

Saving Fones Cliffs:

A Remarkable Conservation Success Story Along the
Captain John Smith Chesapeake National Historic Trail

CASE STUDY | SPRING 2020



Photo Credit: Peter Turcik



Partnership for the National Trails System

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BEST PRACTICES

This case study highlights the importance of partnerships, perseverance, and innovative approaches to land conservation.

PROJECT PARTNERS

- Chesapeake Conservancy
- Rappahannock River Land Protection Partnership
- Rappahannock Tribe
- The Conservation Fund
- The U.S. Fish and Wildlife Service

KEY TERMS

- Historic Resource Protection
- Natural Resource Protection
- Partnerships
- Trail Protection
- Tribal Coordination

Department of Transportation Strategic Goal Alignment



INFRASTRUCTURE

The permanent conservation of Fones Cliffs as part of the Rappahannock River Valley National Wildlife Refuge will help to stimulate recreation and tourism in a rural area of Virginia. The U.S. Fish and Wildlife Service will be developing public access to the site and ensuring that the lands remain available for the public to enjoy in perpetuity.



INNOVATION

The parties involved in protecting Fones Cliffs used several innovative approaches, including forming a partnership to promote collaboration among the parties seeking to conserve the land and arranging for all parties, including the landowner, to agree up front on an appraiser to value the property.



ACCOUNTABILITY

The conservation of Fones Cliffs will help consolidate and improve access to the Rappahannock River Valley National Wildlife Refuge, the Rappahannock River, and the Captain John Smith Chesapeake National Historic Trail.

About the Partnership for the National Trails System

MISSION

To empower, inspire, and strengthen public and private partners to develop, preserve, promote, and sustain the national scenic and historic trails.

VISION

PNTS envisions a world-class system of national scenic and historic trails that preserves natural and cultural values and provides recreational benefits for all.

PURPOSE

The purpose of PNTS is to promote and support the efforts of national scenic and historic trail organizations, to secure public and private resources, and to serve as a collective voice for policy and action that supports national scenic and historic trails.



Photo Credit: Don Owen, Partnership for the National Trails System

Above: Sunset over the Rappahannock River from Fones Cliffs, one of the most remarkable natural, historic, and scenic sites in the entire Chesapeake Bay. Fones Cliffs is a place that Captain John Smith and members of the Rappahannock Tribe of the 17th century could still recognize 400 years later.

by **DON OWEN**

Screech owls. Great blue herons. Bald eagles. A great expanse of fresh water, flowing into the tidal reaches of the Chesapeake Bay. Near-vertical cliffs, high above a river named for “the people who live where the water ebbs and flows,” dropping down to wetlands and marshlands along the river’s edge. A place of natural beauty, a place of reverence, a place where Native American and European cultures and history collided more than 400 years ago.

Joe McCauley of the Chesapeake Conservancy and I stood on top of Fones Cliffs as the sun set below the horizon over the Rappahannock River, and marveled at the results of a remarkable conservation success story of people, persistence, dedication, and partnership.



Photo Credit: Jeffrey Allenby, Chesapeake Conservancy

Above: The Chesapeake Conservancy helped secure funding from the Land and Water Conservation Fund to acquire Fones Cliffs, which is situated more than 100 feet above the Rappahannock River in eastern Virginia along the Captain John Smith Chesapeake National Historic Trail. A total of 252 acres was acquired by The Conservation Fund and conveyed to the U.S. Fish and Wildlife Service to be protected and managed forever as part of the Rappahannock River Valley National Wildlife Refuge.

The Cultural Significance of Fones Cliffs

Fones Cliffs, situated high above the Rappahannock River in eastern Virginia, is a unique, four-mile-long cliff formation of diatomaceous earth, and a key geologic, cultural, and natural feature in the heart of the ancestral home of the Rappahannock Tribe. Once the location of three Rappahannock Tribal towns—Pisacack, Matchopeak, and Mecuppon—the cliffs were the site of one of the first hostile encounters between the first English settlers and Native Americans.

