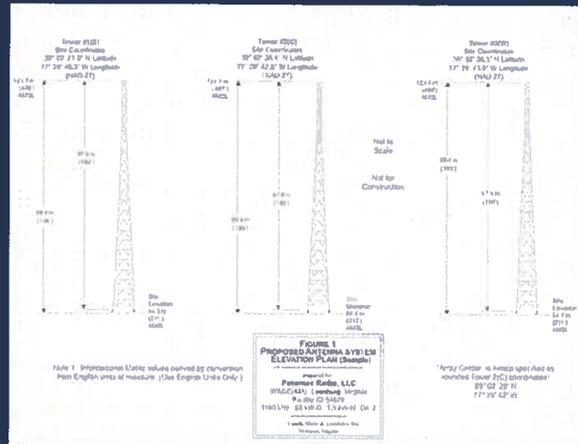


**CMPT 2009-0002/ SPEX 2009-0029
Potomac Radio**

**Supplemental Packet
March 24, 2010
Planning Commission Public Hearing**

PLANNING COMMISSION PUBLIC HEARING



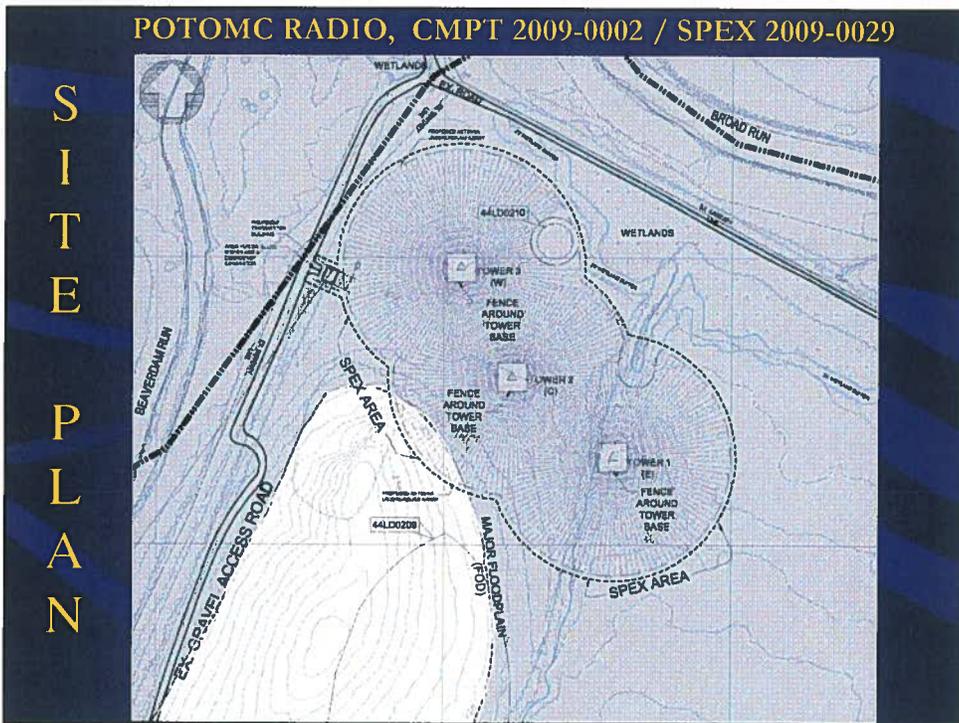
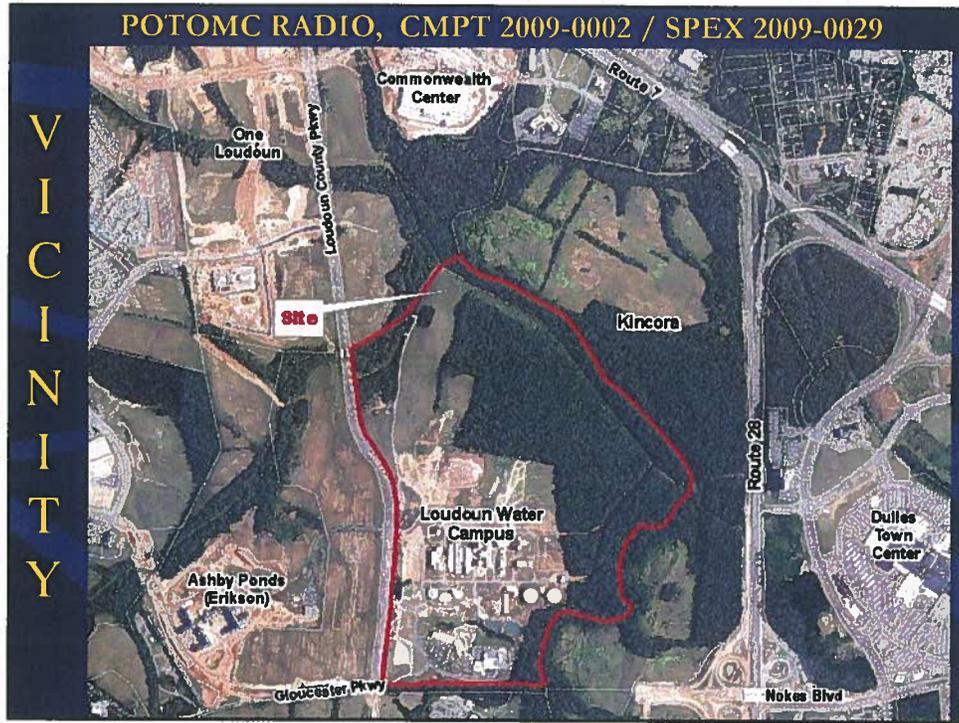
CMPT 2009-0002 / SPEX 2009-0029

