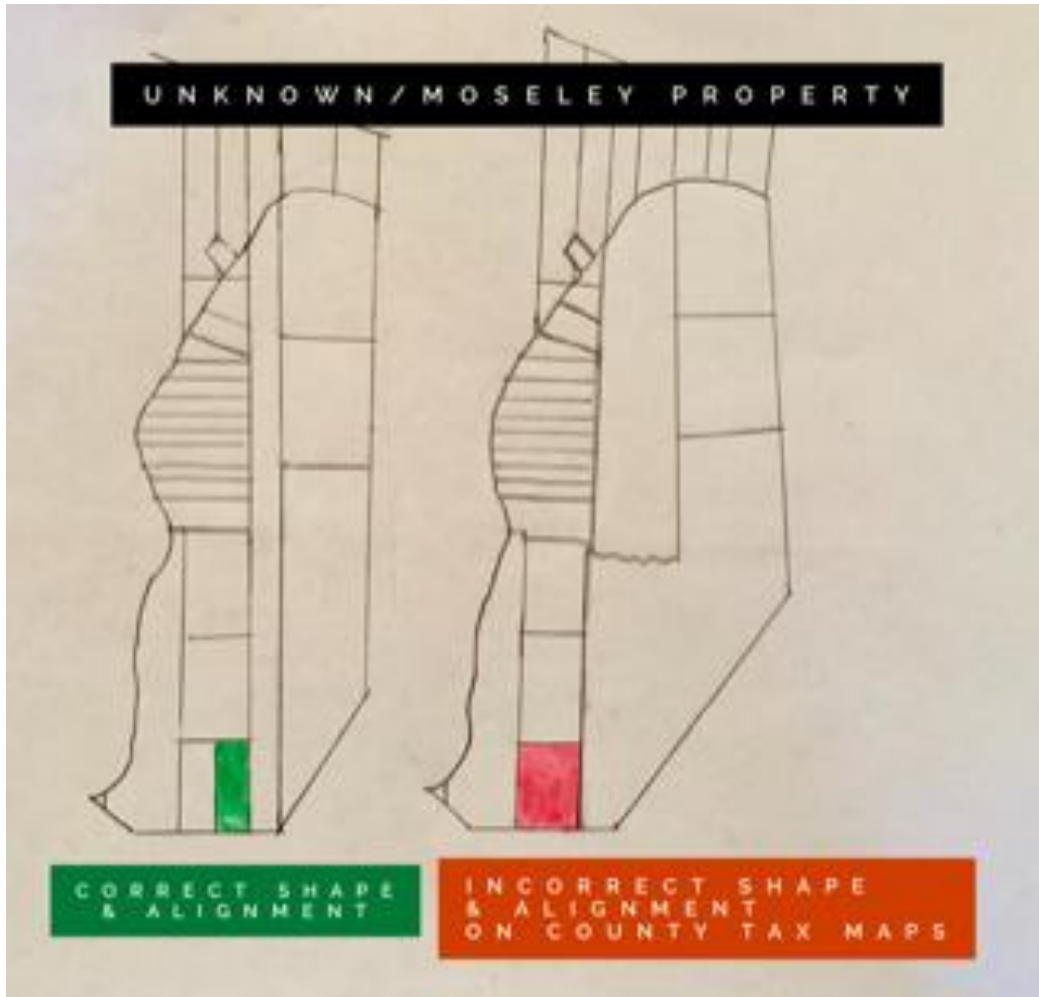
Errors Uncovered by This Study

While we expected to find errors and/or inaccuracies in the records of Buckingham County, it was concerning that 3 of the 15 properties (20%) we studied were incorrectly defined in the tax maps. When seeking assistance from officials in the Commissioner of Revenue's office, we discovered little effort and/or knowledge regarding our issues with these properties, nor much willingness to help us solve the problems we were facing. Therefore, we spent many hours pulling information from deed records of adjoining properties which were not within our study area searching for survey plats which we hoped would facilitate us creating the correct boundary lines of the properties in question. To confirm boundary lines, we searched for survey stakes, recorded the GIS coordinates of those stakes and submitted them to our GIS cartographer, Stephen Metts, who created GIS images of the properties as they exist, and should appear in Buckingham County's GIS maps. This ground-truthing work was completed by volunteers from the community with oversight of another volunteer who had gained experience finding property lines during his career selling rural real estate. Proving the actual boundaries of properties was essential to our study because we needed to verify the ACP, if built, would actually cross these properties. This work also allowed us to rule out properties the Buckingham GIS system incorrectly indicated the ACP would cross.

