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248196
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July 15, 2019

ENTERED
Office of Proceedings
July 15, 2019
Part of
Public Record



BY HAND
Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: Docket No. AB-1267, Cassatt Management LLC d/b/a Bay Coast Railroad Discontinuance of Service Exemption Hallwood to Cape Charles, VA

Docket No. AB-1276 Eastern Shore Railroad, Inc., Discontinuance of Service Exemption Hallwood to Cape Charles, VA

Docket No. AB-1266, Canonie Atlantic Co., Abandonment Exemption Hallwood to Cape Charles, VA

Dear Ms. Brown:

I am submitting on behalf of Cassatt Management LLC d/b/a Bay Coast Railroad, Eastern Shore Railroad, Inc., and Canonie Atlantic Co., a joint petition for exemption for the discontinuance of service over and abandonment of a rail line from Hallwood to Cape Charles, Virginia, along with a copy of this filing on a computer disk. In addition, I am enclosing a check payable to the Board for $22,400 to cover the requisite filing fees and a letter seeking a reduction of those fees down to the fee for just one petitioner, $7,400.

Please date stamp and return one copy of these letters and the petition.

FEE RECEIVED
July 15, 2019
SURFACE
TRANSPORTATION BOARD

FILED
June 15, 2019
SURFACE
TRANSPORTATION BOARD

Sincerely yours,

CLARK HILL

John D. Heffner
Senior Counsel

Enclosures

cc: Spencer Murray
service list

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July 15, 2019

BY HAND
Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

RE: filing fee reduction request

Dear Ms. Brown:

Pursuant to 49 CFR §1002.2(e) I am writing on behalf of Cassatt Management LLC d/b/a Bay Coast Railroad ("BCR"), Eastern Shore Railroad, Inc. ("ESRR"), and Canonie Atlantic Co. ("CAC"), (collectively "the Petitioners") to request a reduction in the Board's filing fee for an individual petition for exemption for discontinuance over service over and abandonment of an unused rail line. I am submitting the Petition with this letter.

The circumstances behind Petitioners' request are as follows. BCR is a defunct Class III short line railroad that suddenly terminated service for financial reasons on April 30, 2018, without seeking Board approval. Some of its operations have been assumed by two Board-licensed short line railroads, Delmarva Central Railroad ("DCR") and Buckingham Branch Railroad ("BBRR"). However, this Petition concerns 49.1 miles of railroad over which no service is being provided from Hallwood to Cape Charles, VA, and a car float operation from Cape Charles to Little Creek (Norfolk), VA. ESRR is a nonoperating Class III short line railroad and wholly owned subsidiary of CAC that holds operating rights over the subject trackage. It formerly provided service over the subject railroad before leasing it to BCR in 2006. CAC is a corporation that owns the subject line. It is wholly owned by the Accomack Northampton Transportation District Commission ("ANTDC"),

a public agency established in 1976 by the Commonwealth of Virginia to preserve service over the subject line.

The Board's fee policy at 49 CFR §1002.2(e) provides generally that it will waive filing fees by public agencies and when the filing fee requirement would pose a hardship on the public. BCR is essentially cashless and is not conducting any operations. ESRR is in the process of winding up the business formerly conducted by BCR and is the landlord for DCR and BBRR. It operates on a limited budget receiving rent from these two carriers. ANTDC is a public agency that owns CAC which in turn owns ESRR. A copy of documents showing ANTDC's status as a political subdivision is attached.

According to the Board's website, the Board's current filing fee for a petition for exemption for abandonment or discontinuance $7,400. Petitioners do not believe their Petition will face significant opposition or entail significant environmental or historic issues. Requiring each entity to pay $7,400 for a total of $22,200 for the very same work required by the Board to process the Petition for one entity would present a significant financial hardship to all of these parties and is simply not justified by the public interest. Accordingly, Petitioners request that the Board accept $7,400 as the only filing fee.

Petitioners appreciate the Board's prompt attention to its request.