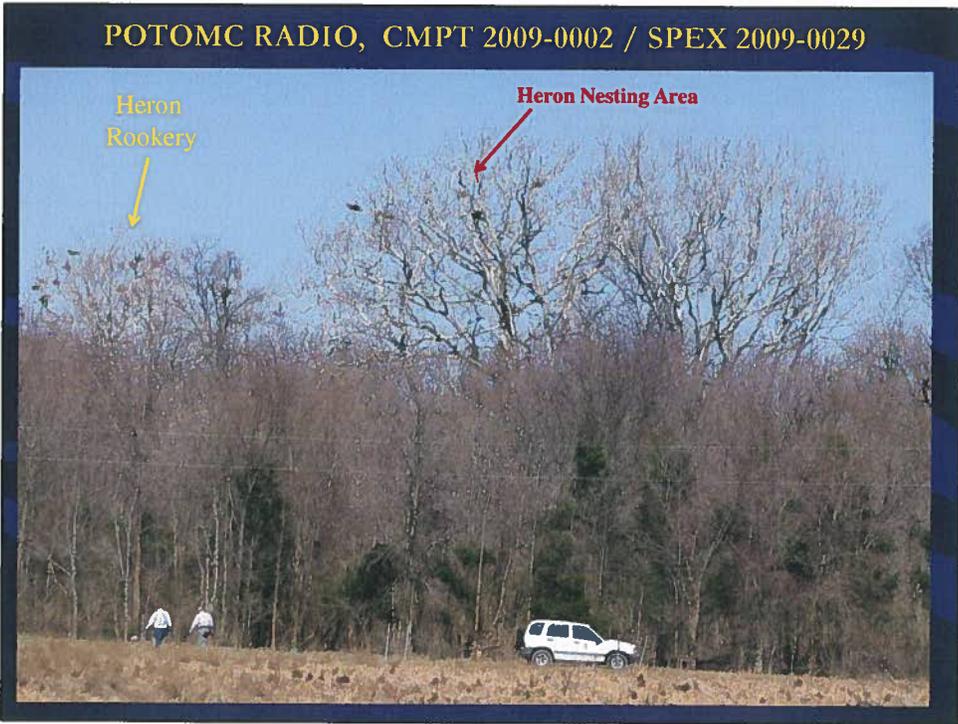
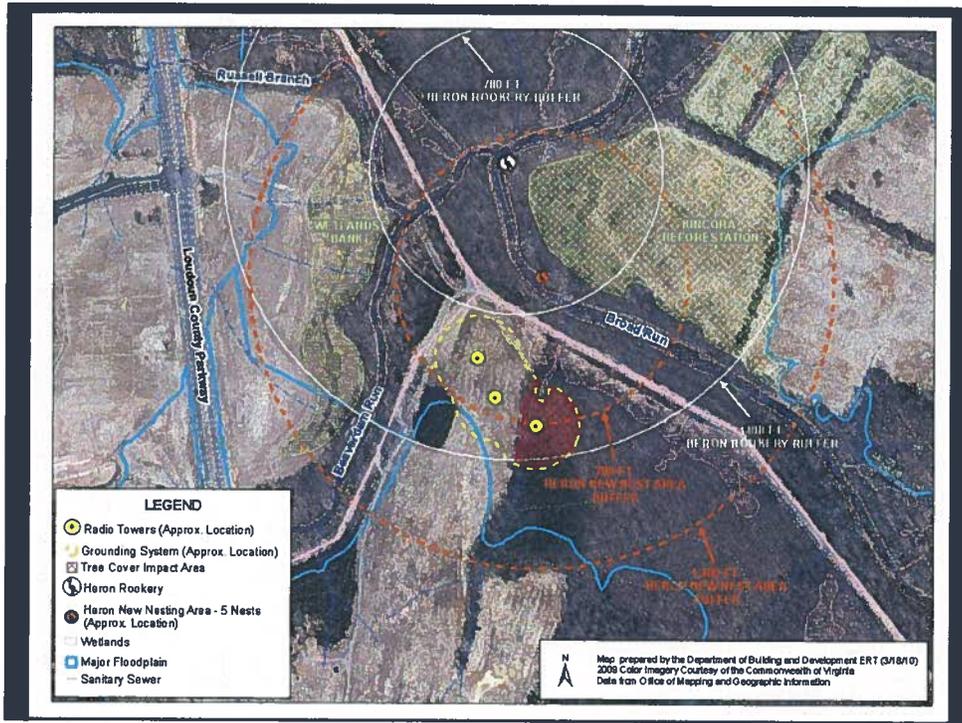
March 24, 2010

