



SCHOOL of LAW

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Norfolk District, Corps of Engineers
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RE: FEDERAL PUBLIC NOTICE: JOINT PERMIT APPLICATION
FOR GREEN RIDGE RECYCLING AND DISPOSAL FACILITY

I. Introduction.

Thank you for the opportunity to provide public comment on the Joint Permit Application ("JPA") for the proposed Green Ridge Recycling and Disposal Facility in Cumberland County, Virginia. These comments are submitted on behalf of the Environmental Law and Community Engagement Clinic at the University of Virginia School of Law ("UVA Clinic") and the AMMD Pine Grove Project.

The AMMD Pine Grove Project was born out of the work of the Agee, Miller, Mayo, and Dungy families, whose ancestral ties are deeply rooted in the historic Pine Grove School and the community that surrounds it. Since its inception, the AMMD Pine Grove Project has connected with former students, concerned citizens, neighbors, and nonprofit organizations to raise awareness of the incredible history of the Pine Grove School and to share the stories of individuals who were educated there.

The Environmental Law and Community Engagement Clinic is part of the Program in Law, Communities and the Environment ("PLACE") at the University of Virginia School of Law, which combines legal teaching with opportunities for interdisciplinary study, clinical experience, and scholarly inquiry.

At this time, the UVA Clinic and the AMMD Pine Grove Project respectfully request denial of the permits required pursuant to Sections 401 and 404 of the Clean Water Act and Title 62.1 of the Code of Virginia.

For the reasons stated below, we also request:

- 1) An extension of the current public comment period at least through November 20, 2020;
- 2) Public Hearings in Cumberland County, Virginia, with public health accommodations for residents at higher risk for severe outcomes due to the current COVID-19 pandemic and accessibility accommodations for residents without access to the internet at home;
- 3) A full Environmental Impact Statement (“EIS”) to evaluate: (a) the significant, adverse impacts to the environment and public health; (b) adverse impacts to historic and cultural resources; (c) adverse impacts to the welfare of the historically Black community supporting the Pine Grove School; (d) alternatives to the proposed landfill including an analysis of need; and (e) other factors as required by law.

The UVA Clinic and the AMMD Pine Grove Project are appreciative that the Applicant, Green Ridge Recycling and Disposal Facility, reached out to hear our concerns about the proposed landfill beginning in June 2020. We are hopeful that our conversations with the Applicant will continue. That said, a community’s informal dialogue with the Applicant cannot possibly replace the depth of analysis required under federal and state laws. To the contrary, community conversations with the Applicant will be aided by development of a detailed EIS and additional public comment periods.

The construction of a landfill of the size and scale proposed by the Applicant risks causing significant harm to the deep, rich, and vibrant history of Black life in Cumberland County. Only an expansive assessment of the Applicant’s proposal, including an examination of the historic significance of the Pine Grove School in context, can fairly assess this harm. Here, it is important to emphasize that the African-American historic and cultural resources in Cumberland County extend far beyond the four walls of Pine Grove School building itself. A full Environmental Impact Statement would allow for an analysis of all resources—not just the physical structure of the Pine Grove School—but the historical community of which it was the center.

II. The Public Needs More Opportunities to Engage with the Permitting Process.

The UVA Clinic and the AMMD Pine Grove Project respectfully request public hearings and an extension of the public comment period on the Joint Permit Application to account for challenges in disseminating information about the landfill amidst a pandemic and in a community without universal internet access.

Federal agencies have long been required to consider environmental justice in their activities under the National Environmental Policy Act (“NEPA”). *See* Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, 59 Fed. Reg. 7629 (February 11, 1994); Council on Environmental Quality, *Environmental Justice Guidance Under the National Environmental Policy Act*, (Dec. 10 1997). State law imposes similar obligations to evaluate and mitigate harms associated with

environmental justice or environmental racism. *See Friends of Buckingham v. State Air Pollution Control Board*, 947 F.3d 68, 92 (4th Cir. 2020) (“[E]nvironmental justice is not merely a box to be checked, and the Board’s failure to consider the disproportionate impact on those closest to the Compressor Station resulted in a flawed analysis.”).

Environmental justice concerns are especially resonant here where: (1) the older and predominantly African-American community impacted by the proposed landfill is also at greater risk for severe complications from COVID-19 and thus may be dissuaded from gathering information about the Green Ridge landfill from state and federal officials and the Applicant; and (2) many residents of the rural, Cumberland County community lack universal or reliable home internet access, making virtual forms of communication and engagement largely inaccessible. These impediments could very well prevent community members from learning about or providing comment on the Green Ridge landfill.

We ask that the U.S. Army Corps of Engineers look meaningfully at the accessibility and publicity of important information regarding the permitting of the Green Ridge landfill.

A. The comment period should be extended an additional 30 days.

In light of the lack of internet access in parts of the community and the challenges posed by the current pandemic, a 30-day public comment period is plainly inadequate to ensure that residents and community-advocates have a reasonable period of time to provide feedback and voice any concerns. *See* 33 C.F.R § 325.2(d)(2) (providing, in part, that “[t]he comment period on the public notice should be for a reasonable period of time within which interested parties may express their views concerning the permit”); 33. C.F.R. § 325.2(d)(3)(iii) (providing that “[d]istrict engineers will decide on all applications not later than 60 days after receipt of a complete application, unless....the comment period is extended”). Given the expansive nature of the proposed landfill and its myriad of potentially adverse impacts, as well as the technical nature of the JPA, the 30-day comment period should be extended. Indeed, the Joint Permit Application spans more than 540 pages, with technical documents addressing development across a 1,200-acre site.¹ In addition to environmental impacts, the proposed landfill risks harm to an area of Cumberland County that is rich with oft-ignored and vitally important African-American culture and history. *See Irene Mathieu, The Proposed Cumberland County Mega-landfill Will Threaten Children’s Health*, VIRGINIA MERCURY (Nov. 12, 2019), <https://www.virginiamercury.com/2019/11/12/the-proposed-cumberland-county-mega-landfill-will-threaten-childrens-health/>.

Moreover, the UVA Clinic submitted a Freedom of Information Act (“FOIA”) request to the Norfolk District of the U.S. Army Corps of Engineers on September 16, 2020, and has yet to receive a response as of October 20, 2020. Given that the UVA Clinic sought materials

¹ The JPA identifies 51.63 acres of Palustrine Forested Wetlands, 45,213 linear feet of perennial/intermittent streams, and 24,235 linear feet of ephemeral channels that may be affected. KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 1, page 19. Additionally, the federally-threatened Northern Long Eared Bat, along with the Atlantic Pigtoe freshwater mussel (proposed to be listed as federally-threatened), may be in the project area. *Id.* at part 4, page 36.

through FOIA that are directly relevant to the Joint Permit Application, we request an extension of the comment period to provide enough time to review documents that are eventually received.

We request an extension of at least an additional thirty days, through November 20, 2020.

B. Public Hearings Need to be Held on the Joint Permit Application.

Many residents of Cumberland County lack reliable, home internet access and thus cannot easily participate in the public comment process as currently structured. Many details about the proposed landfill are currently available in an online format only. A public hearing is therefore necessary for community members to better understand the impacts of the Applicant's proposal and to fully express their views thereon.²

Public hearings must, of course, account for COVID-19 concerns and provide opportunities to participate for high-risk individuals, including the elderly and people of color, whom the Centers for Disease Control and Prevention ("CDC") have identified as "disproportionately affected by COVID-19." See CDC, *Health Equity Considerations and Racial and Ethnic Minority Groups* (updated July 24, 2020), at <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/race-ethnicity.html>.

Stakeholders impacted by the proposed landfill are numerous, as the project could have detrimental impacts to an expansive rural area encompassing various communities of different races, socioeconomic statuses, and ages. It is incumbent on federal and state regulators to provide avenues for all affected persons to participate in public comment processes.

Public hearings in Cumberland County and near the Pine Grove School site are therefore necessary to ensure adequate opportunities for public participation. See, e.g., *N.C. Growers' Ass'n v. UFW*, 702 F.3d 755, 770 (4th Cir. 2012) (Holding, in an analogous notice-and-comment setting under the Administrative Procedure Act, "Our conclusion that the Department did not provide a meaningful opportunity for comment further is supported by the exceedingly short duration of the comment period" even though "the APA has not prescribed a minimum number of days necessary to allow for adequate comment").

² The notice elaborates that "[c]omments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Anyone may request a public hearing to consider this permit application by writing to the District Commander within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Commander will then decide if a hearing should be held." U.S. ARMY CORPS OF ENGINEERS, NORFOLK DISTRICT, PUBLIC NOTICE, NAO-2018-00995 (Sep. 21, 2020), <https://www.nao.usace.army.mil/Media/Public-Notices/Article/2351744/nao-2018-00995/>. 33 U.S.C. § 1344 also provides that permits may be issued after notice and opportunity for public hearings.

III. An Environmental Impact Statement Is Required by Law.

A. Permitting for the proposed landfill constitutes a “major federal action significantly affecting the quality of the human environment.”

The permitting of this facility would constitute a “major Federal action significantly affecting the quality of the human environment.” *See* 42 U.S.C. § 4332(C). An Environmental Impact Statement is unquestionably required by law. Although new, fatally flawed regulations from the Council on Environmental Quality propose to limit NEPA reviews, those regulations are currently the subject of litigation in federal courts across the country. *See Wild Virginia, et al. v. Council on Environmental Quality*, No. 3:20-cv-00045 (W.D. Va. filed July 29, 2020); *Alaska Community Action on Toxics v. Council on Environmental Quality*, No. 3:20-cv-05199 (N.D. Cal. filed Jul 29, 2020); *California, et al., v. Council on Environmental Quality*, No. 3:20-cv-06057 (N.D. Cal. filed Aug 28, 2020); *Environmental Justice Health Alliance v. Council on Environmental Quality*, No. 20-cv-6143 (S.D. N.Y. filed Aug. 6, 2020). What is more, the new regulations are inapplicable to this Joint Permit Application, which was filed and received by September 2, 2020, *prior* to the effective date of the Council on Environmental Quality’s Final Rule. *See* Final Rule, *Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act*, 85 Fed. Reg. 43304 (July 16, 2020)(“The effective date is September 14, 2020.”).

Yet even under the new, weakened NEPA rules, the impacts of the proposed Green Ridge landfill would still constitute a “major federal action” and would impose “significant” impacts on natural and human environments. The permitting of this facility constitutes a “major” federal action even under the new NEPA regulations as “the agency ... exercise[s] sufficient control and responsibility over the outcome of the project” through its permitting decisions. *Id.* at 43347. The Corps has the authority to deny a permit as well as the responsibility for “determining the appropriate form and amount of compensatory mitigation required”. *Id.* at 43346-47; 40 C.F.R. § 1508(q)(1)(i),(vi); *Id.* at 43346-47; 40 C.F.R. § 1508(q)(1)(i),(vi). Thus, regardless of which regulations the U.S. Army Corps of Engineers applies, a full EIS is mandated.

The exercise of authority by the Corps would also significantly affect the quality of the human environment for the many reasons outlined below, including impacts to cultural and historic resources, fish and wildlife values, water quality, increased traffic, noise pollution, and air pollution from diesel on-road and off-road vehicles. These harms are exacerbated by environmental justice concerns, which require addressing the fact that communities of color and low-income residents are more likely than the population at large to suffer adverse effects from major environmental permitting decisions. *See Friends of Buckingham v. State Air Pollution Control Board*, 947 F.3d 68, 92 (4th Cir. 2020). Dr. Irene Mathieu, Assistant Professor of Pediatrics at the University of Virginia, has raised concerns about asthma and

other illnesses linked to air and water pollution, noting that “the burden from pollution is disproportionately borne by children of color and those living in poverty” and that “more than one-fifth of the population [in Cumberland County] are children, nearly one-third are African-American, and three-fourths of children receive free and reduced lunch.” Irene Mathieu, *The Proposed Cumberland County Mega-landfill Will Threaten Children’s Health*, VIRGINIA MERCURY (Nov. 12, 2019), <https://www.virginiamercury.com/2019/11/12/the-proposed-cumberland-county-mega-landfill-will-threaten-childrens-health/>.

The proposed landfill poses an acute threat to the Pine Grove School, a historic Black elementary school that is listed on both the Virginia Landmarks Register and the National Register of Historic Places. See Virginia Dep’t of Historic Resources, *024-5082 Pine Grove Elementary School* (Updated Feb. 28, 2020), at <https://www.dhr.virginia.gov/historic-registers/024-5082/>; National Register of Historic Places Registration Form, Pine Grove Elementary School, DHR# 024-5082 (attached as **Exhibit A** to these comments). All of these factors taken together underscore the legal requirement for a full EIS. See 40 C.F.R. § 1508.27 (explaining that in deciding whether significant effects will flow from any given project, many factors should be considered including its “proximity to historic or cultural resources,” “the degree to which the effects on the quality of the human environment are likely to be highly controversial” and the “degree to which the action may adversely affect...objects listed in or eligible for listing in the National Register of Historic Places”). See also *Ohio Valley Environmental Coalition v. Aracoma Coal Co.*, 556 F.3d 177, 194 (4th Cir. 2009) (“[E]ven if the ‘specific activity’ being permitted under CWA § 404 is the filling of valley streams, the Corps could still be required under NEPA to consider larger impacts of the broader valley fill project if the Corps is found to have ‘sufficient control and responsibility to warrant Federal review.’”)(quoting 33 C.F.R. pt. 325, App. B, § 7(b)(1)).