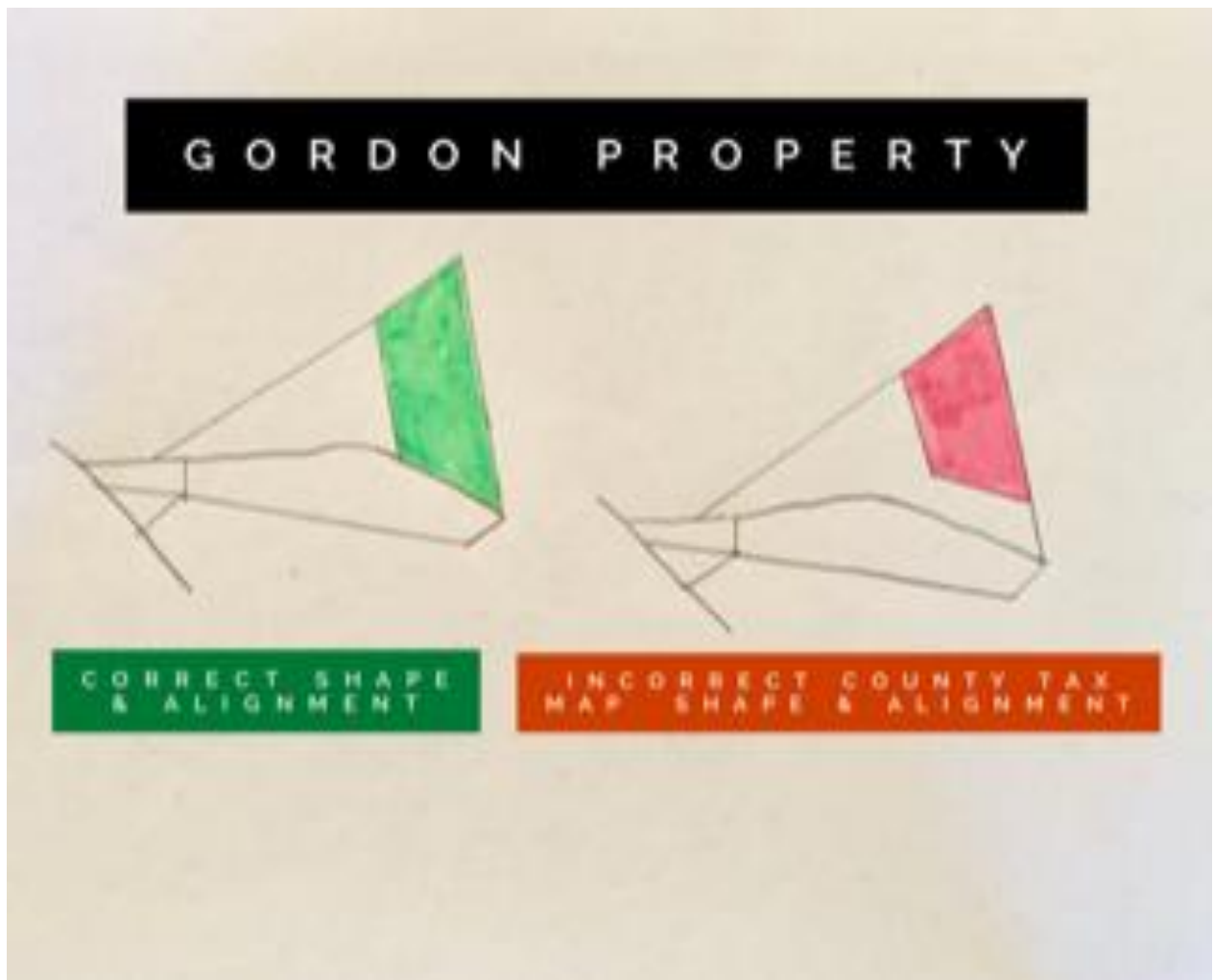
The first property so identified was part of an 1881 division of property and deeds included a survey. The County's GIS mapping indicated its shape and location to be very different from the survey. Records in the Commissioner of Revenue's office, provided to the Clerk's office, indicated the parcel did not adjoin the lands of Variety Shade Landowners, and therefore, would not be in the path of the proposed ACP. In our attempts to determine its proper shape and location, we researched adjoining properties. With boots on the ground we then found survey irons for this property, marking their GIS reference points and mapping them to create proper boundaries giving us the correct shape and location of the property.



The second property also spatially misidentified was therefore aligned incorrectly in Buckingham County's Tax Maps. This property was again originally a part of the division of property to the heirs of Granderson & Elizabeth Fern Moseley. The property was residue of Lot 2 of the original 1881 survey and left to their daughter Ella Lee Moseley. It was listed in the Tax Maps and by Buckingham County's Commissioner of Revenue's office as having an "Unknown" owner.