Sincerely yours,

CLARK HILL

John D. Heffner
Senior Counsel

cc: Mr. Spencer Murray

ORIGINAL

Accomack-Northampton Transportation
District Commission

OFFICERS

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Nassawadox, Virginia 23413

PAUL B. MERRITT, Vice-Chairman
Chincoteague, Virginia 23336

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Ex-officio member

ROBERT G. CORDER
Virginia Department of Highways
and Transportation
Richmond, Virginia

Elaine Sehrt
202-275-7899

Finance Docket
70-29750
Eastern Shore Railroad, Inc.
District Lee Purchase Property

September 10, 1981

cc: Va SCC

Ms. Ellen D. Hanson
Dr. of Finance
Interstate Commerce Commission
12th and Constitution Ave., N.W.
Washington, D.C. 20423

Dear Ms. Hanson:

The Accomack-Northampton Transportation District Commission (District) is a political subdivision of the Commonwealth of Virginia which was formed in 1976 pursuant to the Transportation District Act of 1964, as amended.

The District is in the process of purchasing the rail properties of the Penn Central from Pocomoke City, Maryland to Norfolk, Virginia including the rail car float (lines 165 and 166 in the Final System Plan). The closing of the purchase should occur on or about October 1, 1981.

These rail lines are presently leased by the District and operated by the Virginia & Maryland Railorad as designated operator. The Virginia & Maryland Railroad operation of these lines will cease as of 11:59 p.m., September 30, 1981. The Accomack-Northampton Transportation District Commission d.b.a. The Eastern Shore Railroad, will assume the operation of the rail lines at 12:01 a.m., October 1, 1981 without interruption of rail service and hereby requests the Interstate Commerce Commission to grant the District's Eastern Shore Railroad designated operator status until the purchase is consummated. Immediately after the closing of the purchase of the rail lines, the District will request a modified Certificate of Public Convenience and Necessity as provided in Chapter X, Part 1120A of the Inter-State Commerce Commission rules and regulations.

From conversations with Ms. Elaine Sehrt and Ms. Sandra Berke, section of Finance, ICC, the District understands that the application for Designated

ACCOMACK-NORTHAMPTON TRANSPORTATION DISTRICT COMMISSION

NOTES TO FINANCIAL STATEMENTS

Note 1. Organization, Description of the Entity and its Activities

Nature of Activities

The Accomack-Northampton Transportation District Commission (ANTDC) was created as a political subdivision of the Commonwealth of Virginia on March 2, 1976, in accordance with and pursuant to the Transportation District Act of 1964 as amended. The commission consists of seven (7) members including three commissioners from the component governments and one ex-officio member appointed by the State. It is authorized to acquire, own, lease, and dispose of properties so that such activities develop, promote and provide for the transportation needs in the area of the Virginia Eastern Shore.

In 1976, ANTDC organized a Railroad Fund to establish The Eastern Shore Railroad, Inc. (ESR) to operate and maintain the 90 plus mile rail line through Accomack and Northampton Counties, Virginia. The ESR was leased to and managed and operated by Canonie Atlantic, Co., (CAC). In 1985, ANTDC sold the ESR to CAC. CAC operated the Eastern Shore Railroad until 1987 when ANTDC, by agreement, purchased CAC and its subsidiary ESR.

ANTDC was primarily formed to ensure continued rail service on the Virginia Eastern Shore. ANTDC owns through CAC the rail system including rolling stock, rail lines, and a ship docking port known as the Eastern Shore Rail Road. The ANTDC leases the rail system to rail operators for day to day operations. The ANTDC continues to coordinate and assist in funding various rail maintenance and repair projects.

The ANTDC additionally maintains and operates the public bus transportation system on the Virginia Eastern Shore, Shore Transit and Rideshare - STAR Transit. The Virginia Department of Rail and Public Transportation has coordinated and provided the majority of funding for STAR Transit.

Note 2. Significant Accounting Policies

The financial statements of the Accomack Northampton Transportation District Commission have been prepared in conformity with generally accepted accounting principles (GAAP) in the United States of America as applied to government units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The following summary of the more significant policies is presented to assist the reader in interpreting the financial statements and other data contained in this report. These policies, as presented, should be viewed as an integral part of the accompanying financial statements.