The Applicant has noted that it has made “changes [to] reduce the amount of disposal units from two to one,” yet it retains control over the entire 1,200-acre parcel, including the portion where the second disposal unit had been sited. See Project Description, Green Ridge Recycling and Disposal Facility (last visited Oct. 17, 2020), <https://greenridgeva.com/project-description.html>. Well-established prohibitions on illegal segmentation are designed to prevent a developer from skirting a full EIS by re-packing one large project into two, smaller phases. See 40 C.F.R. § 1502.4(a) (“Agencies shall evaluate in a single environmental impact statement proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action.”).

Of course, the Applicant may be encouraged to proceed with a smaller landfill and the U.S. Army Corps of Engineers may elect to permit an even smaller disposal unit than ultimately proposed in order to lessen environmental impacts. See *Defenders of Wildlife v. North Carolina Dep’t of Transportation*, 762 F.3d 374, 397 (4th Cir. 2014)(regulators “are not

required to approve the entire Project in a single Record of Decision so long as their NEPA documents adequately analyze and disclose the impacts of the entire Project—including those portions that have yet to be approved.”). But the Applicant and the Corps absolutely cannot “engage ‘in segmentation, which involves an attempt to circumvent NEPA by breaking up one project into smaller projects and not studying the overall impacts of the single overall project.’” *Id.* at 394 (quoting *Webster v. U.S. Dep’t of Agriculture*, 685 F.3d 411, 426 (4th Cir. 2012) (internal quotation marks omitted)). At a bare minimum, prohibitions on illegal segmentation mandate a full EIS on the current Joint Permit Application.

B. The proposed landfill poses unique and significant threats to cultural and historic values, including harm to the Pine Grove School and community.

Environmental justice concerns mandate a comprehensive analysis of the adverse impacts to communities of color and low-income communities under both state and federal law. *See Friends of Buckingham v. State Air Pollution Control Board*, 947 F.3d 68, 92 (4th Cir. 2020); Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, 59 Fed. Reg. 7629 (February 11, 1994). There are vitally important cultural and historic sites near the proposed landfill, and the impact of this facility on these irreplaceable resources must be a central focus of state and federal reviews. Respectfully, the Applicant’s Cultural Resources Investigation appears to provide only conclusory statements about impacts and fails to address harms that are likely to occur.

According to the viewshed analysis in the Joint Permit Application, “The finished landfill will include a waste management area that extends approximately 300 feet above the current highest elevation within the disposal area.” KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 3, page 4. When discussing the viewshed analysis with respect to the Pine Grove School, the application concedes that “[a]t capacity, the waste management areas at Green Ridge will be visible from this National Register eligible resource, constituting an adverse effect.” *See* BROWNING & ASSOCIATES, GREEN RIDGE PHASE I CULTURAL RESOURCES INVESTIGATION, CUMBERLAND COUNTY, VIRGINIA (Feb. 2020) (received by VMRC, Sept. 2, 2020), at 111. A full EIS would likely identify additional harms to the Pine Grove School beyond these viewshed impacts. Based on the impacts to the Pine Grove School alone, the Corps must proceed with development of an Environmental Impact Statement.

As stated above, the significance of the Pine Grove Elementary School has been documented in listings on the Virginia Landmarks Register and the National Register of Historic Places. *See* Virginia Dep’t of Historic Resources, *024-5082 Pine Grove Elementary School* (Updated Feb. 28, 2020), at <https://www.dhr.virginia.gov/historic-registers/024-5082/>. It was constructed as part of the Rosenwald Schools initiative, spearheaded by Julius Rosenwald and Booker T. Washington in the early part of the 20th century to promote educational opportunities for African-American schoolchildren throughout the American South.

When in operation, the Pine Grove School was the center of a historically significant, African-American community that included the homes of Pine Grove schoolchildren and their teachers, the businesses run by the parents of those children, the cemeteries where those families and their neighbors buried and remembered their dead, and the four churches that served the community. For generations, these churches hosted an annual Homecoming/Revival, where families who had moved North in the Great Migration returned to celebrate their roots in the Pine Grove community; this tradition was recently rekindled by the AMMD Pine Grove Project.

The strength of the Pine Grove community is evident in the extraordinary and successful effort the community made to provide for a quality education. They raised a remarkable sum of \$500 to fund the construction of the school. As an indication of the level of community commitment, the Miller family donated the land while other African-American families provided teachers and the physical labor required to build the school and maintain its grounds. Although inspired by the Rosenwald Fund, Pine Grove School was built and maintained on generations of community investment. From 1917 to 1964, the Pine Grove School provided opportunities for hundreds of African-American children during the era of Jim Crow oppression.

The Applicant acknowledges that the site of the proposed landfill “contains at least 22 graves of which most are marked with fieldstone headers and footers.” BROWNING & ASSOCIATES, GREEN RIDGE PHASE I CULTURAL RESOURCES INVESTIGATION, CUMBERLAND COUNTY, VIRGINIA (Feb. 2020) (received by VMRC, Sept. 2, 2020), at 104. Although the Applicant alleges that its plans show no impacts in the vicinity of the cemetery, the report submitted by its consultant nevertheless requests “Avoidance or Cemetery Delineation and *Burial Relocation Surveys*” and possibly a “*Burial Relocation Permit*.” *Id.* at ii (emphasis added). Needless, to say, the potential for relocating historic burial sites highlights the acute and personal nature of the harm to the Pine Grove community, and the risk that valuable resources may be damaged or lost altogether.

That the Pine Grove community has been overlooked as a historic resource is not surprising given that Cumberland County’s Black historic sites are woefully underrepresented in historic preservation catalogues. Of the eighteen Cumberland County listings on Virginia’s Historic Registers, only *one*, the Pine Grove School, was listed for its African-American historical significance. In contrast, five of the listings are the homes of white plantation owners, the only other listed school was built and operated as a segregated white high school, and the only listed church was listed in part because it was attended by prominent white plantation owners. See Historic Registers: Cumberland (County), Virginia Dep’t of Historic Resources, <https://www.dhr.virginia.gov/historic-registers/cumberland-county/> (last visited October 20, 2020).

Over the centuries, Cumberland County developed a significant antebellum population of enslaved people *and* a rich history of free Black communities. See Ellen D. Katz, *African-American Freedom in Antebellum Cumberland County, Virginia*, Symposium on the Law of Freedom Part II: Freedom: Personal Liberty and Private Law, 70 CHICAGO-KENT L. REV. 927, 930–32 (1995). The Pine Grove Elementary School helps Cumberland County’s Black community retell these stories today. Indeed, the Pine Grove School when in operation was *itself* a tool in the fight to keep Black history in the community’s collective memory.

A massive landfill directly across the road from the Pine Grove School would have direct impacts including odor, noise, and viewshed disturbances. And since the school derives its historic nature in large part due to its role in the broader community, a landfill and its associated impacts would severely harm these resources in two additional ways. First, the landfill would disconnect the school from its community context and the homes, cemeteries, and churches that make up the community. Second, the landfill would cut off the community’s access to the school. The mere existence of an active landfill operation, the loss of the historic Pine Grove Road, and the disruption of the rural setting would inevitably lead to community members moving away, which would leave them unable to provide upkeep and maintenance to the Pine Grove School. By cutting off the school from the community it needs to survive and thrive, the landfill would put the school in danger of future decay just when its role in Virginia’s history is beginning to be told. As Dr. Irene Mathieu has written about Pine Grove, “It is ironic that the removal of some monuments and memorials in this state are fiercely debated, while others are quickly condemned to be casualties of ‘progress.’ Whose history do we value?” Irene Mathieu, *The Proposed Cumberland County Mega-landfill Will Threaten Children’s Health*, VIRGINIA MERCURY (Nov. 12, 2019), <https://www.virginiamercury.com/2019/11/12/the-proposed-cumberland-county-mega-landfill-will-threaten-childrens-health/>.

C. More analysis must be undertaken regarding fish and wildlife values that would be affected by the proposed landfill.

The Joint Permit Application lacks sufficient detail and depth with regard to fish and wildlife values, including threatened and endangered species in and around the project area. See 85 Fed. Reg. 59487 (Sep. 22, 2020). For example, the JPA concedes that the threatened Northern Long-eared Bat potentially exists within the project area, but argues that “potential for ... habitat on site is negligible.” KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 4, page 36, 42. A detailed EIS would allow the Corps and stakeholders to investigate these matters more fully.

Additionally, the JPA identifies “four potential [threatened and endangered] species with the potential for onsite presence,” including three species of mussel, the James spineymussel, the Green Floater, and the Atlantic pigtoe. KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 4, page 36. The Atlantic pigtoe, already state-listed as threatened, is now proposed to be federally-listed as threatened under the Endangered Species Act. 85 Fed. Reg. 59487 (Sep. 22, 2020). Proposed Critical Habitat for the Atlantic Pigtoe in the Middle James River consists of a three-mile segment downstream from the Slate River, which is upstream from the proposed Green Ridge landfill site, but the species is also known to exist in areas downstream from the site. We request that a Biological Assessment be undertaken to determine any and all adverse impacts on the Atlantic Pigtoe downstream from the proposed facility, and a re-initiation of consultation with the Fish and Wildlife Service given the proposed listing of the Atlantic Pigtoe.

Of course, there is also significant concern regarding the impact to wetlands, streams, and ephemeral channels. These impacts must be assessed regardless of whether development proceeds with a single disposal area (as currently designed) or reverts to include two disposal areas (as originally proposed). It appears that the Wetland and Stream Impact report included with the JPA leaves the “describe proposed impact” section blank, seven times. See KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 5, page 1-22. An Environmental Impact Statement would address the full panoply of potential impacts and help guard against unlawful segmentation. See *Webster v. U.S. Dep’t of Agriculture*, 685 F.3d 411, 426 (4th Cir. 2012).

D. More analysis must be undertaken regarding air- and noise-pollution impacts from increased truck traffic and off-road machinery and vehicles that would be used on the landfill site.

Community members have significant concerns regarding the noise and air pollution impacts that will flow from the permitting of this landfill. This corner of Cumberland County is quiet, which reflects its rural history. Green Ridge argues that the company “shall take such steps as are necessary to prevent noise levels associated with operations on the site from exceeding 67 decibels” but *excludes* “the normal sounds of trucks entering the site.” See GREEN RIDGE RECYCLING AND DISPOSAL FACILITY, PART A PERMIT APPLICATION, ATTACHMENT XVII – LANDFILL IMPACT STATEMENT, at 31, Part 5.8 (Noise and Lighting) (Dec. 9, 2019) (received by VMRC, Sept. 2, 2020). According to the Applicant, the company expects “175 to 250 truckloads on average each day,” meaning that truck traffic could be one of the largest and most continuous noise concerns. See GREEN RIDGE RECYCLING AND DISPOSAL FACILITY, FREQUENTLY ASKED QUESTIONS, <https://greenridgeva.com/frequently-asked-questions.html#traffic> (last visited Oct. 11, 2020). More analysis is needed to examine how noise from vehicle traffic will affect the surrounding community and how those impacts will be mitigated.

The JPA also does not adequately address air quality concerns. Off-road diesel vehicles and industrial machinery may be in use at the site. Along with large trucks, these machines are among the greatest contributors to harmful black carbon emissions. *See, e.g., Large trucks are biggest culprits of near-road air pollution*, UNIVERSITY OF TORONTO FACULTY OF APPLIED SCIENCE & ENGINEERING, SCIENCE DAILY (Sep. 10, 2018) (documenting air pollution impacts). An Environmental Impact Statement is necessary to comprehensively analyze air quality implications of all aspects of the proposed landfill—how it would operate, how it would bring garbage to the disposal unit(s), and how it would manage disposal material on site.

The historic Pine Grove School remains a meeting place for the community. Noise and air quality impacts at the landfill site, at the school site, and throughout the surrounding community must be analyzed via a holistic approach. An EIS is required to conduct such an analysis.

E. The JPA lacks sufficient analysis of impacts to water quality, including threats to private wells in the area.

Many households in Cumberland County are dependent on privately built, residential wells to supply potable water. Shallow wells are particularly susceptible to groundwater contamination, but the JPA does not adequately address concerns about the threat to these wells. Instead, the JPA states that “[a] majority of the 44 private drinking water supply wells identified within the vicinity of the site are upgradient of the Disposal Unit.” KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 2, page 25 (emphasis added). Multiple wells within the vicinity of the site are downgradient from the Disposal Unit, including a well “belonging to the Pinegrove Community Center” as well as “as many as five private wells” near the corner of Miller Lane. *Id.* at part 2, page 22. However, the JPA still concludes that “[t]he Facility will not detrimentally alter or deplete groundwater supplies in the general area of the site.” It provides little assurance to community members that the JPA admits these wells “should be monitored (once the owners grant permission)” or that “a groundwater monitoring program will be developed.” *Id.* at part 2, page 25. A more thorough analysis of private wells near the proposed landfill and of the resources that recharge those wells needs to be undertaken. An EIS should include a data-driven investigation of all possible impacts to private well water.