In 1608, as Captain John Smith and his crew sailed and rowed their shallop up the Rappahannock River, Rappahannock warriors gathered on these high cliffs and in the marshes below to ambush him. According to Smith's diary, he and his crew defended themselves from the warriors' attack with shields, and then fired a return volley. Ultimately, they were able to pass by without casualties. Whether the Rappahannock suffered any losses is unknown. The skirmish, however, served notice that not all welcomed their presence in the New World.

The Ecological Significance of Fones Cliffs

Fones Cliffs is far more than just a culturally significant site. The cliffs and the surrounding landscape are home to one of the largest concentrations of bald eagles in the continental United States. The National Audubon Society has designated the site and surrounding area as an Important Bird Area of Global Significance. According to the U.S. Fish and Wildlife Service, it is not uncommon to see up to 400 bald eagles along this stretch of the river—a veritable “bull's eye” for a species synonymous with the Endangered Species Act. Even in the 1970s, when eagle populations across the nation were at their lowest, bald eagles could still be found soaring above the river and roosting in the trees along the cliffs and river's edge.



Photo Credit: Peter Turcik

Above: Bald eagle in flight at Fones Cliffs.



Now, we can walk the land of our ancestors. We can feel the spirit of the people that lived here, worked here, and worshiped here. This land is sacred to our tribe. Thanks to all the partners who understand how essential land preservation is to our very existence.



- Chief Anne Richardson, Rappahannock Tribe

The Rappahannock Tribal Story

"A 400-year battle. For survival."

That's how Rappahannock Tribal Chief Anne Richardson described the efforts of the Rappahannock Tribe. "We've had many challenges, but we've always come together. And we were finally recognized by the Federal government, two years ago."

I asked her how the tribe had managed to survive over the generations. She smiled.

Chief Richardson continued her story. "We started a long time ago, with Chief George Nelson, a man before his time. He regathered the tribe after the Civil War. We were scattered, here, there, and everywhere. There were oppressive laws in Virginia that declared everyone black or white, and nothing in between. Chief Nelson began to fight, and realized he couldn't do it on his own. In 1920, he met Frank Speck, an anthropologist, and in 1921, he rechartered the tribe under the laws of Virginia as the Rappahannock Indian Association, which gave him a place to stand and fight."

The Rappahannock Tribe persevered, fighting racial segregationist Walter Plecker and Virginia's Racial Integrity Laws for decades.¹ Tribal members were granted American citizenship in the 1920s, nearly 60 years after the end of the Civil War. In the 1930s and 1940s, the tribe fought to keep its children in its own schools, only to be forced to transport its children many miles away. In the 1940s, several tribal members were drafted to fight in World War II, but were not permitted by the government to identify themselves as Native Americans on their enlistment papers. Instead of being enlisted, they were imprisoned for their refusal.

In the early 1950s, the Bureau of Indian Affairs conducted a census of American Indians across



Photo Credit: Don Owen, Partnership for the National Trails System

Above: Joe McCauley, Chesapeake Conservancy, and Rappahannock Tribal Chief Anne Richardson.

the country, as part of a plan to solve "the Indian problem" that would eliminate reservations and require Native Americans to move to cities. The census was completed, but the government's campaign to force the Rappahannock Tribe and other tribes to "assimilate" failed. For the first time, however, the Rappahannock Tribe was recognized by a Federal agency.

In the 1980s, the Rappahannock Tribe and other Virginia tribes took their case for recognition to the Virginia General Assembly. In 1983, Virginia passed a law recognizing eight Native American tribes in the State.

The tribe's effort to obtain Federal recognition continued. Finally, in January 2018, more than 400 years after the Rappahannock Tribe's skirmish with Captain John Smith and after more than 100 years of sustained effort by generations of Rappahannock Tribal leaders, members, and allies, the United States of America formally recognized the Rappahannock Tribe and five other tribes in Virginia.

¹ Wolfe, Brendan. "Racial Integrity Laws (1924-1930)." *Encyclopedia Virginia*. Virginia Humanities, 4 Nov. 2015. Web. 14 May 2020.