Basic Financial Statements

Basic financial statements are presented at both the government-wide and fund financial level. Both levels of statements categorize primary activities as either governmental or business-type. Government-wide financial statements report information about the reporting unit as a whole. For the most part, the effect of interfund activity has been removed from these statements. These statements focus on the sustainability of the Commission as an entity and the change in aggregate financial position resulting from the activities of the year. These aggregated statements consist of the Statement of Net Position and the Statement of Activities.

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1267
CASSATT MANAGEMENT LLC D/B/A BAY COAST RAILROAD
DISCONTINUANCE OF SERVICE EXEMPTION
HALLWOOD TO CAPE CHARLES, VA

DOCKET NO. AB-1276
EASTERN SHORE RAILROAD, INC., DISCONTINUANCE OF SERVICE EXEMPTION HALLWOOD TO CAPE CHARLES, VA

DOCKET NO. AB-1266
CANONIE ATLANTIC CO. ABANDONMENT EXEMPTION
HALLWOOD TO CAPE CHARLES, VA

PETITION FOR EXEMPTION

Submitted By

Sloane S. Carlough
John D. Heffner
Clark Hill, PLC
1001 Pennsylvania Ave., N.W.
Suite 1300 South
Washington, D.C. 20004
202-640-6673

Dated: July 15, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1267
CASSATT MANAGEMENT LLC D/B/A BAY COAST RAILROAD
DISCONTINUANCE OF SERVICE EXEMPTION
HALLWOOD TO CAPE CHARLES, VA

DOCKET NO. AB-1276
EASTERN SHORE RAILROAD, INC., DISCONTINUANCE OF SERVICE EXEMPTION HALLWOOD TO CAPE CHARLES, VA

DOCKET NO. AB-1266
CANONIE ATLANTIC CO. ABANDONMENT EXEMPTION
HALLWOOD TO CAPE CHARLES, VA

PETITION FOR EXEMPTION

I.
INTRODUCTION

Pursuant to 49 U.S.C. § 10903 and 49 U.S.C. § 10502, Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. ("ESRR"), seek an exemption permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC")[1] to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of

[1] For simplicity's sake these entities will collectively be referred to as Petitioners.

the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA.[2] Petitioners seek discontinuance and abandonment authorization as no service is currently being performed over the Line and there are no active customers. In addition, the car float operation has been out of service since 2009 with traffic rerouted north to Wilmington, DE, and then to points south via other routes. A map depicting the Line is attached as Exhibit A. The Line traverses 24 US Postal Zip Codes identified on the attached Exhibit C. Based on information in ESRR's possession, the Line does not contain any federally granted rights of way. ESRR also submits a verified statement by one of its officials, Spencer Murray, describing the proposed action.

II.
STATEMENT OF FACTS

Historically the Line formed a part of a through Pennsylvania Railroad (and later Penn Central Transportation Company) route[3] between Wilmington, DE, and Cape Charles, VA, and thence by car float to Little Creek (Norfolk), VA. At Little Creek it connected with predecessors to today's Norfolk Southern Railroad and

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[2] CAC is acting on behalf of both BCR and ESRR in filing its discontinuance request. An excerpt of an agreement between BCR and ESRR authorizing it to act on BCR's behalf is attached hereto as Exhibit B.

[3] Commonly known as the Delmarva Secondary Track.

CSX Transportation.[4] While the *Final System Plan* prepared by the US Railway Association included the segment of the Delmarva Secondary Track north of Pocomoke City, MD, in the Conrail System, it did not recommend transfer of the southern portion of the Delmarva Secondary Track south of Pocomoke City to Conrail. *Id.* At 135-7.[5] Nevertheless, local interests preserved service south of that point through a series of short line operators and a public agency, the Accomack-Northampton Transportation District Commission ("ANTDC"). Murray V.S. at 2.