IV. The Needs and Alternatives Analyses in the JPA are Inadequate.

A. The JPA fails to adequately address need.

The Purpose and Need section of the JPA contains conflicting and unresolved reports of actual need for the proposed landfill. It simply lacks the in-depth analysis that the National Environmental Policy Act requires. *See, e.g., North Carolina v. Hudson*, 665 F. Supp 428, 446 (E.D. N.C. 1987) (“Whether the issue is expressed as one of ‘need’ or ‘alternatives’ the public

interest regulations require a more searching analysis"). Given the detrimental impacts that would result if this project were permitted, especially the adverse effects to the historic Pine Grove School and surrounding African-American community, the Applicant must provide a far clearer and evidence-based showing of need.

Significantly, the Virginia Department of Environmental Quality ("Virginia DEQ") finds that there is *no* shortfall in landfill capacity in the Commonwealth. Virginia DEQ documents significant, existing capacity lasting two decades into the future without *any* new landfills constructed in Cumberland County. The Commonwealth's most recent Annual Solid Waste report finds available landfill capacity in Virginia lasting 20.6 years for municipal solid waste, 21.4 years for construction, demolition, and debris waste, and 16.9 years for non-captive industrial waste. VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY, 2020 ANNUAL SOLID WASTE REPORT FOR CY2019 (June 2020), <https://www.deq.virginia.gov/Portals/0/DEQ/Land/SolidWaste/SWIA/2020%20Annual%20Solid%20Waste%20Report%20for%20CY2019%20-%20Final%20-%20ADA.pdf?ver=2020-06-23-134736-917>.

The Applicant seeks to counter the Commonwealth's data by arguing that the Shoosmith landfill in Chesterfield County will "very likely be closing within 3-4 years," but the Applicant overlooks that any closure would be because the Chesterfield County Board of Supervisors rejected Shoosmith's *expansion* plans. See Sean Gorman, *Judge throws out Chesterfield county landfill company's lawsuit seeking quarry expansion*, RICHMOND TIMES-DISPATCH (Dec 6, 2019), https://richmond.com/news/local/judge-throws-out-chesterfield-county-landfill-companys-lawsuit-seeking-quarry-expansion/article_fc91c347-bcf0-5a88-9dc7-84c03f9910c2.html; Jim McConnel, *Landfill loses court battle over expansion*, OBSERVER (Dec. 4, 2019), <https://www.chesterfieldobserver.com/articles/landfill-loses-court-battle-over-expansion/#:~:text=In%20his%20November%202016%20ruling,quarry%20plan%20one%20year%20earlier>. Similarly, the JPA posits that an Amelia County landfill might arrive at capacity due to out-of-state trash delivered by rail, but ignores the potential impact of a proposal to "study and develop a plan to require landfill operators to pay a solid waste disposal fee, or a tipping fee, for each ton of solid waste received at the landfill." Sarah Vogelson, *Northam administration flirts with potential statewide solid waste fee for landfills*, VIRGINIA MERCURY (Aug. 25, 2020), <https://www.virginiamercury.com/2020/08/25/northam-administration-flirts-with-potential-statewide-solid-waste-fee-for-landfills/>.

The JPA also argues that regulators should accept "the projection of waste industry experts that Mid-Atlantic states have at most 10.6 years of remaining capacity." KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 1, page 31. The waste-industry's own analysis does not appear to be state-specific, and does not include an analysis

for Cumberland County, Virginia. The JPA does not appear to mention the expansion of the Southeastern Public Service Authority landfill in Suffolk, Virginia, despite the fact that the Southeastern Public Service Authority landfill has a 2,000-square mile service radius, overlapping with the Applicant's proposed 500-mile service radius. *See* SPSA WASTE SOLUTIONS, REGIONAL LANDFILL EXPANSION, <https://spsa.com/stay-updated/active-projects/regional-landfill-expansion> (last visited Oct. 11, 2020). Similarly, the JPA does not appear to mention the proposed expansion of the Charles City Landfill by Waste Management of Virginia, Inc. *See* U.S. ARMY CORPS OF ENGINEERS, NORFOLK DISTRICT, PUBLIC NOTICE, NAO-2011-02448 (Oct. 8, 2020), <https://www.nao.usace.army.mil/Media/Public-Notices/Article/2371897/nao-2011-02448/>.

Most importantly, the JPA argues that “[t]he Commonwealth of Virginia is on the precipice of a waste disposal crisis,” KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 1, page 26, but fails to adequately address evidence from Cumberland County *directly* that no additional landfill capacity is needed. Eleven years ago, in August 2009, Virginia DEQ fully permitted a municipal solid waste landfill to be opened in Cumberland County by Republic Services. *See* Letter from Timothy P. Torrez, Environmental Manager, Cumberland County Development Company, LLC to James Golden, Director, Piedmont Regional Office, Virginia Department of Environmental Quality (Nov. 19, 2018) (attached as **Exhibit B** to these comments). Despite having a shovel-ready project that was fully approved and permitted, “No solid waste management facility was ever constructed or operated under the Permit.” *Id.* After the project sat dormant for nearly a decade, Republic Services decided to “abandon irrevocably any further development of the Proposed Facility [B]ecause no waste has been disposed, there is no requirement to initiate closure or post closure care of a solid waste management facility.” *Id.*

At a minimum, an EIS is required to investigate the Applicant's needs analysis and determine whether a landfill is necessary in Cumberland County now, given that a similar project at a neighboring site was irrevocably abandoned just two years ago.

B. The JPA lacks an adequate analysis of alternatives.

In evaluating alternatives, “[t]he test is whether the alternative with less wetlands impact is ‘impracticable,’ and the burden is on the Applicant ... with independent verification by the COE [Corps of Engineers], to provide detailed, clear and convincing information *proving* impracticability.” *Utahns for Better Transp. v. U.S. Dep't of Transp.*, 305 F.3d 1152, 1186-87 (10th Cir. 2002) (emphasis in original). Here, the Applicant's alternatives analysis fails as to both because the “no-action” alternative has yet to be fairly evaluated and because all of the alternative sites considered were in Cumberland County, despite the 500-mile service radius of the proposed landfill. The Army Corps may grant a Section 404 permit only for the “least environmentally damaging practicable alternative” for a proposed project, and the Applicant

has not shown that the chosen location fulfills this requirement. *See* 40 C.F.R. § 230.10(a); *see also Save Our Sound OBX, Inc. v. North Carolina Dep't of Transportation*, 914 F.3d 213, 219 (4th Cir. 2019).

As explained above in Part IV.A, the “no action” alternative has been unlawfully disregarded because the Applicant has failed to account for Virginia DEQ’s study on landfill capacity *and* has failed to adequately demonstrate need in light of Republic Services’ recently abandoned project.

The Applicant nevertheless defends its decision to move forward by arguing that without a new landfill, “the waste collected by County Waste must be directed primarily to landfills owned by County Waste’s competitors.” KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 2, page 3. Yet the Corps cannot prioritize the Applicant’s interest over the public interest. NEPA requires selection of the least environmentally damaging “practicable” alternative—even when that alternative is not economically preferable for a permit applicant. *See Park v. United States*, 286 F. Supp. 2d 201, 207 (D.P.R. 2003) (“[T]his Court finds that the Corps has made a reasonable showing that there are several alternatives available to [a developer] in order to make the desired changes, and that the cost of said alternatives may reduce [a developer’s] profit, but certainly do not render it a prohibitive endeavor.”); *Florida Clean Water Network, Inc. v. Grosskruger*, 587 F. Supp. 2d 1236, 1243 (M.D. Fla. 2008) (“In evaluating alternatives to a proposed project, an alternative may be deemed to be practicable even if it does not meet all of a project’s components provided that any component it fails to meet is deemed to be ‘incidental’ to the project’s basic purpose.”). Thus, “the fact that an alternative might have some unquantified higher operating cost does not mean the alternative is not ‘available’ or ‘capable of being done.’” *Delaware Riverkeeper Network v. U.S. Army Corps of Eng’rs*, 869 F.3d 148, 159-60 (3rd Cir. 2017).

Perhaps most startling is that the JPA only evaluates alternative sites within Cumberland County. KOONTZ BRYANT JOHNSON WILLIAMS, JOINT PERMIT APPLICATION (Sep. 2020), at part 2, page 4 (explaining that the “search narrowed to Cumberland County”). The geographic scope of alternatives considered must be determined by the basic purpose of the project, and must remain broad enough to reasonably consider all environmentally preferable sites where the basic purpose of the project could be achieved. *See* Jon Schutz, *The Steepest Hurdle in Obtaining A Clean Water Act Section 404 Permit: Complying with EPA’s 404(b)(1) Guidelines’ Least Environmentally Damaging Practicable Alternative Requirement*, 24 UCLA J. ENVTL. L. & POL’Y 235; Yocom et al., *Wetlands Protection Through Impact Avoidance: A Discussion of the 404(b)(1) Alternatives Analysis*, 9 WETLANDS 283, 295 (1989).

When the list of alternatives is inadequate, the Corps has the authority to require an applicant to expand its analysis. Given the 500-mile service radius of the facility and that some out-of-state waste may be accepted for disposal at the landfill, the Joint Permit

Application should have evaluated, at a minimum, alternatives throughout that radius. *See Webster v. United States Dep't of Agric.*, 685 F.3d 411, 422 (4th Cir. 2012) (“[A] purpose is unreasonable when the agency defines it so narrowly as to allow only one alternative from among the environmentally benign ones in the agency's power”) (internal quotation marks omitted).

In sum, an Environmental Impact Statement is necessary to complete a full and proper alternatives analysis, including a fair evaluation of the “no action” alternative.

V. Conclusion

For the reasons stated above, opportunities for public involvement have been inadequate to date. Moreover, the JPA as submitted is inadequate. It fails to fully address concerns regarding fish and wildlife impacts, traffic, noise and air quality impacts, as well as wetlands and water quality concerns. Of particular relevance to the AMMD Pine Grove Project, the JPA fails to account for environmental justice-related harms, including threats to the adjacent Pine Grove Elementary School. Finally, the Applicant has impermissibly narrowed the range of alternatives considered and has failed to fairly assess need and the “no action” alternative. Accordingly, the UVA Clinic and the AMMD Pine Grove Project request:

- 1) An extension of the current public comment period at least through Nov. 20, 2020;
- 2) Public Hearings in Cumberland County, Virginia, with public health accommodations to account for the COVID-19 pandemic and accessibility accommodations for residents without access to the internet at home;
- 3) Preparation of an EIS as required by the National Environmental Policy Act and implementing regulations; and
- 4) Denial of the requisite permits, pursuant to Sections 401 and 404 of the Clean Water Act and Title 62.1 of the Code of Virginia, at this time.

Respectfully submitted,



Cale Jaffe

Associate Professor of Law, General Faculty

Director of the Environmental Law and Community Engagement Clinic

University of Virginia School of Law

Muriel Miller Branch, President, AMMD Pine Grove Project

Ashley Ridgway
University of Virginia School of Law, Class of 2021

Kristen James
University of Virginia School of Law, Class of 2021

Attachments:

Exhibit A (31 pages), National Register of Historic Places Registration Form,
Pine Grove Elementary School, DHR# 024-5082

Exhibit B (1 page), Letter from Timothy P. Torrez, Environmental Manager, Cumberland
County Development Company, LLC to James Golden, Director, Piedmont Regional Office,
Virginia Department of Environmental Quality (Nov. 19, 2018)

Exhibit A:

National Register of Historic Places Registration Form,
Pine Grove Elementary School, DHR# 024-5082

United States Department of the Interior
National Park Service

National Register of Historic Places Registration Form

This form is for use in nominating or requesting determinations for individual properties and districts. See instructions in National Register Bulletin, *How to Complete the National Register of Historic Places Registration Form*. If any item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, architectural classification, materials, and areas of significance, enter only categories and subcategories from the instructions.

VLR Listed: 12/12/2019

NRHP Listed: 2/25/2020

1. Name of Property

Historic name: Pine Grove Elementary School

Other names/site number: DHR #024-5082

Name of related multiple property listing:

Rosenwald Schools in Virginia (012-5041)

(Enter "N/A" if property is not part of a multiple property listing)

2. Location

Street & number: 267 Pinegrove Road

City or town: Cumberland State: VA County: Cumberland

Not For Publication: ☐ N/A Vicinity: ☒ X

3. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act, as amended,

I hereby certify that this X **nomination** request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60.

In my opinion, the property X **meets** does not meet the National Register Criteria. I recommend that this property be considered significant at the following level(s) of significance:

 national **statewide** **local**

Applicable National Register Criteria:

 A **B** **C** **D**

Signature of certifying official/Title:

Date

Virginia Department of Historic Resources

State or Federal agency/bureau or Tribal Government

In my opinion, the property meets does not meet the National Register criteria.