The tax maps incorrectly indicated a third property, the Gordon Family property, as well. Tax Maps extended a third property in between the Gordon and Morris properties, which are both crossed by the ACP. To prove that the third property did not separate the Morris and Gordon properties, we researched deeds and conducted on the ground research locating survey markings from an early 1900's survey.



In addition to shape and location issues on a fourth property, deed records in the Buckingham Courthouse showed discrepancies and confusion surrounding a property marked

“Unknown” in tax maps which would be crossed by the ACP. This area is marked as being Tax Map 107-2 in County Records. During our research we found some deeds and plats referred to the unknown property as being owned or “probably owned” by Philip Perkins, while other data indicated it could be part of the parcel owned by Sarah Perkins Moseley Eldridge, or residue of a parcel not sold by Ella Lee Moseley, or still yet owned by other adjoining property owners. This required us to again spend time researching adjoining properties to determine how they were shaped and the acreage of each to determine ownership. In the end, we took all our research to an attorney who completed a title search on this “Unknown” tract to confirm our research. He determined that Mr. Perkins never owned the property. Part of it was, as we believed, a portion of the Eldridge Property, some a part of the Variety Shade Landowners Association property, and at least one additional landowner who is not a part of our study. It is concerning that these discrepancies have been allowed to persist for almost 140 years languishing on the County record books without investigation.

Findings & Conclusions

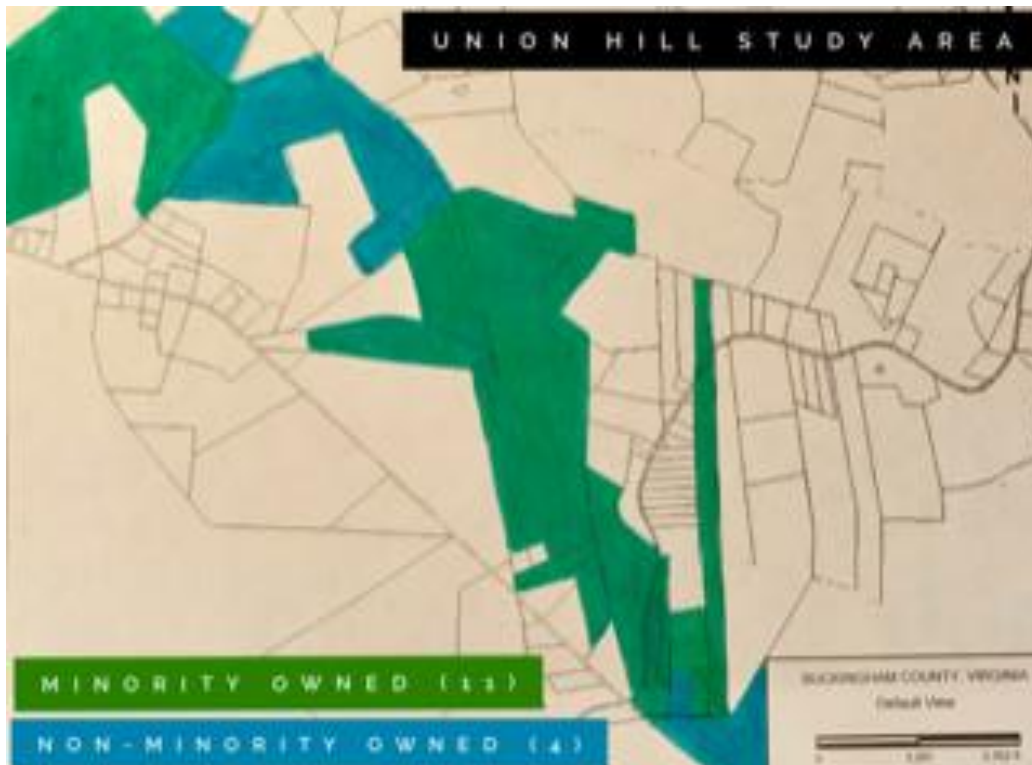
Our research found a portion of the Union Hill community was built on property which had been owned by the Robert Moseley family. The first Moseley who came to Buckingham County was Robert Moseley and the home he built was called “Willow Lake” approximately 1.5 miles southwest of Union Hill. Robert Moseley purportedly purchased thousands of acres in Buckingham around the time of Buckingham’s formation in 1761 when he arrived in the community. Information from documents and books in the Historic Buckingham, Inc.’s museum indicate that the Moseley’s built several plantation homes in addition to Willow Lake.^{16,17} Those homes include: Variety Shade built in 1798 by Colonel William Moseley; Wheatland built in 1790 by Arthur Moseley; Richmond Hill also known as Rolfeton owned by Lt. Benjamin Moseley; and still others which became Moseley properties through marriage including Pleasant Hill and Marshall Place. We have no written record of how many slaves the Moseley family owned throughout the years prior to the abolishment of slavery. History indicates they

¹⁶ “The Courthouse Burned, Book I” by Margaret A. Pennington and Lorna S. Scott, reprinted 2002.