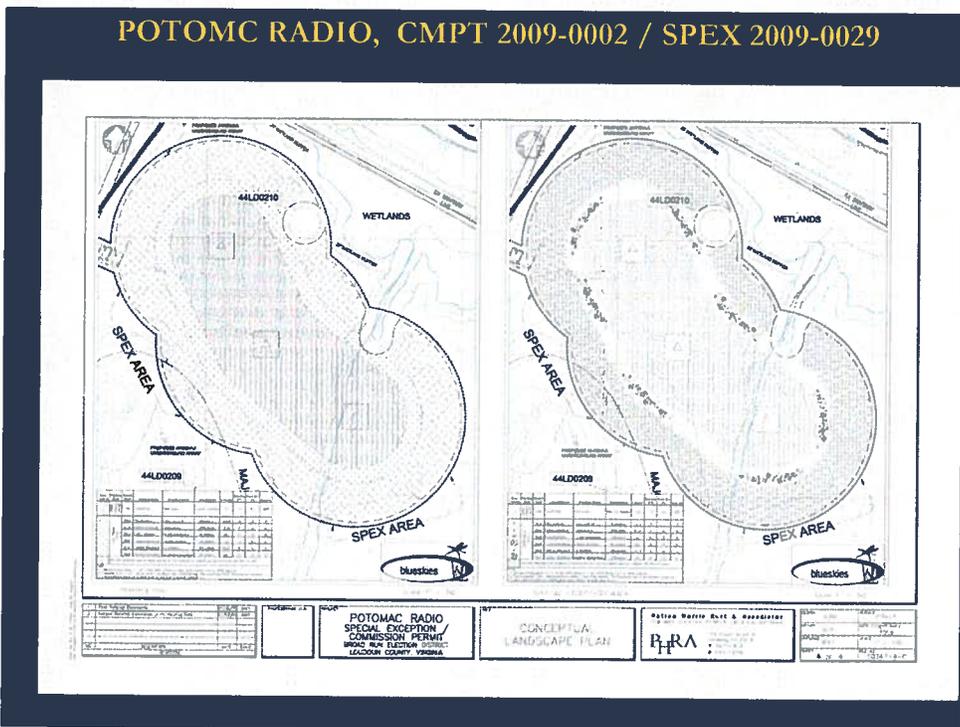
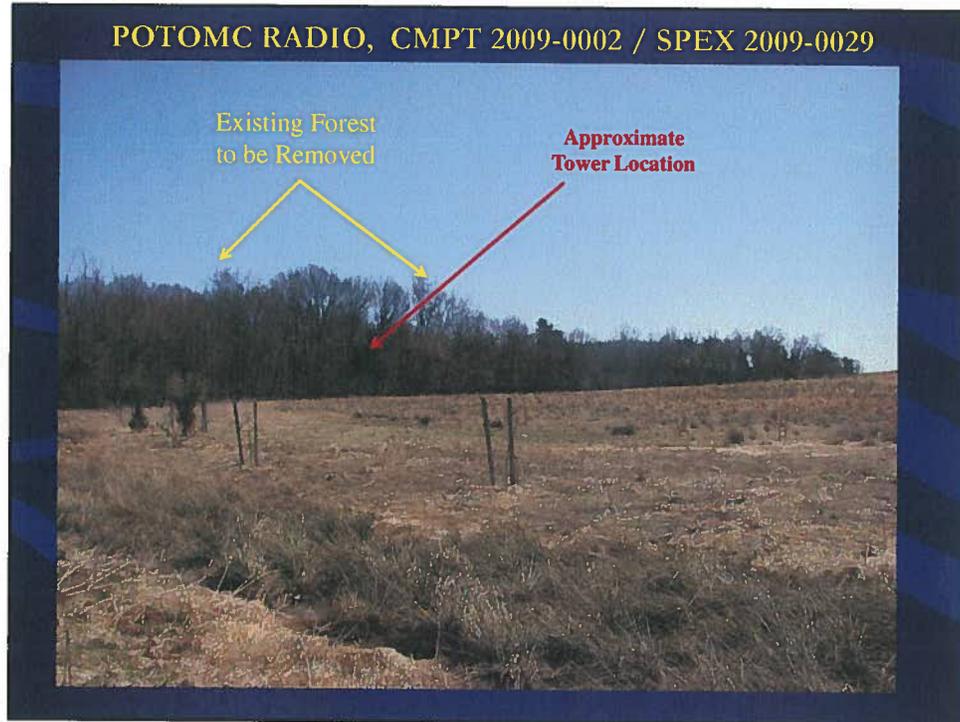
POTOMAC RADIO, CMPT 2009-0002 / SPEX 2009-0029

Applicant and Proposal

- Request for a Commission Permit to permit an AM Radio Transmitter defined as a “public utility, communications and transmission” use in the PD-IP Zoning District under the 1972 Zoning Ordinance.
- Request a Special Exception to locate the proposed facility within the Floodplain Overlay District (FOD).







POTOMC RADIO, CMPT 2009-0002 / SPEX 2009-0029

Staff Conclusions

REVISED GENERAL PLAN

Not consistent with land use mix or type of uses envisioned in Keynote Employment Area.

No consistent with environmental policies of the Plan, which do not support use in floodplain.

1972 ZONING ORDINANCE

Does not comply with regulations and standards of the Floodplain Overlay District (FOD).

POTOMC RADIO, CMPT 2009-0002 / SPEX 2009-0029

V
I
C
I
N
I
T
Y



SPEX 2009-0029 Potomac Radio
DRAFT CONDITIONS OF APPROVAL – March 23, 2010

Should the Planning Commission wish to approve the application staff, recommends the following conditions of approval:

1. **Substantial Conformance** - This Special Exception to permit development of AM radio towers as a public utility within the floodplain shall be developed in substantial conformance with Sheets 1 of 4 and 3 of 4 (the "Special Exception Plat") of the plan set entitled "Potomac Radio, Special Exception Plat/ Commission Permit Application" dated February 2009, revised through March 2, 2010, prepared by Patton Harris Rust & Associates, PC (the "Plans"), and incorporated herein by reference and the applicable provisions of the Loudoun County Zoning Ordinance. Approval of this application for Tax Map Number /80///4///A2/ (PIN# 041-37-4022) (the "Property") shall not relieve the Applicant or the owners of the Property or any Lessee from the obligation to comply with and conform to any other Zoning Ordinance, Codified Ordinance, or applicable regulatory requirement.
2. **Riparian Planting Plan** - The Applicant shall install all the plant materials and trees in the amounts and sizes specified, at the general locations depicted on, and of a character consistent with, the "Planting Plan", dated December 20, 2009 prepared by blueskies environmental associates, inc. of Richmond, Virginia, and shown on Sheet 4 of 4 of the Plans (the "Planting Plan"). Prior to approval of the first site plan for the Special Exception use, the Applicant shall post a bond with the County in an amount and with surety satisfactory to the County sufficient to cover the cost of implementing the Planting Plan. The Applicant shall ensure that a minimum of eighty (80%) percent of the initial planting is established after two growing seasons through the conduct of an inspection by the Applicant and the County Urban Forester. The bond shall be released following confirmation that a minimum of eighty (80%) percent of the initial planting is established after two growing seasons. Should it be determined that a minimum of eighty (80%) percent survival with uniform distribution is not achieved, a onetime planting to bring the project to full stocking consistent with, the "Planting Plan" shall be conducted by the Applicant and the bond released after compliance herewith has been confirmed by the Zoning Administrator.
3. **Heron Rookery** – No land disturbing or construction activities shall be performed or permitted within the area of the Special Exception during the heron nesting season defined as from February 15 through July 31 of each year. The on-site auxiliary generator may be used only in emergency situations during the said heron nesting season when electrical power has been interrupted. Periodic testing of the on-site auxiliary generator shall not

be conducted during the heron nesting season to avoid potential noise impacts to the rookery.