Signature of commenting official:

Date

Title :

**State or Federal agency/bureau
or Tribal Government**

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4. National Park Service Certification

I hereby certify that this property is:

- ☐ entered in the National Register
☐ determined eligible for the National Register
☐ determined not eligible for the National Register
☐ removed from the National Register
☐ other (explain:) _____

Signature of the Keeper

Date of Action

5. Classification

Ownership of Property

(Check as many boxes as apply.)

- Private: ☒
- Public – Local ☐
- Public – State ☐
- Public – Federal ☐

Category of Property

(Check only **one** box.)

- Building(s) ☒
- District ☐
- Site ☐
- Structure ☐
- Object ☐

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Number of Resources within Property

(Do not include previously listed resources in the count)

Contributing	Noncontributing	
<u>1</u>	<u>0</u>	buildings
<u>0</u>	<u>0</u>	sites
<u>0</u>	<u>0</u>	structures
<u>0</u>	<u>0</u>	objects
<u>1</u>	<u>0</u>	Total

Number of contributing resources previously listed in the National Register 0

6. Function or Use

Historic Functions

(Enter categories from instructions.)

EDUCATION: School

Current Functions

(Enter categories from instructions.)

SOCIAL: Meeting Hall

RECREATION & CULTURE: Museum

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7. Description

Architectural Classification

(Enter categories from instructions.)

OTHER: Rosenwald School

Materials: (enter categories from instructions.)

Principal exterior materials of the property: CONCRETE; METAL; WOOD: Weatherboard;
STONE: Slate Shingles

Narrative Description

(Describe the historic and current physical appearance and condition of the property. Describe contributing and noncontributing resources if applicable. Begin with a **summary paragraph** that briefly describes the general characteristics of the property, such as its location, type, style, method of construction, setting, size, and significant features. Indicate whether the property has historic integrity.)

Summary Paragraph

Pine Grove Elementary School is located on Route 654 off Highway 60 in Cumberland County, Virginia, on a roughly level 3.7-acre partially wooded lot. Pine Grove School was constructed with funding from the Rosenwald Fund in 1917 and was most recently used as the Pine Grove Community Center. The school retains most of its original fabric, including the exterior wood weatherboards, interior wood cladding on walls and ceilings, wood flooring, door moldings, wood window sash, and slate roofing. The one-story, two-room wood frame school was built based on rural school plans designed by architects at Tuskegee Institute. There are no outbuildings or secondary resources on the parcel. The area surrounding the property is heavily wooded with a few residential dwellings spaced along Route 654 at considerable distances from the subject property. Pine Grove is one of six Rosenwald Schools originally constructed in Cumberland County. Today the property has excellent integrity of location, setting, design, workmanship, materials, feeling, and association.

Narrative Description

Setting

The property is located in eastern Cumberland County close to its boundary with Powhatan County. The school is the only building on the parcel. It is set back from Route 654 and features a one lane dirt driveway leading up to the east (front) elevation of the building. The parcel is flat

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with grass cover around the building that is surrounded by dense forest. There are several large deciduous trees situated in the grassy area at the rear of the building along with a modern May Pole installed by alumni of the school to replace the historic May Pole (photo #05).

Exterior Description

The one-story, wood frame building features what appears to be the original hipped slate roof, likely sourced from nearby Buckingham County (photo #25). The building rests upon brick and concrete piers (photo #06). The exterior is clad in painted weatherboard siding. A central projecting bay, housing the original coat closets, has a gable roof with pediment that intersects the hipped roof of the main block of the school. Centered in the pediment is a rectangular attic vent. Flanking the projecting bay on both sides are one-bay, hipped roof entry porches, each with two separate entrances; one into the coat closet and one into the classroom (photo #01). Each entry porch roof is supported by a single turned wooden column and a turned wooden pilaster on the primary façade wall. The deck of each porch is poured concrete, accessed by four concrete steps. All four entrances have single-leaf, wood, five-paneled doors, typical of the period of construction. The projecting bay on the east elevation has paired double hung, two-over-two wood sash windows, which provided light for the two identical coat closets accessible from the covered porches (photos #26-29). The building features matching paired double-hung wood sash windows at the north and south ends. The rear (west) façade has two banks of three double-hung wood sash windows centered on the wall of each of the interior classrooms—a hallmark of the architectural plans for Rosenwald Schools to assure ample natural light.

The name of the builder is unknown. However, the school was constructed between 1916 and 1917, according to the Virginia Superintendents Annual Report for 1916 and 1917.¹ Its construction was based on architectural plans produced by a pair of African American architects at Tuskegee Institute, Robert Taylor and W.A. Hazel. Examples of Tuskegee Institute rural school plans were published in 1915 in a pamphlet titled “The Negro Rural School and its Relation to the Community”.² The interior of the building is divided into two classrooms. Because this plan pre-dates the Rosenwald Fund’s 1920 publication of Community School Plans, it has some slight variations of note. One is the use of a hipped roof instead of a gable roof. Another is the placement of the closets in the front gable end of the building and inclusion of exterior covered porches instead of interior vestibules. This allows the two rooms in the Pine Grove Elementary School to be perfectly rectangular without any obstructions for viewing the chalkboards at the northeast and southeast corners of each classroom (photos #16-17). In this building, three of the four extant chalkboards are original.

Interior Description

The walls of each classroom are composed of flush diagonal wood paneling in thin, long strips at about a 45-degree angle forming a downward arrow pattern centered on each wall, window, or

¹ The Virginia Superintendents Annual Report for 1916 and 1917 shows Pine Grove and Mullein Bottom as built during that year. However, they are not identified as “colored” and the private donations column is inconsistent with what is listed in the Fisk Rosenwald Database for both schools.

² Tuskegee Institute. Extension Dept. The Negro Rural School and Its Relation to the Community. Tuskegee, Ala., 1915.

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door (photo #15). Hardwood tongue-and-groove flooring spans both classrooms. The window and door trim is consistent throughout and features circular rosette corner blocks at the corner of each fluted trim piece (photo #18). To complement what was surely a handsome design when the school opened in the 1917-1918 school year, decorative crown molding surrounds the perimeter of each room at the top of each wall, with a second molding strip approximately one foot below the ceiling (photo #14).

The building was originally heated by a wood stove (photo #22), and its chimney pipe still hangs from the northwest corner of Classroom 1. Electricity was added during the 1950s or 1960s, when the Pine Grove School building became a community center, and now there are electric lighting fixtures in the center of the ceiling of each room (photo #10 and 15). Pine Grove does not currently have electricity even though the earlier wiring remains. Ceilings throughout are covered with tongue-and-groove boards running the length of the classrooms. The two classrooms are separated by a partition wall that is finished with the same diagonal finishes and molding. Original, bi-fold doors that ran the entire length of the partition wall are no longer extant; however, the door jamb and fluted molding with rosette corner blocks is still in place. The coat closets are finished with wood, unpainted vertical tongue-and-groove walls and ceilings.

Integrity Analysis

The property has integrity of location, as the former school continues to occupy its original parcel. The integrity of setting is intact as no recent construction or alterations have taken place within the historic boundary. Located in a rural community of African Americans in Cumberland County, the larger setting continues to be very rural. Today the vicinity is heavily forested, although historically a more mixed land use that included farming, milling, and mining would have been present.

Overall, Pine Grove School is in excellent condition with high retention of historic fabric. Some structural problems have been identified, the most notable of which is the leaking slate-covered roof. A tarpaulin currently partially covers the roof (photo #25) to prevent any further damage. There are signs of persistent leaks, including damage above the entrance in classroom 2 (photo #20), water damage to the flooring underneath the leak (photo #21), and evidence that the roofing structure underneath the slate shingles needs repair (photo #19). Flooring has already been repaired under the former woodstove (photo #23). Due to minor settling, the doors do not seal properly when closed (photo #24). Lastly, there is some damage to the exterior weatherboard siding at the left of the door into classroom 1 at the southeast end of the building (photo #30). Despite these items of deferred maintenance, the building retains nearly all of its original materials, making its integrity of design, workmanship, and materials excellent. The presence of original blackboards, remnants of the heating stove, and only slightly altered coat closets add to its high degree of integrity. Also with regard to integrity of design, the Pine Grove School remains a clearly identifiable example of an early school design in the Rosenwald Fund's history, based on the Tuskegee Institute's 1915 pamphlet, "The Negro Rural School and its Relation to the Community." Due to its early date of construction in the program's history, the Pine Grove School has certain features that distinguish it from the later designs promulgated in

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the program's 1920 publication "Community School Plans." One is the use of a hipped roof instead of a gable roof. Another is the placement of the cloakrooms in the front gable end of the building and inclusion of exterior covered porches instead of interior vestibules. Later school designs typically included an industrial arts room in the projecting bay while cloakrooms were placed on a perimeter wall of each classroom.

The Pine Grove Elementary School has high integrity of association as it is an early example of a rural two-room, two-teacher Rosenwald school. Such schools were built across Virginia to provide educational opportunities to African American children during the Jim Crow segregation era. In addition to the Rosenwald Fund's financial assistance, funding for the schools was partially provided by African American parents, who also often donated land, materials, or labor for school projects from the Reconstruction Era through the end of Jim Crow. Cumberland County's school board also had to approve the school's construction and operation. The Pine Grove School conveys its historic association by retention of its original footprint and massing, character-defining features such as large banks of windows with original wood sash, separate entries to each classroom, and intact two-classroom interior plan. A particularly significant aspect of the school's integrity of materials is retention of the original slate tile roofing, which is composed of locally available Buckingham slate, so named for its identification with nearby Buckingham County, instead of more typical metal or asphalt shingle roofing. Historic interior finishes, such as wood flooring, painted wood-clad walls and ceilings, door and window casing, and five-panel doors, also contribute to the property's integrity of association as a rural Virginia school building that dates to the early twentieth century. In its totality, the Pine Grove School possesses integrity of feeling as a rural schoolhouse associated with African American education in rural Cumberland County. The integrity of feeling is expressed by the property's continued interrelationship with its rural setting and integrity of design, workmanship, and materials.

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8. Statement of Significance

Applicable National Register Criteria

(Mark "x" in one or more boxes for the criteria qualifying the property for National Register listing.)

- ☒ A. Property is associated with events that have made a significant contribution to the broad patterns of our history.
- ☐ B. Property is associated with the lives of persons significant in our past.
- ☒ C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- ☐ D. Property has yielded, or is likely to yield, information important in prehistory or history.

Criteria Considerations

(Mark "x" in all the boxes that apply.)

- ☐ A. Owned by a religious institution or used for religious purposes
- ☐ B. Removed from its original location
- ☐ C. A birthplace or grave
- ☐ D. A cemetery
- ☐ E. A reconstructed building, object, or structure
- ☐ F. A commemorative property
- ☐ G. Less than 50 years old or achieving significance within the past 50 years

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Areas of Significance

(Enter categories from instructions.)

ETHNIC HERITAGE: African American

EDUCATION

ARCHITECTURE

Period of Significance

1917-1964

Significant Dates

1964

Significant Person

(Complete only if Criterion B is marked above.)

N/A

Cultural Affiliation

N/A

Architect/Builder

Hazel, W. A.

Taylor, Robert

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Statement of Significance Summary Paragraph (Provide a summary paragraph that includes level of significance, applicable criteria, justification for the period of significance, and any applicable criteria considerations.)

Originally constructed in 1917, the Pine Grove Elementary School was built with the support of the Julius Rosenwald Fund, which was established to improve educational opportunities for African American children in the rural American South from the 1910s through early 1930s. At least 382 schools (of which approximately 126 still survive today) were constructed across Virginia through the Rosenwald Fund, which provided African American children in rural, isolated communities with state-of-the-art facilities at a time when little to no local public funds were designated for their education. Pine Grove Elementary School is one of six Rosenwald schools built in Cumberland County, Virginia, between 1917-1932. The property is being nominated under the “Rosenwald Schools in Virginia (012-5041)” Multiple Property Documentation Form (MPD) and, as a well-preserved example of a Rosenwald school built between 1917 and 1932, the Pine Grove School meets the registration requirements specified therein.³ The property is nominated at the local level of significance under Criterion A in the areas of Education and Ethnic Heritage: African American, as well as under Criterion C in the area of Architecture. Constructed during the early years of the Rosenwald Fund, the property’s period of significance begins in 1917 and ends in 1964 when the school closed. That year, Cumberland County closed all of its segregated schools for African American students and started bussing them to the newly completed Luther P. Jackson High School, which, notwithstanding its name, served grades 1-12. From 1917 to 1964, the Pine Grove School was an integral part of Cumberland County’s local Black community. Like many Black churches and schools, it functioned as the hub and heartbeat of community life for Pine Grove residents.

Narrative Statement of Significance (Provide at least one paragraph for each area of significance.)

Criterion A, Education and Ethnic Heritage: African American

Public Education in Virginia

From the 17th century through the late 1860s, Virginia’s African American residents had few opportunities for formal education. Teaching enslaved African Americans to read and write was forbidden, starting with state laws passed in 1805 and followed up with additional restrictions in 1819 and 1831. Religious groups, particularly those with antislavery sentiments, such as Quakers, in limited instances provided basic literacy lessons for free African Americans and enslaved people. In even rarer instances, free African American youth attended private subscription or boarding schools.⁴

³ Bryan Clark Green. “Rosenwald Schools in Virginia (012-5041).” Multiple Property Documentation Form. Washington, DC: National Park Service, National Register of Historic Places, 2004.