¹⁷ “The Courthouse Burned, Book II” by Margaret A. Pennington and Lorna S. Scott, reprinted 2002.

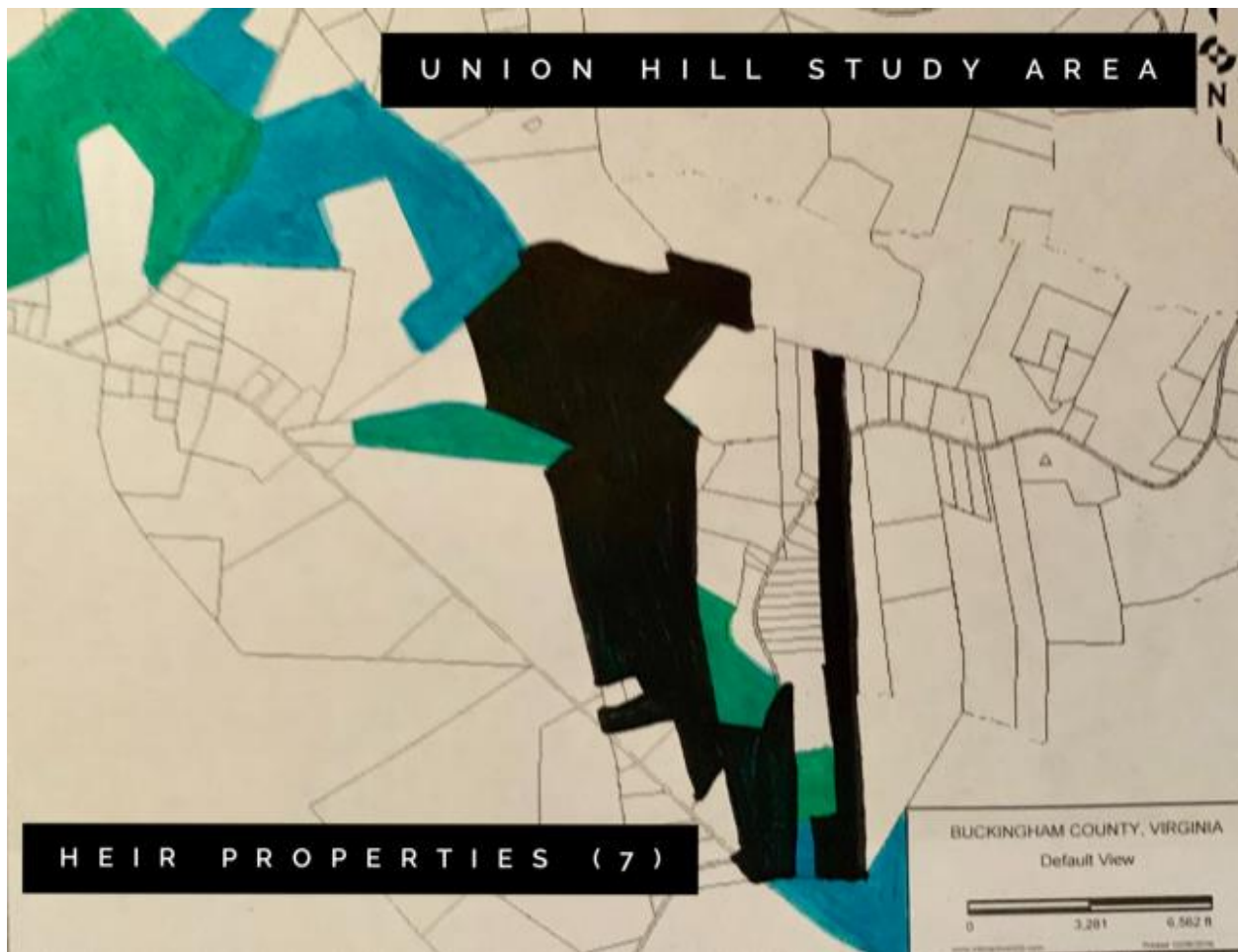
did own slaves and documentation shows the Moseley plantations have unmarked slave burial grounds. Moseley family members married into other slave holding families in the area including the Bondurants, the Eldridges, and the Perkins.