4. **Exterior Lighting** – No permanent exterior lighting shall be permitted within the area of the Special Exception unless directed by the County or unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, State or Federal authorities.
5. **Noise** - The applicant shall incorporate noise attenuation measures in the design and operation of the facility to ensure that noise levels emanating from equipment on the Property shall comply with a maximum of 75 dBA at the Property lines.
6. **Fuel Tank** - The Applicant shall use non-diesel fuel to power the on-site auxiliary generator. Prior to site plan approval, the Applicant shall coordinate with the County on the selection of the fuel tank to prevent leakage and measures to secure it in the event of flooding. The applicant shall provide fuel spill containment for all fuel storage on the property, and such containment measures shall be detailed on the site plan prior to site plan approval.
7. **Cessation of Use** - The Applicant or its successors shall remove all unused related structures and equipment from the area of the Special Exception, within 90 days of cessation of use or the expiration of the ground lease, whichever occurs first, and restore the site as closely as possible to its natural condition consistent with the Planting Plan.
8. **Advertising**- No commercial advertising shall be permitted on any tower.
9. **Communication Uses**- No antenna, satellite or microwave dish shall be attached to any tower without first obtaining approval of a new Special Exception for such use.

Note: The Applicant has agreed to provide a one-time contribution to the County in the amount of \$1,000.00 for the radio towers, and an additional \$0.10 per square foot of gross floor area of the transmitter building, for volunteer fire and rescue services. The \$1,000.00 contribution will be paid to the County prior to issuance of a building permit for any radio tower. The \$0.10 per square foot of gross floor area of the transmitter building will be paid to the County prior to the issuance of the building permit for the transmitter building. The square footage contribution shall escalate annually from the base year of 1988 and change effectively each January 1st thereafter, based on the Consumer Price Index for all urban consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics.

**Correspondence with
Virginia Department of Game
and Inland Fisheries (VDGIF)**

Giglio, Patrick

From: Ewing, Amy (DGIF) [Amy.Ewing@dgif.virginia.gov]
Sent: Monday, March 08, 2010 9:37 AM
To: Giglio, Patrick
Subject: ESSLog# 30636_Potomac Radio_tower construction
Attachments: USFWS tower recommendations.doc

Patrick,

I have reviewed the subject project that proposes to install three telecommunications towers and associated infrastructure at a site in the Broad Run floodplain in Loudoun County, VA.

It appears the site for the proposed construction is located approximately 700 ft from the great blue heron colony located just north of the site. Assuming that activities to develop the proposed site do not encroach upon the 600 ft no-disturbance buffer around the colony we do not anticipate this project to result in primary impacts upon the colony. To avoid secondary impacts upon the birds in the colony resulting from disturbance during construction, we recommend that all construction and ground clearing activities within 1,400 feet of the colony adhere to a time of year restrictions from March 15 through July 31 of any year.

In addition, we document state Threatened upland sandpiper from the project area. It appears this project site contains suitable habitat for this species. Assuming adherence to the above-mentioned time of year restriction from March 15 through July 31 on all construction and ground clearing activities, we do not anticipate adverse impacts upon this species. If the applicant cannot adhere to the recommended time of year restriction, we recommend coordination with our agency to ensure protection of this listed species.

To minimize overall impacts to wildlife and our natural resources, we offer the following comments about development activities: We recommend that the applicant avoid and minimize impacts to undisturbed forest, wetlands, and streams to the fullest extent practicable. Avoidance and minimization of impact may include relocating stream channels as opposed to filling or channelizing as well as using, and incorporating into the development plan, a natural stream channel design and wooded buffers. We recommend maintaining undisturbed wooded buffers of at least 100 feet in width around all on-site wetlands and on both sides of all perennial and intermittent streams. We recommend maintaining wooded lots to the fullest extent possible. We generally do not support proposals to mitigate wetland impacts through the construction of stormwater management ponds, nor do we support the creation of in-stream stormwater management ponds. We are willing to assist the applicant in developing a plan that includes open-space, wildlife habitat, and natural stream channels which retain their wooded buffers.

We recommend that the stormwater controls for this project be designed to replicate and maintain the hydrographic condition of the site prior to the change in landscape. This should include, but not be limited to, utilizing bioretention areas, and minimizing the use of curb and gutter in favor of grassed swales. Bioretention areas (also called rain gardens) and grass swales are components of Low Impact Development (LID). They are designed to capture stormwater runoff as close to the source as possible and allow it to slowly infiltrate into the surrounding soil. They benefit natural resources by filtering pollutants and decreasing downstream runoff volumes.

We recommend that all tree removal and ground clearing adhere to a time of year restriction protective of resident and migratory songbird nesting from March 15 through August 15 of any year.

We recommend adherence to erosion and sediment controls during ground disturbance.

In addition, we recommend adherence to the attached USFWS communications tower guidance.

We appreciate the County's cooperation in protecting the great blue heron colony located in the Broad Run floodplain. If we can be of further assistance, please do not hesitate to contact us.