⁴ J. L. Blair Buck, *The Development of Public Schools in Virginia, 1607-1952* (Richmond: State Board of Education, 1952), 22-23; Ronald E. Butchart, “Freedmen's Education in Virginia, 1861–1870,” *Encyclopedia Virginia*, Virginia Foundation for the Humanities, 2015, <https://www.encyclopediaivirginia.org> (accessed July 2019).

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The first glimmers of new educational opportunities for African Americans came during the Civil War. Wherever Union military forces' occupied territory in Virginia, notably in Alexandria and Hampton in 1861, African American educators established schools. Missionary and freedmen's aid societies assisted these efforts by funding building construction and teacher salaries. From 1865-1870, the Freedmen's Bureau, among its many Reconstruction policies, assisted with school organization as well.⁵

In 1869, a new state constitution mandated, for the first time in Virginia's history, the creation of universal, albeit racially segregated, public education throughout the Commonwealth. In July 1870, the Virginia General Assembly enacted a uniform education law that established a statewide school system headed by a superintendent of public instruction and state and county boards of education. State funding based on population quickly came to be insufficient to cover costs, thus requiring local governments to assess supplementary taxes. Under the racially segregated system, white students received the majority of public funds designated for public schools, while African American children typically received inferior buildings and supplies, shorter terms, and fewer paid instructors who received less compensation than teachers of white students.⁶ Virginia's first state-subsidized public schools opened in November 1870. During the 1870-1871 term, the system served approximately twenty-four percent of the state's Black children and almost thirty-eight percent of white youth. After centuries of being denied access to education, however, African Americans seized the opportunities that became available with formal instruction. Reverence for education became a hallmark of African American communities from Reconstruction through the Jim Crow era of segregation.

Virginia's new public schools proved to be popular among both African Americans and working-class whites, so much so that by the late 1870s the two groups found they had a common interest—the preservation of public education. This led to the formation of a coalition that became known as the Readjuster Movement. As the name implied, the Readjusters wanted to scale down Virginia's pre-Civil War debt, an action that would allow the continued funding of public schools.

Although the Readjusters were successful in keeping public education viable, Virginia's public-school system remained a system in name only. Most of the authority for operating rural schools was vested in the counties, particularly the magisterial districts. Each magisterial district had a school board composed of three trustees. Combined, the trustees from the four or five magisterial districts formed the county school board. But it was the district boards that operated the schools, determined their locations, contracted with teachers, and set the length of the school term. Education was decentralized as teachers worked independently, mostly in one-room schoolhouses, teaching a curriculum based largely on memorization and recitation.

The school calendar reflected the agricultural demands of the community. There was no compulsory attendance, and this was often how teacher performance was evaluated. Parents who

⁵ Butchart, "Freedmen's Education in Virginia."

⁶ Ibid.; Buck, *The Development of Public Schools in Virginia*, 65, 69-71. Educational opportunities for Virginia Indian children were similarly limited.

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were not satisfied with the local school just kept their children at home, and many teachers lost their jobs because average daily attendance fell to less-than-satisfactory levels.

In the decades following the Civil War, much of the rest of the nation saw the former Confederate states in the American south as a benighted, impoverished backwater. Progressive reformers believed that this condition was detrimental to the entire country and found the solution in better public education. Overall, public school systems in Virginia remained haphazardly funded, regulated, and operated through the remainder of the 19th century. Most public schools initially occupied one-room buildings, although in more densely populated areas, graded two-teacher schools began to replace one-room schools for the white population in the late 19th century. In 1902, under Governor Andrew Montague, a new state constitution was passed to replace the Reconstruction-era 1869 constitution. Written just a few years after the *Plessy v. Ferguson* Supreme Court decision enshrined the “separate but equal” doctrine in American law, the new constitution did much to disenfranchise African Americans and promulgate Jim Crow segregation across Virginia. Poll taxes and literacy tests were among the methods used to restrict black voting and ensure white supremacy. However, some Progressive Era reforms also were provided in the new constitution, including increased funding for public schools, improved teacher training, and a goal of making high school available to more students.⁷

Around the turn of the twentieth century, education advocates began to pressure the General Assembly to improve public schools. Under the 1902 constitution, county boards of education implemented more stringent teacher qualification and compulsory attendance standards, undertook building renovation and construction projects, and consolidated smaller schools. Urban educators allied with northern Progressives to push for more reforms in a crusade that became known as the May Campaign of 1905. Progressive education meant consolidated schools, instruction beyond the elementary level, standardized curricula, transportation, better teacher training and a 180-day school year. At the same time, however, African American school appropriations declined after the constitution disenfranchised black voters, perpetuating the problem of inadequate and overcrowded facilities.⁸ Thus, as white schools were consolidated during the 1910s and 1920s, in line with Progressive Era educational standards, black schools were often left behind.

For most white southerners, improving schools meant improving schools for white children. Thus, the disparity between black and white schools grew tremendously. In Cumberland County for example, the 1916-1917 school year was, on average, 40 days longer for white children than for black children. There was an accredited high school that served 88 white students, but no secondary education was available for African Americans. Thirty-six schools served 989 white

⁷ Susan Breitner, “Virginia Constitutional Convention (1901–1902),” *Encyclopedia Virginia*, Virginia Foundation for the Humanities, 2015, <http://www.encyclopediavirginia.org> (accessed July 2019). The 1902 constitution finally was replaced in 1971, after the victories of the Civil Rights movement abolished the legal framework for Jim Crow segregation.

⁸ Buck, *The Development of Public Schools in Virginia*, 126-139; Rand Dotson, “Progressive Movement in Virginia,” *Encyclopedia Virginia*, Virginia Foundation for the Humanities, 2012, <https://www.encyclopediavirginia.org> (accessed July 2019).

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students while 23 schools served 2,375 black students. On average, white female teachers received an annual salary of \$360 while black female teachers received \$145.

Aware of such inequities, various philanthropic individuals and organizations attempted to step in to address where governments failed to provide educational opportunities. These included the Julius Rosenwald Fund, the Jeanes Foundation, the Slater Fund, the General Education Board (later the Rockefeller Foundation), and similar private groups. The Rosenwald Fund traces its origins to May 1911, when Julius Rosenwald first met Booker T. Washington. Julius Rosenwald (1862-1932) was the president of Sears, Roebuck and Company and a benefactor of African-American causes. Aware of Washington's work to improve educational and employment opportunities for African Americans, Rosenwald hosted a luncheon in Chicago for him, with the aim of raising funds for the Tuskegee Industrial and Normal Institute that Washington had founded. Between 1911 and Washington's death in 1915, the two men collaborated on construction of 300 public schools in Alabama, Tennessee, and Georgia. In 1917, , Rosenwald established what became known as the Rosenwald Fund, management for which was based at the Tuskegee Institute between 1912 and 1920 and in Nashville, Tennessee, between 1920 and 1937. Augmented by local taxes and private gifts, the fund paid for the construction of 5,357 schools in 15 southern states. Heavily influenced by Washington and his work at the Tuskegee Institute, Rosenwald believed in the importance of industrial training and education of Blacks in the South.⁹ An important operating principle of the Rosenwald Fund was commitment by a local community to improving educational access for children. This was demonstrated by contributions of money, labor, materials, and land from community residents, as well as a matching monetary contribution from the local school board.

W. A. Hazel and Robert Taylor, both professors at Tuskegee Institute, designed the first schools built for the Rosenwald Fund. In 1915, the Tuskegee Institute published a pamphlet, "The Negro Rural School and its Relation to the Community," of their plans for one-teacher school (Figure 1, below), two variations of a "central" (five-teacher) school, a county training school with an industrial building, a privy, and a three- and a five-room house for teachers. Other topics addressed in the pamphlet included selection and layout of a school site (Figure 2, below), equipment for industrial classes, remodeling of existing buildings, and school activities. The pamphlet also provided detailed guidance on selection and placement of student desks, blackboards, provision of chalk and erasers, maps, decorations, materials to include in a school library, and designs of a woodstove for heating as well as instructions on its operation.

⁹ For more information about the Rosenwald Schools in Virginia or about their importance in American history see Green, Rosenwald Schools in Virginia MPD, and Stephanie Deutsch, *You Need a Schoolhouse: Booker T. Washington, Julius Rosenwald, and the Building of Schools for the Segregated South* (Northwestern University Press, 2011).

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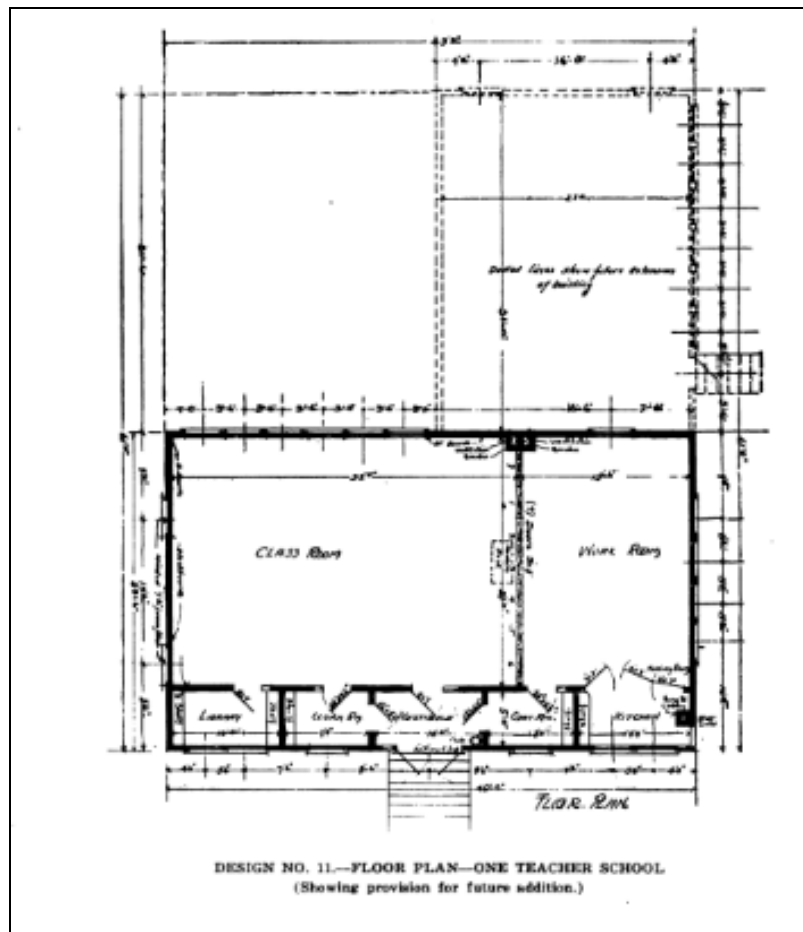
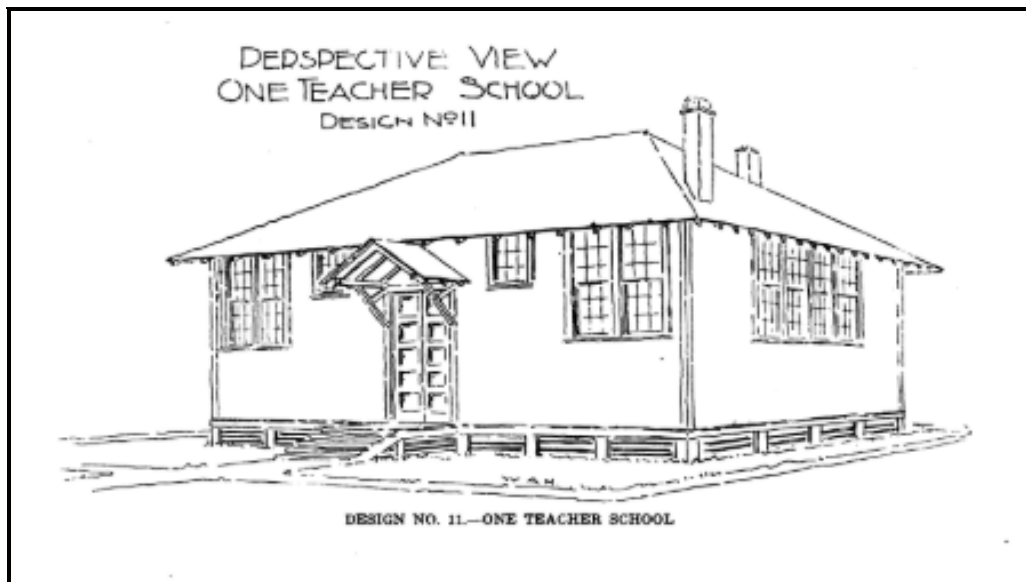


Figure 1. One-Room School Design and Floor Plan as Shown in "The Negro Rural School and its Relation to the Community."