The ownership and operation of the Line prior to 2006 has had a very complicated history not relevant to the Board's consideration of this Petition. Briefly, the ANTDC was established as a political subdivision of the Commonwealth of Virginia on March 2, 1976, to preserve service over the Delmarva Secondary Track south of Pocomoke City, MD, the car float, and the Little Creek trackage. After the Virginia and Maryland Railroad ceased operating the Delmarva Secondary track as ANTDC's designated operator in 1981, the ANTDC provided service over the Line doing business as the Eastern Shore

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[4] The CSX connection is through the Norfolk Portsmouth Belt Railway.

[5] In fact the *FSP* recommended the entire Delmarva Secondary from Pocomoke City to Cape Charles and the car float and Little Creek yard be transferred to the Southern Railway, a Norfolk Southern predecessor, but if Southern did not accept the offer that the Line would be "available for subsidy," meaning that it would be abandoned absent a subsidy offer. Southern Railway declined to accept the offer resulting in the ANTDC takeover and designation of Virginia and Maryland Railroad to provide service.

Railroad. Ultimately, a private corporation, Canonie, purchased the stock of ESRR from the ANTDC and then several years later the ANTDC reacquired CAC itself keeping ESRR as a separate corporate subsidiary. ESRR provided all rail service over the entire Delmarva Secondary Track from Pocomoke City, MD, to Cape Charles, the car float, and the Little Creek trackage until 2006 when BCR replaced it as the operating common carrier pursuant to a lease and operating agreement with CAC.[6] Murray VS at 2-3. With little advance notice BCR terminated all operations on April 30, 2018, without seeking prior Board approval. Since neither CAC or ESRR has the equipment or the personnel to resume operations on their own, they quickly made arrangements for operation of both the segment south of Pocomoke City and the trackage at Little Creek by the carriers identified below. Murray V.S. at 3.

As relevant here, Delmarva Central Railroad Company ("DCR"), which had leased Norfolk Southern's line from the vicinity of Wilmington to Pocomoke City, agreed to lease the CAC-owned line from Pocomoke City to Hallwood.[7] Because

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6 *Cassatt Management, LLC d/b/a Bay Coast Railroad–Lease and Operation Exemption–Canonie Atlantic Co. on behalf of Accomack-Northampton Transportation District Commission*, FD 34814, STB served February 6, 2006.

7 *Delmarva Central Railroad Company—Change in Operator Exemption—Cassatt Management, LLC d/b/a Bay Coast Railroad*, FD 36196, STB served June 4, 2018.

DCR concluded that the traffic south of Hallwood was insufficient to support a viable operation on the remainder of the Line and the car float, it did not seek authority to operate beyond that point. As a result, no service has been provided to Cape Charles or from Cape Charles to Little Creek by car float. While DCR has recently explored traffic potential south of Hallwood, its marketing efforts have not been successful. In fact, the only customer at Cape Charles, Bay Shore Concrete, is out of business. Although Bay Shore's property is now under contract to be sold, CAC witness Spencer Murray advises that the buyer has not expressed interest in using rail and would not be able to meet any traffic commitments to keep the Line open. Murray V.S. at 3-4. There are four other shippers who have made some minimal use of the Line: Crop Production Services, Helena Chemical, Sharp Energy, and Pep UP Propane. Both of the propane dealers can obtain rail service from DCR at facilities north of Hallwood. The two remaining customers generated only 33 car loads of traffic for the period between April 1, 2017, and March 31, 2018. Murray V.S. at 3-4.

Although not relevant here, CAC entered into a lease and operating agreement for the Little Creek trackage with Virginia-based Buckingham Branch Railroad ("BBRR"), another Board licensed Class III short line railroad.[8] BBRR

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[8] *Buckingham Branch Railroad Company—Change in Operators Exemption—Cassatt Management, LLC d/b/a Bay Coast Railroad*, FD 36202, STB served July 18, 2018. Buckingham Branch did not include in its assumption of

has not shown any interest in operating the car float or service south of Hallwood. Murray V.S. at 4.

In terms of public convenience and necessity, the Line no longer serves a useful transportation purpose. The last time BCR handled any freight over the Line was in the first quarter of 2018 when it handled 222 cars. Mr. Murray provides in his statement a discussion of the economic results of the Line which BCR was obligated under its lease to provide. In summary here are the car counts and revenues for the years April 1, 2015 through March 31, 2016, April 1, 2016 through March 31, 2017, and April 1, 2017 through March 31, 2018. Murray V.S. at 5-6.