The specific Moseley property we refer to as becoming a part of Union Hill was found in deed and chancery records in Buckingham County. Grandison Moseley's wife Elizabeth died prior to his death in 1878. This caused a case regarding the estate to be heard before a group of Commissioners who would ultimately divide the property among the Moseley heirs. Willow Lake, the first property owned by a Moseley in Buckingham County and a second property known as the "Winters Tract" were ordered partitioned between the children of Grandison and Elizabeth Fern Moseley. Elizabeth was the daughter of Arthur Moseley. Grandison was the son of William Francis Moseley. William and Arthur were both sons of Robert Moseley, thereby making Grandison and Elizabeth first cousins and both grandchildren of Robert Moseley and his wife Magadline Guerrant Moseley. Records indicate the "Winters Tract" were the "maiden lands" of Elizabeth Fern Moseley. The Winters Tract consisted of 176 acres, most of which would be sold to freedmen or their descendants during the ensuing years. See Appendix B for a copy of the survey of the Winters Tract from 1881.



Additionally, we found many freedmen or their descendants purchased land from Mrs. A. F. M. Smith who was a descendant of Arthur Moseley who built Wheatland. Arthur was the son or Robert Moseley of Willow Lake.

Of the 15 properties studied, we found eleven of the fifteen (73%) are minority owned. Eight of the fifteen are owned by African American families, one by a Latinx family and two by those of native American descent. Nearly half, seven of the fifteen (47%) are heir properties, with five of those seven (71%) heir parcels being owned by African-American families. The other two properties are owned by descendants of native Americans.



Conclusions and Recommendations of this Research

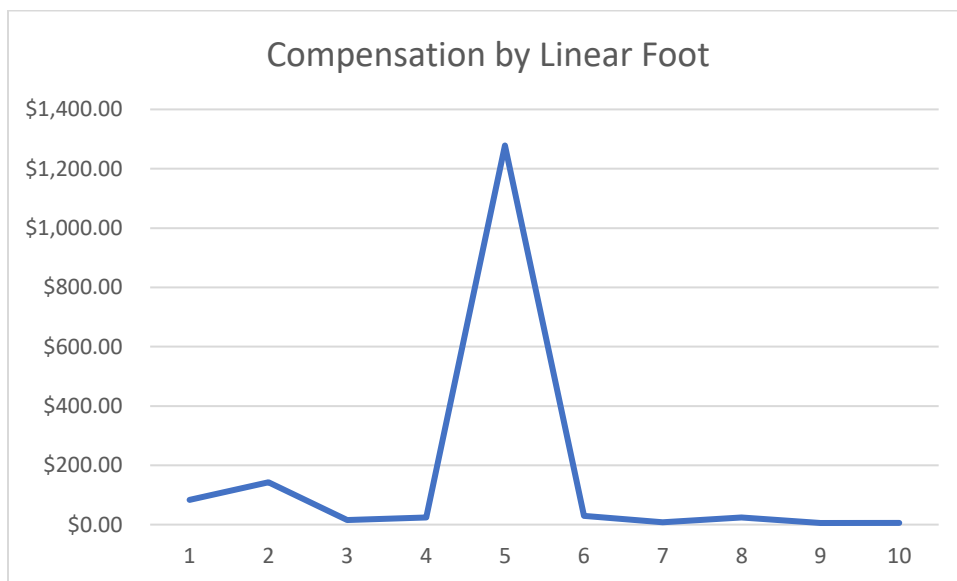
Heirs property means that each individual heir has a common interest in the property and no one has a controlling interest. Therefore, all families owning heir properties are at a distinct disadvantage in any attempt to protect those properties from eminent domain takings by the Atlantic Coast Pipeline.

The number of heirs generally increases with each generation, many of whom have never seen the property. Those who live in the community have not only their ownership interest in the property, but often a cultural attachment to these properties. Some may currently live or during their lifetimes have lived on the property in previous years with grandparents or great grandparents. Others may have protected the common interest of all the owners by paying the annual property taxes on the property so it would not be sold.

in 2019 Virginia failed to pass a law titled the “Uniform Partition Act,” which would determine how heir properties are divided. We believe this law needs to be passed to protect the lands of heir property families from being taken through eminent domain or forced to be partitioned or sold. Currently owners in common can force a sale by petitioning the courts asking for their share of the property or compensation for that share. There is no provision which would allow other owners in common (other family member/heirs) to a first right to purchase another heir’s interest in an heir property.

The taking of private property for public good has been a practice used frequently for schools, roadways and other public projects. It has only been in recent history that private property has been taken by private industry in furtherance of its desire to grow its business. The taking of private property in marginalized communities exacerbates and disproportionately impacts their ability to build wealth, while also affecting the health and safety of the communities in which they live. The African American community has been systematically put in the position to fail. We suggest heirs property owners seek assistance to create land trusts to protect these legacy properties from being sold on the auction block. We also suggest everyone have a will with clear direction in the disposition of any property owned.