The purchase of Fones Cliffs reflects two hugely important aspects of land conservation: seizing the opportunity when it presents itself and having sufficient funding in place to seal the deal. After years of wrangling, when the landowner finally agreed to terms, The Conservation Fund acted immediately to get the property under contract. Funding from the Land and Water Conservation Fund (LWCF), which the larger conservation community had worked incredibly hard to secure, was made available by the U.S. Fish and Wildlife Service within months. These were the keys to success, and the reason why permanent funding of LWCF is so vitally important. The symbolism of this project cannot be understated. The history, beauty, and biological importance of this place are worthy of the highest level of protection for current and future generations to enjoy. This place has been sacred to people for thousands of years and will be for thousands more to come thanks to the dedicated people in the conservation movement that made it happen.



- Joel Dunn, President and CEO, Chesapeake Conservancy

The Conservation Story

The conservation of Fones Cliffs represents a huge “win” for the Rappahannock Tribe, the Chesapeake Bay, the Rappahannock River Land Protection Partnership, the U.S. Fish and Wildlife Service’s Rappahannock River Valley National Wildlife Refuge, the Commonwealth of Virginia, and the Captain John Smith Chesapeake National Historic Trail. The convergence of these interests provided the sustained momentum that carried the project from the early planning stages to the finish line.

Efforts to protect the 252-acre property at Fones Cliffs began in 2003, when Joe McCauley and The Nature Conservancy first met with the landowner. At the time, McCauley worked for the U.S. Fish and Wildlife Service, as the manager of the recently created Rappahannock River Valley National Wildlife Refuge, which was established to conserve and protect fish and wildlife resources, threatened and endangered species, and wetlands along the river.

Over the next decade, the U.S. Fish and Wildlife Service would appraise the property and make offers to the landowner four times. None of the offers were satisfactory to the landowner, who decided that he needed to develop the property as a resort subdivision to recoup his investment.

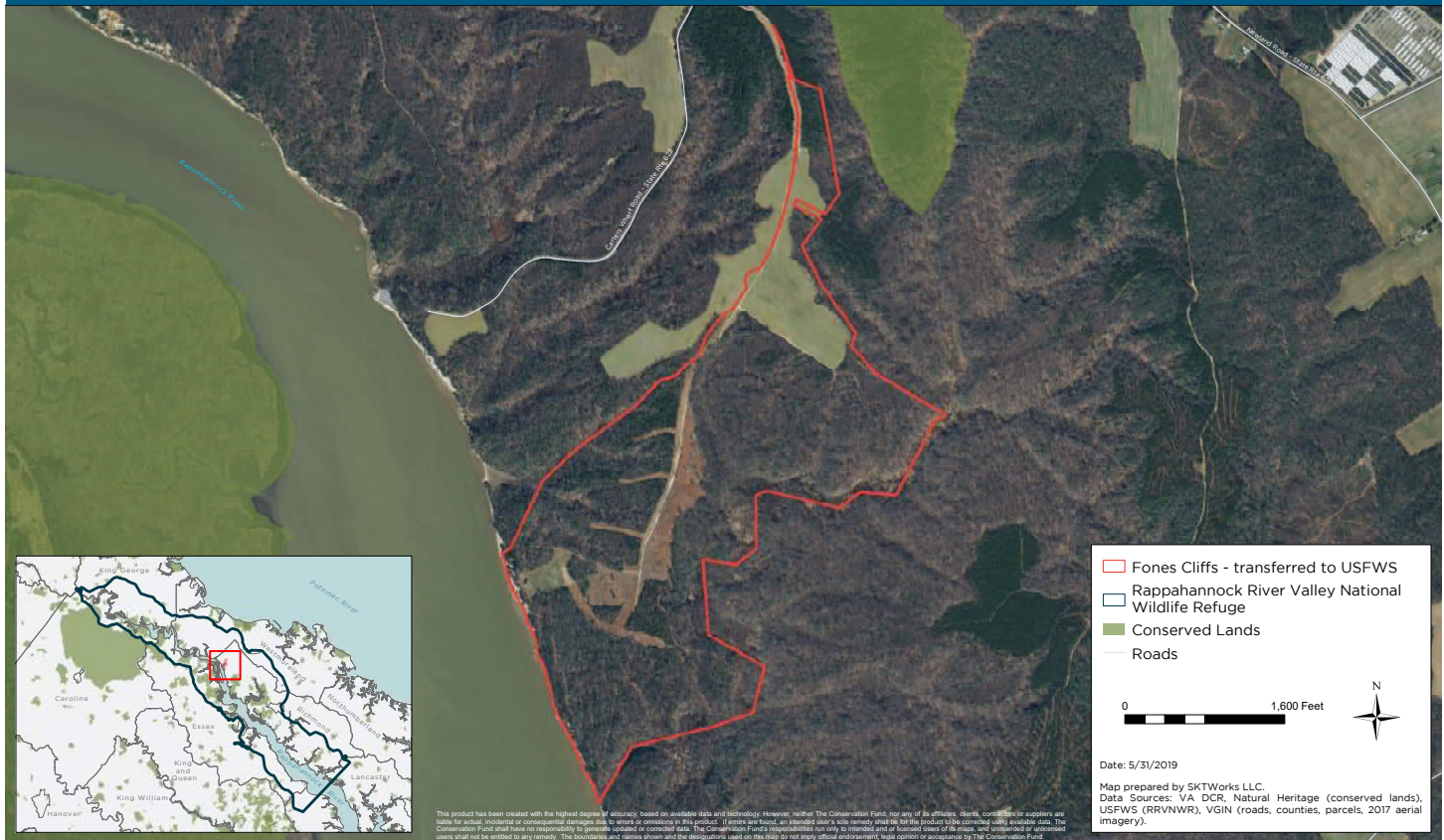
The Comprehensive Management Plan for the Captain John Smith Chesapeake National Historic Trail, which was completed in 2011, provided additional incentive. The plan set out eight key types of trail-related resources, including John Smith voyage stops, evocative landscapes, indigenous cultural landscapes, historic American Indian town sites,