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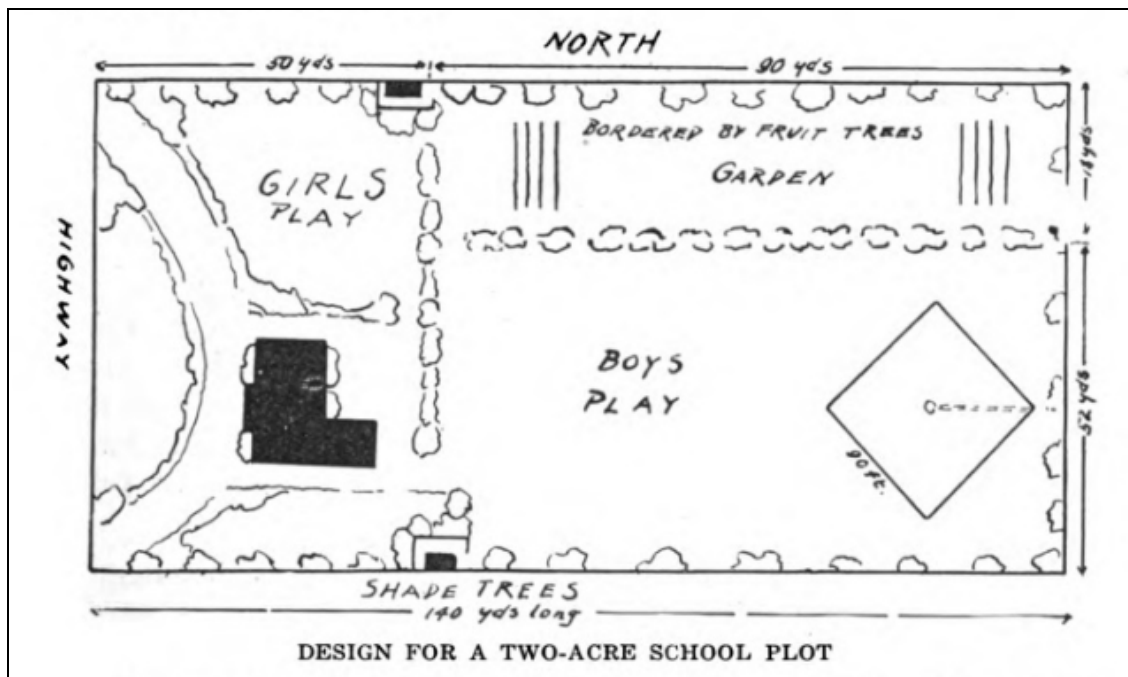


Figure 2. Example of a Site Design as Shown in "The Negro Rural School and its Relation to the Community."

Samuel L. Smith, a student of school reformer Fletcher Dresslar, was named director of the program in 1920. Smith and his colleagues expanded the repertoire of designs for Rosenwald schools, published under the title *Community School Plans* in 1921, to include 17 plans for schools accommodating from one to seven teachers. The new building designs were intended as "model schools," exhibiting best design practices in lighting, sanitation, ventilation (by means of "breeze windows"), and furnishings. The Rosenwald school plans also were closely related to designs published by national school authorities, including those issued in 1914 by the U.S. Bureau of Education, once again under the direction of Fletcher Dresslar.¹⁰ In addition to classroom space, the plans called for one or more small "industrial rooms" where manual training would take place, and for the use of the schoolhouse as a resource for the entire community, including adult education. As meeting places and community centers, Rosenwald schools were vital community assets during Jim Crow and the Civil Rights movement, when policing of African American cultural institutions and gatherings was at an all-time high

While maintaining racially segregated schools, Virginia's local school boards gradually began taking advantage of the Rosenwald Fund's provision of up to one-third of construction costs for new schools, as well as cash and/or in-kind contributions from the African American community that would be served by a new school. Most often, a local committee raised the private sums that were used in combination with school board funds. Like the St. John School, most Rosenwald

¹⁰ Fletcher B. Dresslar, *Rural Schoolhouses and Grounds*, United States Bureau of Education Bulletin 12, (Washington, DC: Government Printing Office, 1914).

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schools were intended to serve as elementary schools staffed by one or two teachers. About 50 percent of the Rosenwald schools in Virginia were two-teacher graded schools, for which the Fund typically contributed between \$500 and \$800.¹¹ Ultimately, Rosenwald schools were built in 83 percent of Virginia's counties, in mostly rural areas.

Pine Grove Elementary School

The story of Pine Grove's school began in the May Campaign of 1905. In that year, Jackson Davis, a native of Cumberland County, was appointed superintendent of Henrico County Schools. Early in his tenure, Davis visited a school for African Americans operated by Virginia Estelle Randolph. The school emphasized industrial education, which meant that in addition to learning the educational basics, boys learned modern agricultural practices and carpentry while girls learned sewing, cooking, and canning.

Virginia Randolph attracted the attention of executives of the Negro Rural School Fund of the Anna T. Jeanes Foundation, and in 1908, she became the first Jeanes Supervising Industrial Teacher. Jeanes teachers, as they were commonly called, worked in rural counties training other African American teachers in industrial education. They also served as community organizers who solicited donations from the African American community, spoke at black churches and taught parents how to advocate effectively for their children. By 1931, the Jeanes Foundation was paying the salaries of 305 supervising industrial teachers in fourteen southern states—and more in Virginia than any other state.

In 1910, Jackson Davis was appointed State Agent for Negro Schools in Virginia. The agent's main responsibility was coordinating the efforts of the General Education Board, Jeanes Foundation, and later the Rosenwald Fund. Davis's diaries for 1911 and 1913 document the extent of his travels as he visited African American schools throughout the commonwealth. In 1913, he visited Cumberland County, met with the superintendent and visited Matilda Mosley, the county's Jeanes Supervisor.

Two years earlier, Matilda V. Mosley (later Matilda Mosely Booker) was hired as principal of the Little Bethel School in Henrico County. Like other schools for African Americans in Henrico, Little Bethel was organized on Randolph's model. In 1913, with Randolph's support, Mosely was hired as Cumberland County's first Jeanes supervisor, overseeing teachers in 23 schools for African Americans.

In the fall of 1916, R. C. Stearnes, Virginia's superintendent of public instruction and A. D. Wright, the commonwealth's inspector of what was then termed "colored schools," met with Julius Rosenwald in Washington, D.C. There, Superintendent Stearns urged Rosenwald to make a special effort to help address Virginia's needs. Rosenwald agreed to set aside \$11,100 to be distributed by Wright, thus bypassing Tuskegee's management. Stearns estimated that this fund would help build 50 to 60 schools for African Americans in the state.

¹¹ Gibson Worsham, Switchback School National Register nomination, 2012.

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Over the next few years, \$750 from this fund was allocated to Cumberland County. By 1920, under the leadership of Matilda Mosley Booker, African Americans in Cumberland built eight new schools. Six received support from the Rosenwald Fund. These included Sunny Side, Little Fork, Mullein Bottom, Fork [Hawk], Cotton Town, and Pine Grove. Pine Grove, Mullein Bottom and Moton School (later renamed) were built in 1917. A county training school followed at a later date. Based on information from Fisk University, all of the schools were constructed to accommodate two teachers.¹² The Pine Grove School was constructed at a cost of \$1,550, of which \$500 came from contributions from the local Black community, \$1,000 from public contributions, and \$50 from the Rosenwald fund.

In 1920, Cumberland abolished Booker's position. She was hired as Jeanes Supervisor for Mecklenburg County Schools, and for the next thirty-five years, made the commute from her home in Cumberland to Mecklenburg County.

Beginning in 1917, generations of the Agee, Miller, Mayo, and Dungy family members, as well as the Gilliam, James, Anderson, Scales, Harris, Tate, Austin, Wade, Scott, Taylor, Boatright, Parker, Sanderson, Jefferson, Flood, and Jones family members were the beneficiaries of being able to attend the well-lit, clean, well-constructed Pine Grove School. Alumnus Muriel Miller Branch recalls that their teacher, Mrs. Mary E. Gilliam, a graduate of Hampton University, "inspired us to be proud of being Americans of African descent, by introducing us to great African American leaders, educators, scientists, artists, performers, musicians, and poets and writers who had been left out of the history books written by white men. In order to expand our horizons, Mrs. Gilliam provided a tiny library to encourage us to read beyond the ragged, hand-me-down textbooks we were given once the Caucasian children in Cumberland County had discarded them."¹³

From 1917 to 1964, the Pine Grove School was an integral part of the local Black community. Like many Black churches and schools, it functioned as the hub and heartbeat of community life for Pine Grove residents. Holiday programs and plays, oratory contests, spelling bees, black history programs, May Day celebrations, turkey shoots, community meetings of organizations such as the Future Homemakers of America, Future Farmers of America, and National Association for the Advancement of Colored People, were all held inside the building or on the school grounds. Pine Grove graduates went on to become journalists, ministers, scientists, and educators. Others pursued careers in the law, the military, counseling, cosmetology, and business. Cumberland County's first African American Commonwealths Attorney, Patricia Scales, is one notable alumna of Pine Grove School.

Pine Grove Elementary School closed to students in 1964 when the County decided to consolidate all of its segregated schools for African Americans and send the students to the newly remodeled Luther P. Jackson High School. The county operated Jackson High alongside

¹² Fisk University, "Rosenwald Fund Card File Database," available online at <http://rosenwald.fisk.edu>; accessed July 2019.

¹³ Remarks of Muriel Miller Branch, prior to local showing of a documentary film about Rosenwald schools.

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three high schools for white students in an attempt to continue “separate but equal” education. Token desegregation was under way through the “Freedom of Choice” plan that supposedly allowed parents to select the school they wanted their children to attend, but African American students continued to be limited to Jackson High. Within a few years, bowing to pressure from local activists, as well as the requirements of the 1964 Civil Rights Act, the county transitioned gradually from its “Freedom of Choice” to desegregation, completing the process during the 1969-1970 school year. In 1974, the Pine Grove School was purchased by a group of concerned residents when the county put it up for auction. The Pine Grove Community Center, Inc. was very active from 1974 to at least 1994, as close as has been determined to date. After that, usage was sporadic until the Agee Miller Mayo Dungy Family Association (AMMD) took over in 2018. The AMMD plans to rehabilitate the building and use it as a cultural center and museum. Along with local residents, the AMMD embarked on a campaign to clean up the school grounds and assess the condition of the schoolhouse. Much of the work clearing the grounds of overgrowth has been completed and, based on the initial assessment, the school building appears to be in fair condition. However, efforts to restore and preserve this important and irreplaceable landmark are now threatened by the prospect that a landfill may be located on nearby property. The AMMD believes that the only way to ensure the continued integrity of the Pine Grove School property is to place that property on the Virginia Landmarks Register and National Register of Historic Places.

Criterion C, Architecture:

Constructed from 1917 to 1932, Rosenwald school buildings in Virginia fall into two distinct subtypes based on their physical and associative characteristics. Subtype 1 school buildings were constructed from 1917 to 1920 under the supervision of the Tuskegee Institute according to plans and specifications drawn up by R.R. Taylor, Director of Mechanical Industries, and W.A. Hazel, Division of Architecture. Subtype 2 schools were built from 1920 to 1932 under the supervision of the Rosenwald office in Nashville according to designs and specifications prepared by Samuel L. Smith.¹⁴ The Pine Grove School is an example of property subtype 1.

By 1915, Booker T. Washington, Principal of Tuskegee Normal and Industrial Institute, and Clinton J. Calloway, Director of Tuskegee’s Extension Department, had published “The Rural Negro School and Its Relation to the Community” to serve as a guide for communities which were interested in constructing a school. This booklet provided plans (numbers 11 to 20) for schools, central schools, industrial buildings, county training schools, teacher’s homes, and boys and girls dormitories. Seventy-nine of the 382 Rosenwald schools constructed in Virginia (20.68%) were built between 1917 and 1920, and a number of those remaining resemble the elevations and plans that appear in “The Rural Negro School.”¹⁵

With the pamphlet’s publication, Washington and Calloway helped standardize future Rosenwald school plans. Washington was certain that the majority of rural schools would be of the “one-teacher” type. Indicative of the time of their design, these buildings feature minimal

¹⁴ Green, Rosenwald Schools in Virginia MPD, Property Type Description, Section F, page 13.

¹⁵ Ibid.

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Craftsman detailing, specifically wide-overhanging eaves and exposed brackets. Typically, the building have hipped or gable roofs, bands of double-hung sash windows, and interior chimney flues. They are clad with simple weatherboard siding and rest on brick piers. As with the later designs of Samuel L. Smith, Washington and Calloway supplied alternate designs to provide for an east-west orientation and maximum lighting. The interior room arrangement contained classrooms with small cloakrooms and an industrial room. Two teacher facilities contained classrooms with a movable partition between the rooms so that the classrooms could be used as a meeting room or auditorium.¹⁶

The Pine Grove Elementary School fits neatly into the architectural characteristics identified for property subtype 1. The original design was for two teachers and included the well-lit large classroom spaces with cloakrooms. The Pine Grove School design did not include an industrial room. However, wood frame construction clad with weatherboards situated on brick piers, with an interior chimney flue and banks of paired and triple sash windows, quickly identify this building as a Rosenwald. The hipped roof has one local variation in that it is clad with the locally quarried (and well-known to this region) Buckingham slate. The use of wide, over-hanging eaves with exposed roof rafters was not included in Pine Grove's design, which has a simple box cornice.