Period	Cars Handled	Commodities	Revenue to BCR
4/1/15-3/31/16	448	grain, propane, concrete, soybeans, fertilizer, insecticide	$387,072
4/1/16-3/31/17	232	grain, propane, concrete, soybeans, fertilizer, insecticide	$206,690
4/1/17-3/31/18	222	propane, concrete, soybeans, fertilizer, insecticide	$241,887

operations at Little Creek a short segment of track known as the St. Julian Spur. That track has been out of service for many years and will likely be the subject of an out of service notice of exemption for either abandonment or discontinuance. That track provides to access facilities used for turning, servicing, and storing Amtrak's trains terminating in Norfolk. In all likelihood, CAC will sell that track to the State of Virginia's Department of Rail and Public Transit.

Mr. Murray also reviews the costs incurred by BCR in providing this service. Including avoidable train operating expenses such as crew costs, fuel and supplies, locomotive rental and maintenance, insurance and administrative expenses, those expenses totaled $791,893.63 for the period 4/1/2015 through 3/31/2016, $817,247.00 for the period 4/1/2016 through 3/31/2017, and $922,631.00 for the period 4/1/2017 through 3/31/2018, respectively. Murray V.S. at 6.

After deducting operating expenses for the periods involved, BCR's losses were $404,822 for the period 4/1/2015 through 3/31/2016, $610,557 for the period 4/1/2016 through 3/31/2017, and $680,744 for the period 4/1/2017 through 3/31/2018, respectively. Murray V.S. at 6.

CAC incurred certain additional expenses which he addresses that were supposed to be covered by the rent paid by BCR. In addition to that, Mr. Murray notes that after BCR terminated operations, CAC has incurred continuing expenses such as for grade crossing maintenance, grade crossing signal maintenance, and insurance. These total $63,925 for the remainder of 2018 and 2019 to date. Murray V.S. at 7. Had BCR or ESRR maintained the Line to the Board accepted $6,000 per mile standard[9] for Federal Railroad Administration Class I track, BCR's

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[9] *SWKR Operating Co.-Abandonment Exemption in Cochise County, AZ*, Docket No. AB-441 (Sub-No. 2X) STB served Feb. 14, 1997, the STB found that

revenues would barely cover that cost for the period ending March 31, 2016, and would not even cover that expense for the periods ending March 31, 2017 and 2018. Murray V.S. at 6-7. Mr. Murray acknowledges that CAC does collect a modest amount of money for property leases, crossing rights, and so forth. But these amounts are too small to overcome the large operating losses. Murray V.S. at 7.

The third component the Board reviews in considering whether or not to grant a discontinuance or abandonment request is the carrier's opportunity cost. In the case of BCR, that would be the rental paid to CAC which Mr. Murray identifies in his statement. BCR owned no railroad equipment so it incurred no opportunity costs for those assets.

III.
ARGUMENT

Petitioners seek an exemption under 49 U.S.C. §10502 from 49 U.S.C. §10903 to enable BCR and ESRR to discontinue service over and for CAC to abandon a Line that no longer serves a useful transportation purpose. Petitioners believe that their request is appropriate for exemption from the formal approval requirements of §10903 as explained in detail below. Section 10502 directs the

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$6,000 per mile/per year is a reasonable figure for maintenance by a Class III railroad, and actually accepted a figure of $6,028.78 per mile.

Board to grant an exemption from regulation if it finds that (1) regulation is not necessary to carry out the transportation policy of §10101(a) and (2) either (a) the transaction or service is of limited scope, or (b) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power. Indeed, the legislative history behind §10505 (the predecessor section to the current §10502) makes clear Congress' intent that the Interstate Commerce Commission ("ICC") (and now the Board) use its exemption authority liberally to free certain transactions and services from the administrative and financial costs associated with continued regulation.