We have included a chart which depicts the price per linear foot paid by Dominion/ACP for the easements through the Union Hill study area to-date. There are only ten of the 15 properties included because five of the properties remain tied up in the courts. All five properties which have not been settled are heir properties. These properties will most likely be taken through the “quick take” process. Quick take will allow Dominion/ACP access to the properties even though all owners-in-common have not signed easements. We chose to share the compensation paid without landowner names and by the linear foot to portray the incredible disparity in compensation paid to landowners for easements. Please remember all 15 of these properties lie, geographically, within about two miles from each other. The compensation paid at its lowest point is \$5.51 per linear foot; at its highest is \$1,278.34 per linear foot. We question what reasons could possibly result in such a wide range of compensation in this study area? In general, the properties are very similar...agricultural land either used for farming or forestry. One other observation: generally, those landowners who resisted or held out received larger payments than those who signed easements early in the process.



The ACP paid \$36,765 per acre (\$2.5 million for 68 acres) for its compressor station site to the descendants of the slave owning colonialists. This is an astonishing figure when one

considers the property was assessed for \$68,000 at the time of purchase. ACP will take 30.37 acres for permanent and temporary easements and access roads from the 15 Union Hill properties. To date the compensation paid totals \$205,768.85, just 8.2% of what it paid for the 68 acres. Comparing price per acre, Dominion/ACP is paying an average of \$6,775.40 per acre for easements, versus \$36,765 per acre for the compressor station site. While Dominion asserts these takings are “easements,” they severely limit the use of the “easement” area in perpetuity. No trees may ever be grown on the easement again. No homes or structures of any kind may ever be built on the easements. Even operating farming equipment across these easements requires additional construction measures.

Union Hill will be forever changed if forced to host a toxic, polluting compressor station in addition to a 42” high pressure fracked gas pipeline. The disproportionate impact on this majority-minority community will not only be felt in the degradation of their health safety, and welfare. Construction of the ACP will continue an historical and scurrilous policy which limits the opportunities for wealth building of the descendants of the freedmen who settled Union Hill.

Appendix A: Case Study Specifics

All information contained in this report with the exception of quotes from community members was found by researching public records such as deed and will records or historical documents and books in the public domain.

Below are descriptions of the heir properties in Union Hill, their owners, and the status of the easements for the ACP.

Heirs Properties in the Study Area:

The Harper Family

The Harper property was purchased in 1885 by freed slave Taylor Harper for \$15 from former slave owner Robert D. Moseley. His son purchased an adjoining parcel consisting of 27 acres in 1916 for \$25.00 from H.G. Moseley, son of Robert D. Moseley. This land has been passed down through the generations to all the descendants of Taylor Harper. The land contains gravesites from the Bondurant, Perkins and Pride families in the Union Hill area.

For over 50 years, the family has held a family reunion on the homestead property. Family members from all over the United States return to reunite and celebrate their heritage on this property. There are five households of Harper family's descendants living within a quarter mile of the compressor station site who live on fixed incomes below the poverty line and who have chronic health issues.

A fifth-generation descendant Richard Walker fondly recalls leaving his home in New Jersey to spend every summer in Union Hill at the Harper homestead. Richard now resides in Richmond, Virginia and frequently spends time in Union Hill with his family. During this battle with Dominion, he has become the spokesperson for his family in fighting to stop the eminent

domain process. He says, “Virginia’s laws still perpetuate systemic racial policies and I won’t allow my family to be harmed anymore.”

Acres for Permanent Easement: .39

Temporary Workspace Easement: .40

Compensation: Undetermined at this time

Federal Lawsuit Filed by Dominion: Yes

Easement Signed: No

The Gordon Family

A second legacy family purchased land in 1907 from Mrs. Anna Friend Moseley Smith. Mrs. Smith was the great granddaughter of Arthur Moseley who built Wheatland in 1790, and the great great granddaughter of Robert & Magdaline Guerrant Moseley of Willow Lake. Lewis Gordon and his wife paid Mrs. Smith \$50 for 17 acres more or less. The Gordons also sold a 6-acre parcel to Philip Perkins which we assume the family lived on prior to the purchase from Mrs. A.F.M. Smith. The 17-acre parcel is the second parcel approaching the compressor station site.

A descendant who currently lives just a few hundred yards from the 17-acre property lived with her mother and grandmother in the homeplace while her father served in the military during World War II. The old homeplace on the property was torn down sometime after 1942. Though no one lives on this property today, descendants like Mrs. Rose live within 200 feet of the land purchased by Dominion Energy for the compressor station. These descendants continue to fight to keep the pipeline off their family’s land. Other descendants, mostly those who live outside of the area, have signed easement agreements.