Of the seven Rosenwald Schools built in Cumberland County, six were subtype 1. The seventh was built ca. 1921, shortly after the switch to Samuel L. Smith's design specifications. Today, Pine Grove and two others survive in the county, the Mullein School and the New Hope School, both of similar design to Pine Grove, but without as many original architectural features. Subtype 1, representing only 20 percent of the Rosenwald schools built in Virginia, but nearly 90 percent of those in Cumberland County, is indicative of the County's quick response to the newly formed Rosenwald Fund in 1917. With its outstanding historic integrity of the architectural design, the Pine Grove School is locally significant under Criterion C in the area of Architecture.

Registration Requirements

As a well-preserved Rosenwald School in Virginia built between 1917 and 1932 and utilizing funds provided by the Julius Rosenwald fund, the Pine Grove fulfills the registration requirements provided by the Rosenwald Schools in Virginia (012-5041) Multiple Property Documentation Form (MPD). The modest, one-story, wood-frame school building retains its original design and floor plan taken from W. A. Hazel and Robert Taylor's "The Rural Negro School and Its Relation to the Community." The building also retains much of its original fabric, from the brick piers, painted weatherboard siding, wood window sash, and slate roofing to its interior finishes of tongue-and-groove flooring, wood cladding on walls and ceiling, door and window trim, doors, and even blackboards.

The Pine Grove School also remains in its original location within a rural setting in eastern Cumberland County near its boundary with Powhatan County. The building's design,

¹⁶ Ibid, Section F, page 14.

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workmanship, and materials are representative of the period of construction and the conditions of the time. Given this high degree of architectural integrity, the Pine Grove meets the MPD's registration requirements for listing under Criterion A in the areas of Ethnic Heritage: African American and Education and under Criterion C in the area of Architecture.

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9. Major Bibliographical References

Bibliography (Cite the books, articles, and other sources used in preparing this form.)

Breitzer, Susan. "Virginia Constitutional Convention (1901–1902)." *Encyclopedia Virginia*, Virginia Foundation for the Humanities, 2015, <http://www.encyclopediavirginia.org>. Accessed July 2019.

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Jackson, Brie. "Efforts to save Virginia's Rosenwald schools for African-Americans draws mixed emotions" WSLA News [Roanoke, VA] 18 February 2016.

Tuskegee Institute. Extension Dept. "The Rural Negro School And Its Relation to the Community." Tuskegee, Ala., 1915.

Virginia Superintendent's Annual Report for 1916 and 1917.

Worsham, Gibson. Switchback School National Register nomination. 2012.

Previous documentation on file (NPS):

- ☐ preliminary determination of individual listing (36 CFR 67) has been requested
- ☐ previously listed in the National Register
- ☐ previously determined eligible by the National Register

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☐ designated a National Historic Landmark
☐ recorded by Historic American Buildings Survey #
☐ recorded by Historic American Engineering Record #
☐ recorded by Historic American Landscape Survey #

Primary location of additional data:

☒ State Historic Preservation Office
☐ Other State agency
☐ Federal agency
☐ Local government
☒ University
☐ Other

Name of repository: Virginia Department of Historic Resources, Richmond, VA; Fisk University Rosenwald Database

Historic Resources Survey Number (if assigned): DHR #024-5082

10. Geographical Data

Acreage of Property approximately 3.7

Use either the UTM system or latitude/longitude coordinates

Latitude/Longitude Coordinates

Datum if other than WGS84:

(enter coordinates to 6 decimal places)

1. Latitude: 37.562990 Longitude: -78.133590

2. Latitude: Longitude:

3. Latitude: Longitude:

4. Latitude: Longitude:

Or

UTM References

Datum (indicated on USGS map):

☐ NAD 1927 or ☐ NAD 1983

1. Zone: Easting: Northing:

2. Zone: Easting: Northing:

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3. Zone: Easting: Northing:

4. Zone: Easting : Northing:

Verbal Boundary Description (Describe the boundaries of the property.)

Pine Grove School's property extends approximately 400 feet along Route 654, which is its eastern boundary. The southern property boundary extends from a point approximately 286 feet past the driveway entrance along the road approximately and continues 480 feet into the wooded area southwest of the school building. From there, the western boundary continues another 395 feet in a northwesterly direction through the woods. At that corner, the northern boundary of the property extends almost straight back out to Route 654 for a distance of just over 400 feet to a point about 100 northeast of the driveway entrance to the school.

The historic boundary aligns with the property's tax parcel boundary, recorded as #44-A-17 by Cumberland County, Virginia. The true and correct historic boundary is shown on the attached Tax Parcel Map.

Boundary Justification (Explain why the boundaries were selected.)

The historic boundary is taken directly from the property boundaries for the Pine Grove School, currently owned by the Agee Miller Mayo Dungy Family Association (AMMD). The boundary is drawn to encompass the property's historic setting and all known historic resources.

11. Form Prepared By

name/title: Niya Bates, Muriel Branch, and Bill Obrochta
organization: Agee Miller Mayo Dungy Family Association (AMMD)
street & number: 9315 Radborne Road
city or town: North Chesterfield state: VA zip code: 23236
e-mail: nbates41@gmail.com
email: ageemillermayoreunion@gmail.com
date: September 1, 2019

Additional Documentation

Submit the following items with the completed form:

- **Maps:** A **USGS map** or equivalent (7.5 or 15 minute series) indicating the property's location.
- **Sketch map** for historic districts and properties having large acreage or numerous resources. Key all photographs to this map.
- **Additional items:** (Check with the SHPO, TPO, or FPO for any additional items.)

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Photographs

Submit clear and descriptive photographs. The size of each image must be 1600x1200 pixels (minimum), 3000x2000 preferred, at 300 ppi (pixels per inch) or larger. Key all photographs to the sketch map. Each photograph must be numbered and that number must correspond to the photograph number on the photo log. For simplicity, the name of the photographer, photo date, etc. may be listed once on the photograph log and doesn't need to be labeled on every photograph.

Photo Log

Name of Property: Pine Grove Elementary School

City or Vicinity: Cumberland

County: Cumberland

State: VA

Photographer: Niya Bates

Date Photographed: July 26, 2019

Description of Photograph(s) and number, include description of view indicating direction of camera:

1 of 30: Pine Grove Elementary School, east elevation (front of the building), camera facing west.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0001.tif

2 of 30: Pine Grove Elementary School, southeast corner elevation, camera facing northwest.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0002.tif

3 of 30: Pine Grove Elementary School, south elevation, camera facing north.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0003.tif

4 of 30: Pine Grove Elementary School, southwest corner elevation, camera facing northeast.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0004.tif

5 of 30: Pine Grove Elementary School, west elevation, camera facing east.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0005.tif

6 of 30: Pine Grove Elementary School, northwest corner elevation, camera facing southeast.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0006.tif

7 of 30: Pine Grove Elementary School, north elevation, camera facing south.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0007.tif

8 of 30: Pine Grove Elementary School, covered entrance on north end of the front of building, camera facing west.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0008.tif

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9 of 30: Pine Grove Elementary School, covered entrance on the south end of front of the building, camera facing west.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0009.tif

10 of 30: Pine Grove Elementary School, interior of classroom 1, camera facing south.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0010.tif

11 of 30: Pine Grove Elementary School, east interior elevation of classroom 1, camera facing east.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0011.tif

12 of 30: Pine Grove Elementary School, west interior elevation of classroom 1, camera facing west.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0012.tif

13 of 30: Pine Grove Elementary School, interior of classroom 2, camera facing north.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0013.tif

14 of 30: Pine Grove Elementary School, west interior elevation of classroom 2, camera facing west.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0014.tif

15 of 30: Pine Grove Elementary School, east interior elevation classroom 2, camera facing east.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0015.tif

16 of 30: Pine Grove Elementary School, interior taken from classroom 2 into classroom one, camera facing south.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0016.tif

17 of 30: Pine Grove Elementary School, interior taken from classroom 1 into classroom 2, camera facing north.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0017.tif

18 of 30: Pine Grove Elementary School, Detail of upper right corner of the window trim of the bank of windows on the west wall of classroom 1, camera facing west.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0018.tif

19 of 30: Pine Grove Elementary School, detail of water damage in the center of the ceiling on the south side of the dividing wall between classroom 1 and classroom 2, camera facing north toward ceiling. Tarp on roof visible from inside.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0019.tif

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20 of 30: Pine Grove Elementary School, detail of water damage above the entrance door in classroom 2 on the north side of the building, camera facing east.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0020.tif

21 of 30: Pine Grove Elementary School, Detail of water damage to the flooring in classroom two near the entrance door under the leak in photo #19, camera facing east toward floor.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0021.tif

22 of 30: Pine Grove Elementary School, Stovepipe hanging out of the wall in classroom 1, camera facing west.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0022.tif

23 of 30: Pine Grove Elementary School, Section of repaired flooring under the wood stove between classroom 1 and classroom 2, camera facing north.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0023.tif

24 of 30: Pine Grove Elementary School, Door inside of classroom 2 on the east wall, camera facing east.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0024.tif

25 of 30: Pine Grove Elementary School, Detail of the slate shingles and tarp from the west, camera facing east.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0025.tif

26 of 30: Pine Grove Elementary School, Interior of the closet left of the entrance to Classroom 2, camera facing south.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0026.tif

27 of 30: Pine Grove Elementary School, Interior of the closet left of the entrance to Classroom 2, camera facing south toward ceiling.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0027.tif

28 of 30: Pine Grove Elementary School, Interior of the closet to the right of the entrance to classroom 1, camera facing north.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0028.tif

29 of 30: Pine Grove Elementary School, Attic access inside of the closet to the right of the entrance to classroom 1, camera facing north toward ceiling.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0029.tif

30 of 30: Pine Grove Elementary School, Detail of damage to the exterior east façade left of the entrance to classroom 1, camera facing southwest.

VA_CumberlandCounty_RosenwaldSchoolsinVirginiaMPD_PineGroveSchool_0030.tif

Pine Grove Elementary School
Name of Property

Cumberland County, VA
County and State

Paperwork Reduction Act Statement: This information is being collected for applications to the National Register of Historic Places to nominate properties for listing or determine eligibility for listing, to list properties, and to amend existing listings. Response to this request is required to obtain a benefit in accordance with the National Historic Preservation Act, as amended (16 U.S.C.460 et seq.).

Estimated Burden Statement: Public reporting burden for this form is estimated to average 100 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form to the Office of Planning and Performance Management, U.S. Dept. of the Interior, 1849 C. Street, NW, Washington, DC.

LOCATION MAP

Pine Grove Elementary School
Cumberland County, VA
DHR No. 024-5082

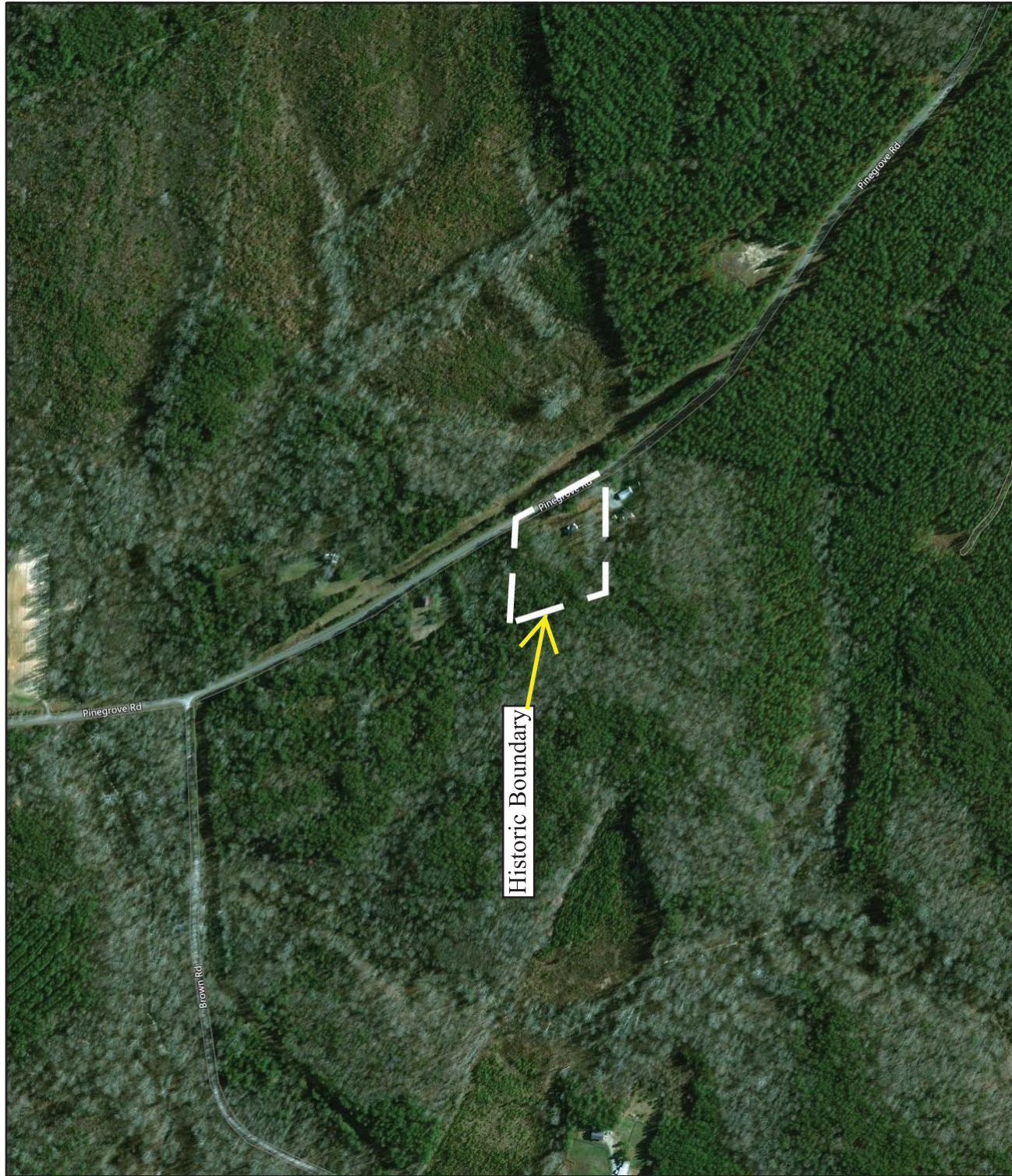
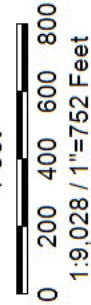
Latitude/Longitude Coordinates:

Latitude: 37.562990

Longitude: -78.133590



Feet



Title:

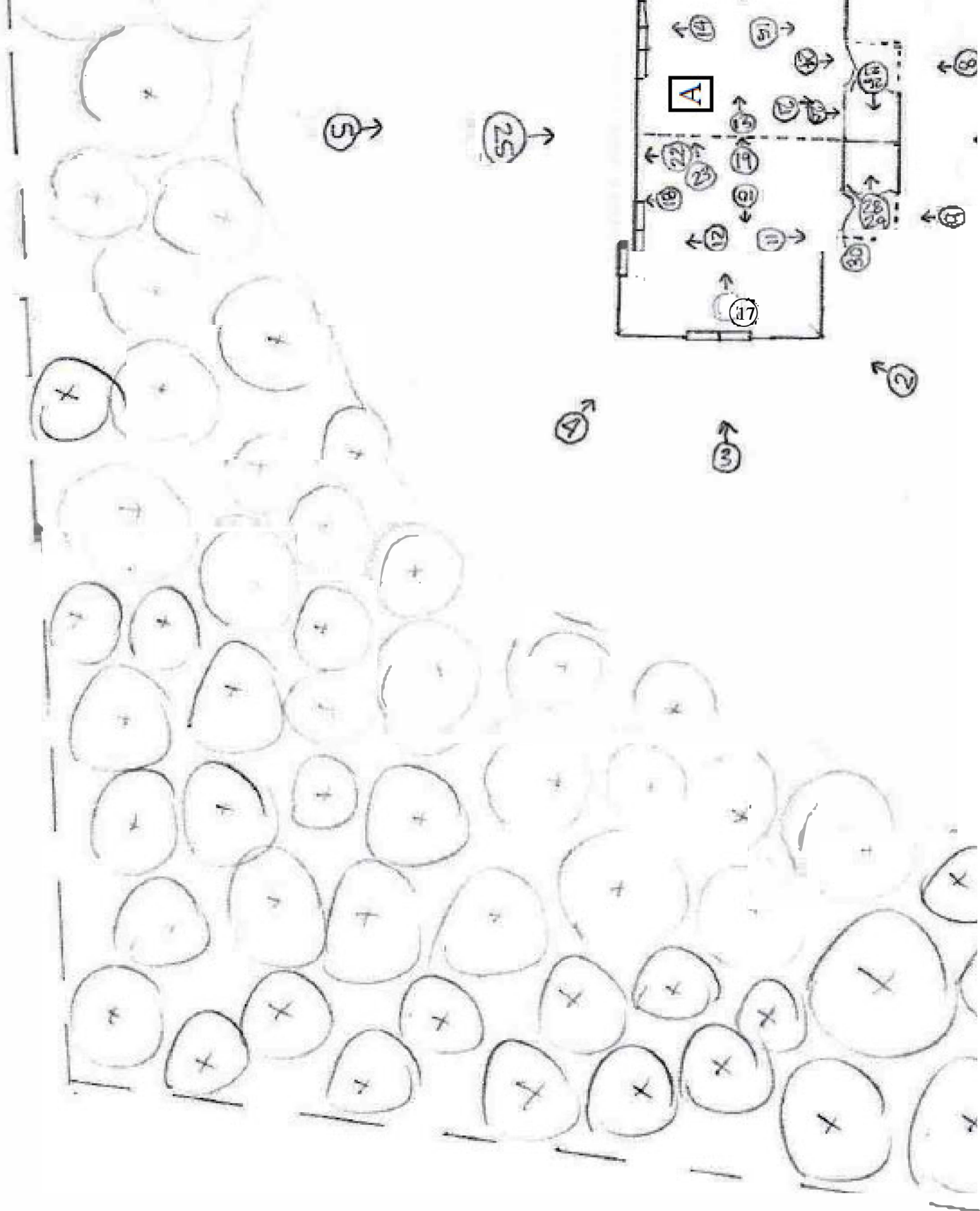
Date: 11/26/2019

DISCLAIMER: Records of the Virginia Department of Historic Resources (DHR) have been gathered over many years from a variety of sources and the representation depicted is a cumulative view of field observations over time and may not reflect current ground conditions. The map is for general information purposes and is not intended for engineering, legal or other site-specific uses. Map may contain errors and is provided "as-is". More information is available in the DHR Archives located at DHR's Richmond office.

Notice if AE sites: Locations of archaeological sites may be sensitive the National Historic Preservation Act (NHPA), and the Archaeological Resources Protection Act (ARPA) and Code of Virginia §2.2-3705.7 (10). Release of precise locations may threaten archaeological sites and historic resources.

SKETCH MAP/ PHOTO KEY

Pine Grove Elementary School



TAX PARCEL MAP
Pine Grove Elementary
School
Cumberland County, VA
DHR No. 024-5082

Layer: Parcels
44-A-17
044-00-0A-00-0017
1451
0017

TAX MAP
NUMBER:
PIN:
Account:
Label:

MapNo: 044 A 17
Dist: 38
DEED_BOOK: DB 108-486
DBInstNo: INST.190000272
PropertyAddrNo: 267
PropRdName: PINEGROVE ROAD
PropCity: CUMBERLAND
Class: 20
Zone: A2
Dwelling: IMPROVED
NumRms: 5
NumBed: 1
NumBath: 1
Acreage: 4
LandValue: 28000
HouseValue: 3500
TotalValue: 31500

Attributes at point: 11589136, 3728741

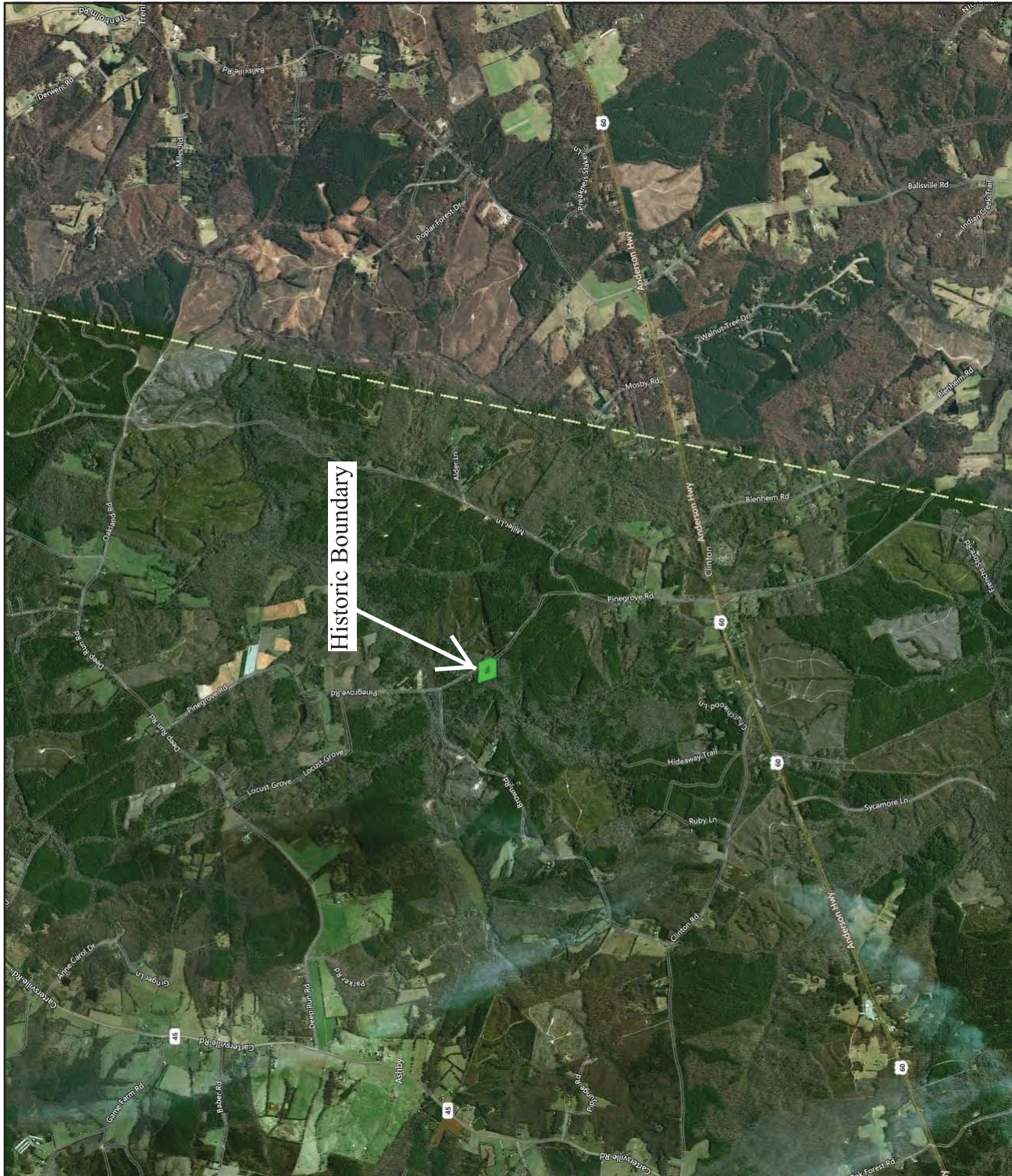
Layer: Zoning
Zoning District: A-2, Agricultural



Disclaimer: The information contained on this page is NOT to be construed or used as a survey or legal description. Map information is believed to be accurate but accuracy is not guaranteed.

Approx. Scale 1:2257





Feet



0 120 240 480 Feet
1:72,224 / 1"=6,019 Feet

Title:

Date: 10/8/2019

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Exhibit B:

Letter from Timothy P. Torrez, Environmental Manager,
Cumberland County Development Company, LLC to James
Golden, Director, Piedmont Regional Office, Virginia
Department of Environmental Quality (Nov. 19, 2018)



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November 19, 2018

Via email and U.S. Mail

Mr. James Golden
Director, Piedmont Regional Office
Commonwealth of Virginia
Department of Environmental Quality
4949-A Cox Rd.
Glen Allen, Virginia 23060

Re: Cumberland Landfill: Surrender of Solid Waste Permit No. 606

Dear Mr. Golden:

The Virginia Department of Environmental Quality ("DEQ") issued Cumberland County Development, Company, LLC ("Company") a Solid Waste Management Permit on August 17, 2009, to develop a municipal solid waste landfill in Cumberland County, Virginia ("Proposed Facility"). No solid waste management facility was ever constructed or operated under the Permit. Although we had previously constructed an entrance at the location of the Proposed Facility and installed several groundwater monitoring wells, we did not construct any of the components of the disposal area or related infrastructure, and hence, have not placed any waste at the Proposed Facility.

The Company has decided to abandon irrevocably any further development of the Proposed Facility, as well as the permits authorizing it to do so. We therefore surrender Solid Waste Permit No. 606, and request that DEQ release the Company from all related obligations. As discussed above, because no waste has been disposed, there is no requirement to initiate closure or post closure care of a solid waste management facility.

Please provide me with confirmation that the DEQ has revoked or rescinded Solid Waste Permit No. 606 pursuant to our surrender of it. Upon receipt, the Company will notify the Piedmont Planning District Commission to amend their Prince Edward County/Cumberland County Solid Waste Management Plan to remove the previously planned facility.

Please contact me by telephone at (804) 482-8340 or by electronic mail at ttorrez@republicservices.com if you have any questions or comments.

Respectfully,
Cumberland County Development Company, LLC.

Timothy P. Torrez, P.E.
Environmental Manager

cc: Wade Bailey – General Manager
Lee Byrd, Esq. – Counsel to Cumberland County Board of Supervisors