Thanks, Amy

Amy M. Ewing
Environmental Services Biologist
Virginia Dept. of Game and Inland Fisheries

Giglio, Patrick

From: Giglio, Patrick
Sent: Thursday, March 18, 2010 4:15 PM
To: 'Ewing, Amy (DGIF)'
Cc: Taylor, Todd
Subject: ESSLog# 30636_Potomac Radio_tower construction
Attachments: Potomac_Radio_New_Nest_Area.JPG; Potomac Radio-Heron.pdf

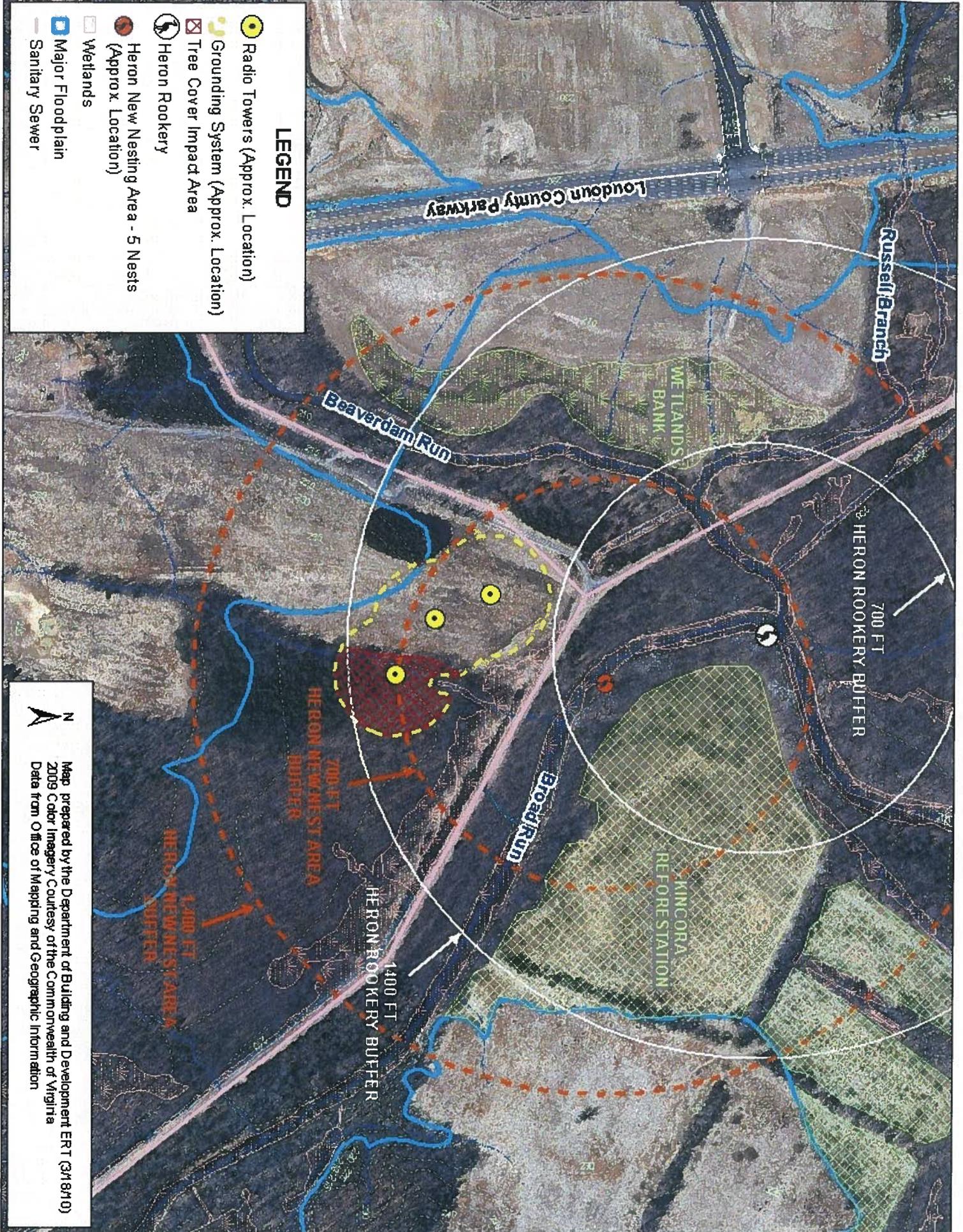
Amy
Thank you for your response dated March 8, 2010. During a site visit this week we noted five occupied Blue Heron Nests on the east bank of the Broad Run in two sycamore trees in close proximity to the proposed radio tower site (see map & photos). These five nest are some distance from the main Rookery which is estimated to consist of 40+ nests located further to the north. We believe these nest may have been established during the 2008 or 2009 breeding seasons, so they were not considered by VDGIF during the review of the Kincora SPEX application. We note that other large sycamore trees exist in proximity to the five occupied Blue Heron Nests and may provide habit for other nesting birds in the future. Enlight of this new information regarding the proximity of the five nests to the proposed radio tower site can you provide additional input regarding potential impacts and mitigation strategies.

Pat Giglio, Planner III
Loudoun County Department of Planning
703-777-0246 (office)
703-737-8563 (direct)

V I C I N I T Y



POTOMC RADIO, CMPT 2009-0002 / SPEX 2009-0029



LEGEND

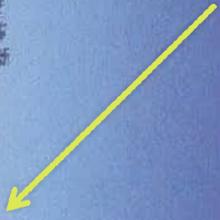
- Radio Towers (Approx. Location)
- Grounding System (Approx. Location)
- Tree Cover Impact Area
- Heron Rookery
- Heron New Nesting Area - 5 Nests (Approx. Location)
- Wetlands
- Major Floodplain
- Sanitary Sewer