The Harper and Gordon lands adjoin. The pipeline path runs down the adjoining boundary line, weaving back and forth between the two properties. We believe Dominion is attempting to use an old easement for a long ago abandoned County road. Even though the County abandoned the road, it would still be a legal access for the family to reach its property.

It is not clear if the pipeline is laid in the old roadbed, if Dominion/ACP would take additional precautions to allow for the old road's continued use. The original alignment of the path of the pipeline crossed only the Gordon family's land. It is unclear why Dominion moved the path to encompass a portion of the Harper's family land and possibly affect the Gordon's access to their property.

Acres for Permanent Easement: 1.5

Temporary Workspace Easement: 2.5

Compensation: Undetermined at this time.

Federal Lawsuit Filed by Dominion: Yes

Easement Signed: Some descendants have signed agreements.

Minority Owned: Yes

Eldridge Family

The Eldridge property was left by deed dated 1881 to Sarah Perkins Moseley Eldridge from "maiden lands" of her mother, Elizabeth Fern Moseley, the wife of Grandison (Granderson) Moseley. Sarah had married in 1857 to John Eldridge. The 20 acres in Union Hill which were left to Sarah Eldridge have remained intact since the 1881 division of a larger property consisting of 176 acres between her and her brothers and sisters. The Moseley family were white slave owners who owned nearby plantations called Willow Lake, Variety Shade, Wheatland, and Richmond Hill (Rolfeton). We cannot determine how long the property had been in the Moseley family because no deed records exist before 1869. We can state unequivocally, however, that since 1881 this 20-acre parcel has remained in the name of Sarah Perkins Moseley Eldridge and now, almost 140 years later, belongs to her descendants in common.

John Eldridge, Sarah's husband, was a descendant of Native American Pocahontas who married John Rolfe. Pocahontas was the daughter of Wahunsenacah, chief of the Powhatan

empire.¹⁸ There are descendants of John and Sarah Eldridge who live nearby at a home called “Twelve Oaks” which was purchased by John Eldridge when his home burned down in 1870. Sarah died in 1908, John in 1912. At least some of Sarah’s descendants have signed easement agreements to allow the ACP to cross this property.

Acres for Permanent Easement: .17

Temporary Workspace Easement: .1

Compensation: Undetermined at this time

Federal Lawsuit Filed by Dominion: Yes

Easements Signed: Some heirs have signed easements.

Minority Owned: Yes

Moseley Family

Ownership of this parcel has been determined to be Ella Moseley. It was a part of the Grandison Moseley and Elizabeth Fern Moseley estate and was described in the 1881 deed settling the estate of Grandison Moseley as the “maiden lands” of Elizabeth Fern Moseley. In 1881, Ella Lee Moseley, along with her siblings were left a portion of the “Winters Tract” as heirs of Grandison & Elizabeth Moseley

Ella and Marcia were the sisters of Sarah Perkins Moseley Eldridge. Ella never married. She lived with Sarah and John Eldridge and after their deaths, lived with their son, John Eldridge II. Unlike Sarah, Ella and sister, Marcia Moseley, subdivided and sold their land in small parcels. Each parcel sold included half from land owned by Ella, the other half by Marcia. The parcel marked unknown by Buckingham County is actually the “residue” from the land Marcia and Ella received in 1881. As this unknown parcel is depicted in County records, half of it would have been a portion of the property left to Ella, the other half a portion of the property left to her sister, Marcia.

¹⁸ Pocahontas, Powhatan Princess,” by David A. Price, www.britannica.com/biography/Pochontas-Powhatan-princess, accessed August 18, 2019

However, there are references in deeds that Philip Perkins, an African American man who owned land in Union Hill, purchased this “unknown” parcel. His name appears in deeds and on surveys as an adjoining owner, probable owner and/or as the owner. In October of 2017, the Buckingham Circuit Court Clerk received and recorded a “Declaration of Heirs” for the heirs of John Eldridge II. In January 2018, the same heirs listed on that declaration began to sign easement agreements with the Atlantic Coast Pipeline. We hired an attorney to complete a title search on the property to confirm its true owners. We believe the parcel to be 2 acres or less, 200 feet wide by less than 450 feet long. We believe the parcel the ACP would cross would be the one owned by Ella Moseley at one time. Ms. Moseley left a will leaving this acreage to her nephew John Eldridge II. The parcel would be crossed diagonally by the ACP, thereby making it unusable for any future purpose.