significant seventeenth-century American Indian archaeological sites, landscape features and cultural sites of significance to modern American Indian tribes, “cross sites” on John Smith’s historical maps, and public access sites. The comprehensive plan, and the “state of the art” *Conservation Strategy* that followed, emphasized focusing land protection efforts using these criteria and building partnerships to conserve trail lands and resources—the exact ingredients behind the effort to protect Fones Cliffs.

Chief Richardson said, “The cliffs are part of our homeland. The eagles are sacred to us. We want to protect the eagles forever. We are rediscovering our ties to the land. We want to teach our children, college students, and others about indigenous conservation—about caring for all things. I think the landowner had something of a spiritual experience when he came and talked with us. After years and years, he was finally able to let it go.”

Negotiations stalled several times, and in 2015, things looked bleak. The county approved a 45-lot subdivision on the 252-acre property, with 22 of the lots leading down from the cliffs to the river’s edge. Conservation organizations, including The Trust for Public Land and The Nature Conservancy, appraised the property and made offers, but none were acceptable to the landowner.

Behind the scenes, a partnership called the Rappahannock River Land Protection Partnership served to promote collaboration among interests that otherwise might be in competition. The partners, which included the Chesapeake Bay Foundation,



Map Credit: SKTWorks for The Conservation Fund

The Nature Conservancy, The Conservation Fund, The Trust for Public Land, Chesapeake Conservancy, Virginia Outdoors Foundation, Northern Neck Land Conservancy, U.S. Fish and Wildlife Service, and U.S. Army Fort A.P. Hill, worked together to coordinate their efforts to conserve the Rappahannock River Valley's fish, wildlife, plants, and habitats. The partnership emphasized conservation objectives above territorial distractions and fostered an atmosphere of mutual cooperation and respect.

While the Rappahannock Land Protection Partnership focuses on negotiating with landowners and securing funds for acquisition, it is just one cog in the much larger partnership of individuals and organizations working to conserve Fones Cliffs. Currently, Friends of the Rappahannock, a nonprofit organization headquartered in Fredericksburg, VA, is working with the U.S. Fish and Wildlife Service to restore

wildlife habitat by planting trees on a portion of the recently acquired 252 acres. The refuge has its own group of friends named the Rappahannock Wildlife Refuge Friends, who also lend support to Fones Cliffs conservation, such as hosting the celebration there in June 2019. Concerned citizens have for years been showing up at public meetings, educating elected officials, and rallying support for conservation. It is this type of passionate, comprehensive effort that led to the initial success at Fones Cliffs. Conserving the remaining 2,000 acres will require the same level of commitment.