N

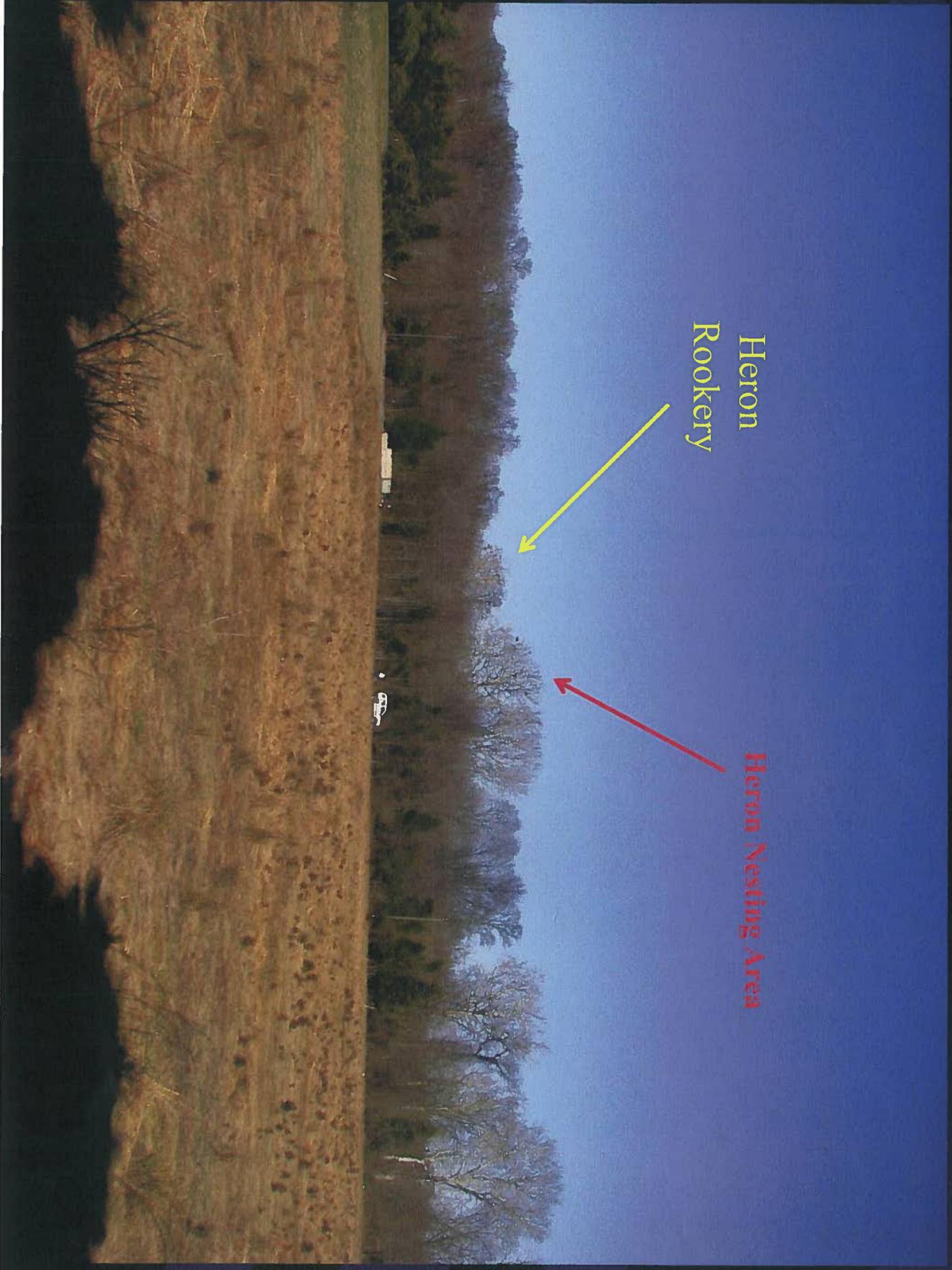
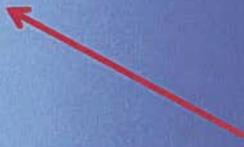
Map prepared by the Department of Building and Development ERT (3/18/10)
 2009 Color Imagery Courtesy of the Commonwealth of Virginia
 Data from Office of Mapping and Geographic Information