We cannot fathom how this parcel has sat for all these years without drawing the attention of the County for non-payment of taxes. Another portion of Ella and Marcia’s land was sold to the Kyles, an African-American family. The Kyle property was sold for non-payment of real estate taxes in the 1960’s..

Acres for Permanent Easement: .41

Temporary Workspace Easement: 1.24

Compensation: Undetermined at this time.

Federal Lawsuit Filed by Dominion: Yes

Easement Signed: Some heirs have signed easement agreement.

Minority Owned: Yes

Haskins Family

Royal Haskins is a Perkins descendant who purchased his property in 1943 from S. L. Branch, a widower. Prior to Mr. Branch’s ownership, the property was owned by Mrs. A.F.M. Smith, a Moseley descendant.

Acres for Permanent Easement: 2.297

Temporary Workspace Easement: 1.983

Compensation: Undetermined at this time

Federal Lawsuit Filed by Dominion:

Easement Signed: Some heirs have signed easement agreement.

Minority Owned: Yes

Dupree and Vaughn Families

Both the Dupree and Vaughn parcels were once a part of the lands owned by Philip Perkins, and were received as the result of a previous partition suit because Philip Perkins died intestate. His heirs, Angie Dupree and Lisa Vaughn, received approximately 6 acres each as a result of the 2005 partition suit. Now roughly 14 years later Ms. Dupree's heirs own an interest in common in the acreage she received in 2005, as do the heirs of Ms. Vaughn in the parcel she received. Mr. Perkins died in 1961.

Dupree Property

Acres for Permanent Easement:.36

Temporary Workspace Easement: 1.0

Compensation: Undetermined at this time

Federal Lawsuit Filed by Dominion: Yes

Easements Signed: None at this time

Minority Owned: Yes

Vaughn Property

Acres for Permanent Easement: .38

Temporary Workspace Easement: .93

Compensation: Agreement reached.

Federal Lawsuit Filed by Dominion: Yes

Easements Signed: Yes.

Minority Owned: Yes

Non-heired properties in the Study Area

Arostegui Family

Acres for Permanent Easement: .01

Temporary Workspace Easement: .45

Compensation: Agreement reached.

Federal Lawsuit Filed by Dominion: No

Easements Signed: Yes

Minority Owned: Yes

West Family

Acres for Permanent Easement: 1.565

Temporary Workspace Easement: .945

Compensation: Agreement reached.

Federal Lawsuit Filed by Dominion: No

Easements Signed: Yes

Minority Owned: No

Hoy Family

Acres for Permanent Easement: .44

Temporary Workspace Easement: .55

Compensation: Agreement reached.

Federal Lawsuit Filed by Dominion: No

Easements Signed: Yes

Minority Owned: No

Capps Living Trust

Acres for Access Road: 1.23
Compensation for Access Road: 6,697.60
Acres for Permanent Easement: 3.59
Temporary Workspace Easement: 2.78
Compensation: Agreement reached.
Federal Lawsuit Filed by Dominion: No
Easements Signed: Yes
Minority Owned: No

Burnley Family

Acres for Permanent Easement: .41
Temporary Workspace Easement: .28
Compensation: Agreement Reached.
Federal Lawsuit Filed by Dominion: No
Easements Signed: Yes
Minority Owned: No

Morris Family

Acres for Permanent Easement: .53
Temporary Workspace Easement: .36
Compensation: Agreement reached.
Federal Lawsuit Filed by Dominion: No
Easements Signed: Yes
Minority Owned: Yes

Perkins Family

The Perkins family is a heritage family in Union Hill.
Acres for Permanent Easement: .34

Union Hill: Real Property, Racism and Environmental Justice

Temporary Workspace Easement: .3
Compensation: Agreement Reached
Federal Lawsuit Filed by Dominion: No
Easements Signed: Yes
Minority Owned: Yes

Laury Family

The Laury family is a heritage family in Union Hill.
Acres for Permanent Easement: 1.03
Temporary Workspace Easement: .55
Compensation: Agreement Reached
Federal Lawsuit Filed by Dominion: No
Easements Signed: Yes
Minority Owned: Yes

Variety Shade Landowners Association

In addition to purchasing the 68-acre compressor station site for \$2.5 million from Variety Shade Landowners Association, ACP will also cross other land owned by this association near James River Road. It should be noted that at the time of the purchase, the 68-acre parcel was assessed by the County for \$68,000. Variety Shade Landowners Association members are descendants of the Bondurant family who were colonial slave owners.

Acres for Permanent Easement: .62
Temporary Workspace Easement: 1.24
Compensation: Agreement reached
Federal Lawsuit Filed by Dominion: No
Easements Signed: Yes
Minority Owned: No

Appendix B

1881 Survey of the Winters Tract