The Federal government's Collaborative Landscape Planning Program also played a critically important role. Although it existed for only a short time (from 2014 to 2017), the program was a boon for the National Trails System.

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The significance of preserving the Fones Cliffs property goes beyond environmental conservation. It is a critical stepping stone in our nation's history. Ensuring that Fones Cliffs remains protected and open to the public was the only acceptable result for this decades-long effort.

- Larry Selzer, President and CEO, The Conservation Fund

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The Partnership for the National Trails System (PNTS) submitted proposals that ultimately helped obtain \$75 million for more than 50 land-protection projects on national scenic and historic trails across the country. The program enabled PNTS and the Chesapeake Conservancy to advocate for Federal funding to protect Fones Cliffs, which was near or at the top of the list for two collaborative landscape planning efforts—the first, as part of the National Trails System Collaborative Landscape Planning Program, and the second, as part of the Rivers of the Chesapeake Landscape Planning Program.

Finally, in 2018, The Conservation Fund (TCF) closed the deal. TCF Virginia State Director Heather Richards started negotiations with the landowner late in 2017. By September 2018, TCF had a signed contract to purchase the property for \$3.96 million.

Several important factors contributed to success. First, Richards and the landowner knew each other previously, which helped foster a level of trust. Second, TCF, the landowner, and the U.S. Fish and Wildlife Service used an unusual approach to valuing the property. Instead of each party obtaining its own appraisal, the parties agreed up front on an appraiser. The landowner knew the appraiser and thought she was creditable, TCF had used her previously, and the Fish and Wildlife Service and the Department of Interior's Appraisal and Valuation Services Office (AVSO) accepted her qualifications. TCF paid for the appraisal, but each party had, in essence, a common stake in the outcome.

When the appraisal was completed, the Department of Interior AVSO reviewed and approved it before any of the parties saw it. The appraisal established fair market value and became the basis for TCF's offer to the landowner. Richards said, "I explained to the landowner that our offer was based on the appraisal of the property, by a professional appraiser we all agreed to. The value might have been less than the landowner wanted, but it was higher than previous appraisals and it was all we could offer. He was disappointed initially. He went home and thought about it, and then decided to do the deal. It was a great day!"

The deal still wasn't complete, however. Richards said, "TCF's internal land transactions committee still had



Photo Credit: Peter Turcik

Senator John Warner and his daughter, Ms. Virginia Warner, offer Chief Anne Richardson of the Rappahannock Tribe a piece of Fones Cliffs as a symbol of the transfer of the property in 2017.

to approve the project, and we had to get the project under contract by the end of September, which only gave us a few days. Fortunately, the committee reviewed the project over the weekend, and approved it the following Monday. The landowner had a good attorney, too, who worked with us to resolve issues as they came up." At the same time, the U.S. Fish and Wildlife Service was able to reallocate funding from another Land and Water Conservation Fund project that had fallen through, so that the Service could purchase the property from TCF.

Finally, in 2019, TCF formally transferred the Fones Cliffs property to the U.S. Fish and Wildlife Service for inclusion in the Rappahannock River National Wildlife Refuge. Rappahannock Tribal members were joined by representatives of the Chesapeake Conservancy, The Conservation Fund, U.S. Fish and Wildlife Service, U.S. Congressman Rob Wittman, representatives for Senators Mark Warner and Tim Kaine, and many others to celebrate protection of one of America's great places and one of the Rappahannock Tribe's sacred sites.

The U.S. Fish and Wildlife Service plans to expand opportunities for hiking, bird-watching, and other wildlife-dependent recreation at Fones Cliffs in the near future. More importantly, though, for members of the Rappahannock Tribe, the property allows the tribal members to reconnect with their history.

As Chief Richardson said, "Now, we can walk the land of our ancestors. We can feel the spirit of the people that lived here, worked here, and worshiped here. This land is sacred to our tribe. Thanks to all the partners who understand how essential land preservation is to our very existence."

FONES CLIFFS

on the Rappahannock River





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