POTOMAC RADIO, CMPT 2009-0002 / SPEX 2009-0029

Heron
Rookery



Heron Nesting Area

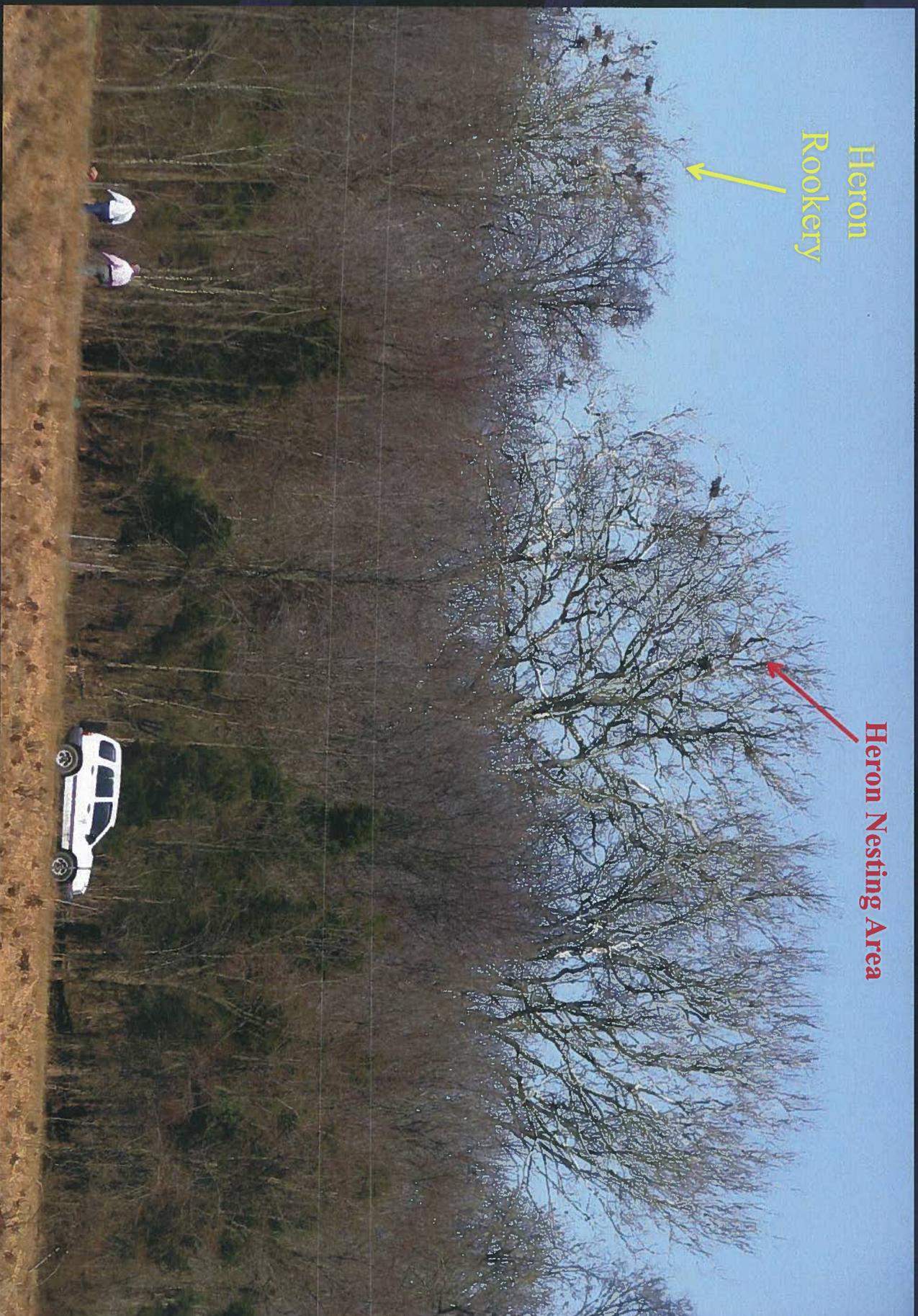


POTOMAC RADIO, CMPPT 2009-0002 / SPEX 2009-0029

Heron

Rookery

Heron Nesting Area



Giglio, Patrick

From: Ewing, Amy (DGIF) [Amy.Ewing@dgif.virginia.gov]
Sent: Friday, March 19, 2010 9:37 AM
To: Giglio, Patrick
Cc: Taylor, Todd; Harding, Sergio (DGIF); Cooper, Jeff (DGIF)
Subject: RE: ESSLog# 30636_Potomac Radio_tower construction
Attachments: ESSLog# 30636_Potomac Radio_tower construction

Hi Patrick,

Thanks for the information and map. This is very helpful to us in updating our waterbird colony data. We will extend the boundaries of the colony to include the new nesting sites.

When it comes to protecting heron colonies, we recommend a two-step approach:

- **Maintain an undisturbed, naturally vegetated buffer of at least 500 ft* around the colony:** It appears that between the new nesting sites and the project site, the vegetation has already been cleared. So, adherence to this recommendation is not possible. Although, we recommend removing as little additional vegetated buffer as possible and consideration of planting the buffer where possible.
- **Adhere to a time of year restriction from February 15 through July 31 for all construction activities within 0.25 mile* of the rookery:** We recommend that all construction activities, including additional ground clearing, associated with the installation of the towers adhere to this time of year restriction. This serves to protect nesting birds from disturbance allowing them to brood their eggs, feed their young, etc. Once the young have successfully fledged, the construction activities are less likely to interrupt successful reproduction and rearing of young.

*When Andy Zadnik first coordinated the protection of this colony with Loudoun County, I believe a 600 ft no-disturbance buffer was placed on the colony and a 1,400 ft time of year restriction buffer was also placed. It is fine to use those numbers to maintain consistency since that is what I recommended in my previous email (attached) about this project. They are just slightly more protective than what we typically recommend.

We continue to support all other comments and recommendations included in the attached email from March 8, 2010.

Thanks, Amy

Amy M. Ewing
Environmental Services Biologist
Virginia Dept. of Game and Inland Fisheries
4010 West Broad Street
Richmond, VA 23230
804-367-2211
amy.ewing@dgif.virginia.gov

From: Giglio, Patrick [mailto:Patrick.Giglio@loudoun.gov]
Sent: Thursday, March 18, 2010 4:15 PM
To: Ewing, Amy (DGIF)
Cc: Taylor, Todd
Subject: ESSLog# 30636_Potomac Radio_tower construction

Amy

Thank you for your response dated March 8, 2010. During a site visit this week we noted five occupied Blue Heron Nests on the east bank of the Broad Run in two sycamore trees in close proximity to the proposed radio tower site (see map &

photos). These five nest are some distance from the main Rookery which is estimated to consist of 40+ nests located further to the north. We believe these nest may have been established during the 2008 or 2009 breeding seasons, so they were not considered by VDGIF during the review of the Kincora SPEX application. We note that other large sycamore trees exist in proximity to the five occupied Blue Heron Nests and may provide habit for other nesting birds in the future. Enlight of this new information regarding the proximity of the five nests to the proposed radio tower site can you provide additional input regarding potential impacts and mitigation strategies.

Pat Giglio, Planner III
Loudoun County Department of Planning
703-777-0246 (office)
703-737-8563 (direct)

From: "Andrew Zadnik" <Andrew.Zadnik@dgif.virginia.gov>
To: <Laura.Edmonds@loudoun.gov>
Date: 2/7/2007 2:35 PM
Subject: Kincoira_Loudoun_ESS 23064_wood turtle, heron rookery

Laura,

I hope this letter covers all of the issues we have identified.

This project involves a commercial development on approximately 370 acres located between Rt. 28 and Broad Run, Loudoun Co.

There is a colonial waterbird nesting colony located within the western portion of this property. Waterbirds and their active nests are protected under state (VA Code Section 29.1-521) and federal law (Migratory Bird Treaty Act). We consider waterbird nesting colonies to be a critical wildlife resource. We understand there is currently little to no visual buffer between this rookery and the proposed development. Therefore, to minimize potential adverse impacts upon the birds using this rookery, we recommend that an undeveloped wooded buffer of approximately 1,000 ft in width be restored and preserved between construction activities and the rookery. Wherever existing vegetation will completely screen the development from the rookery, a buffer of 600 ft should be sufficient. We also recommend that construction activities within 1,400 ft of the rookery that will result in excessive disturbance (e.g., clearing, grading, external construction) not occur during the nesting season, approximately March 15 - July 30.

Outside of the permanent buffer, we recommend consideration of establishing a wildlife observation blind and low-impact recreation trail. Based on our previous discussion regarding wildlife viewing equipment (e.g., base-mounted binoculars), here is a link that may be of interest, <http://www.seecoast.com/products.htm>.

According to our records, the State Threatened wood turtle (also listed as Tier I, Critical Conservation Need, per VA Wildlife Action Plan) has been documented approximately 2.3 miles from this project. The collection was in close proximity to Cabin Branch, which is a tributary to Broad Run upstream of this project. Wood turtles are found primarily in and around clear brooks and streams in deciduous woodlands. Although highly terrestrial, wood turtles typically remain in moist areas within approximately 300-600 ft of a stream. However, wood turtles have been known to travel several kilometers from the stream in which they hibernate. As with any long-lived and slow-reproducing species, the loss of a single wood turtle can have a devastating effect on the entire population.

The potential for this project site to support wood turtles depends on the presence of suitable habitat. Therefore, we recommend that a qualified biologist conduct a formal wood turtle habitat assessment on the project site. This should consist of a thorough delineation and documentation (using maps and photos) of potential wood turtle habitat. The results of this assessment should be submitted to VDGIF Herpetologist John (JD) Kleopfer (John.Kleopfer@dgif.virginia.gov; phone: 804-843-5967) with a copy to me. Upon our review of this assessment, we will provide additional comments and recommendations to mitigate impacts upon wood turtles. We are willing to work with the property owner to design a project that meets his objectives while conserving this important wildlife resource.

We understand an eastern box turtle has been encountered onsite. Box turtles are considered a Species of High Conservation Need (Tier III) according to the Wildlife Action Plan. Two additional tiered species have been identified in close proximity to this project, American eel and field sparrow. Both of these species are listed as Tier IV, meaning they are Species of Moderate Conservation Need. American eels have been collected in Broad Run, just downstream of this project. Eels are catadromous, meaning they spend most of their lives in fresh or brackish water but migrate to the ocean to spawn and die. American eels have an average lifespan of 20 years, though some individuals have lived 40

years. Field sparrows have been documented approximately 1 mile from this project. Field sparrows breed in old fields with scattered woody vegetation. During the winter they prefer open weedy fields.

In addition to the recommendations above, we recommend the following to mitigate potential adverse impacts upon fish and wildlife resources:

1) Impacts to Broad Run, its tributaries, and the associated floodplain should be avoided or minimized. Undisturbed forested buffers of at least 300-600 ft in width should be preserved to the fullest extent possible along Broad Run. Buffers of at least 100-300 ft in width should be preserved along any tributaries. These buffers should be preserved in perpetuity by a conservation easement.

2) Wherever forested areas are not possible or feasible on the project site, effort should be made to maintain patches of meadow/old field. This could be in common areas, along utility easements, in drainage fields, etc. As an alternative to mowed lawn, this early successional habitat would benefit field sparrows and several other species.

3) Immediately prior to the start of construction activities in or within at least 600 ft of Broad Run or associated tributaries, a qualified and permitted biologist should conduct a survey for wood turtles. Any wood turtles encountered should be safely relocated to suitable habitat within the nearest perennial stream. Please coordinate all relocations with VDGIF Herpetologist John (JD) Kleopfer (804-843-5967). It is important that this survey and relocation occur immediately prior to construction to minimize the chance that any turtles will wander into the project area.

4) Prior to the start of this project, all contractors should be trained in the identification and basic natural history of wood turtles. If any wood turtles are encountered and in jeopardy during the development or construction of this project, they should be immediately removed from the project site and returned safely to suitable habitat in Broad Run. All relocations should be coordinated with VDGIF Herpetologist John Kleopfer (804-843-5967). An appropriate information sheet to distribute to contractors could include the following text below a photo of a wood turtle: "The wood turtle is a State Threatened species that may be found in or near the project area. Description: A medium sized semi-terrestrial turtle, adults are 6-8 inches long. The dull brown upper shell is very rough; each section of the shell is composed of growth rings that form an irregular pyramid. The bottom shell is yellow with black blotches. It has a black head and dark brown extremities. The yellow to burnt orange skin on the neck and in the leg sockets is a distinguishing characteristic. If one of these turtles is found within the project area, it should be carefully removed to safety in suitable habitat (a run or deep pool with sandy or muddy bottom and submerged roots, branches, or logs) within Broad Run. It is a violation of Virginia law to harm or keep for personal possession a wood turtle. If you have any questions concerning this species, please call the Virginia Department of Game and Inland Fisheries at 804-367-8999 or check our website at <http://www.dgif.virginia.gov/wildlife/species/display.asp?id=030062>."

5) To minimize stormwater runoff from this site flowing into Broad Run, stormwater controls should be designed to replicate and maintain the hydrographic condition of the site prior to the change in landscape. This could include, but not be limited to, utilizing bioretention areas, pervious pavers, and minimizing the use of curb and gutter in favor of grassed swales. These are all components of Low Impact Development (LID). These components are designed to capture stormwater runoff as close to the source as possible and allow it to slowly infiltrate into the surrounding soil. This benefits natural resources by filtering pollutants and decreasing downstream runoff volumes.

Thank you for the opportunity to comment on this project. Please contact me if we can be of further assistance.