In discussing the exemption powers of the Board's predecessor -- the ICC, observed the Staggers Act legislative history states:

> The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemptions from remaining regulation.

H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 105 (1980); *see also, Exemption from Regulation--Boxcar Traffic*, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, *Brae Corp. v. United States*, 740 F.2d 1023 (D.C. Cir. 1984). This

statement applies equally to the Board as the ICC's successor.

Analyzing this discontinuance and abandonment request in the context of the policy of Section 10502 requires two considerations. Does this discontinuance and abandonment exemption satisfy one or more of the ICCTA's rail transportation policy goals, and is it either a transaction of limited scope or is there an opportunity for abuse of captive shippers? Petitioners submit that the discontinuance and abandonment request by exemption meets the rail transportation policy goals at 49 U.S.C. § 10101 and the limited scope test of 49 U.S.C. §10502.

Regarding the ICCTA's rail transportation policy goals, granting the exemption would satisfy goals 49 U.S.C. §10101 (2), (5), (7) and (9):

(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

(5) to foster sound economic conditions;

(7) to reduce regulatory barriers to entry into and exit from the industry; and

(9) to encourage efficient management.

From a public convenience and necessity perspective, the Line clearly satisfies subsections (2) and (7). No shipper has made use of the Line for more

than a year. One on-line customer, Bay Shore Concrete, is out of business and the purchaser of its property has not expressed any strong interest in or commitment to using rail service. The two propane customers can receive cars at facilities north of Hallwood. The two remaining customers generated only 33 car loads of traffic for the period between April 1, 2017, and March 31, 2018. As to Line's rural and community impact, the character of the real estate adjoining the right of way has changed drastically over the years. Much of the adjoining land is rural and some is undeveloped. The Line parallels US Route 13 where there are numerous fast food restaurants, pawn shops, stores selling fishing equipment, guns, and antiques but no industries or sites for industrial development. The potential for attracting rail served industry is low. Cape Charles has been transformed from an industrial area where the former Pennsylvania-Penn Central Railroad yards and float bridge was the prime land use to an area with cute shops, resort or vacation homes, and golf courses. There is even a beach in downtown Cape Charles. Murray V.S. at 4-5.

An exemption will also eliminate the need for Petitioners to spend significant sums to rehabilitate, maintain, and operate a line that has no potential for profitable operation. Thus, an exemption will foster sound economic conditions and encourage efficient management. The Board precedent approving the abandonment of a line that used to handle substantial traffic for a customer that went bankrupt and then out of business rendering the rest of the line unprofitable

supports granting this abandonment and discontinuance request.[10]

Because the right of way is flat and generally straight it would be well suited to conversion to trail use under the National Trails Act. CAC would be willing to enter into trail use discussions with any entity willing to convert the Line to a trail in accordance with the trail use regulations at 49 CFR §1152.29.

The second element of the exemption test is whether the matter is of limited scope. Petitioners submit they meet that test. The Line is 49.1 miles long, shorter than some where abandonments have been approved by exemption. Docket AB-6 (Sub-No. 405X), *The Burlington Northern and Santa Fe railway Company-Abandonment Exemption-In Jefferson, Gage, and Pawnee Counties, NE*, STB served March 1, 2004 (59.23 miles) and Docket No. AB-433X, *Idaho Northern & Pacific Railroad Company-Abandonment Exemption-In Wallowa and Union Counties, OR*, STB served March 12, 1997 (60.58 miles). Moreover, the Board has cited 49 U.S.C. § 10101(9) as supporting the approval of abandonments where there are no current active shippers on the line and no overhead traffic as well. Docket No. AB-193 (Sub-No. 3X), *Canton Railroad Company-Abandonment Exemption-In Baltimore City, MD*, STB served May 13, 2019.

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[10] Docket No. AB-415 (Sub-No. 2X), *Escanaba Railroad Company Abandonment Exemption*, STB served Sept. 27, 2010.

As noted above, the Line has served five customers in the past three years. The average number of cars handled during that time in has been 18.04 cars, well under the 34 car per mile car count that was historically regarded as traffic density to make a line profitable. The car float has been out of service for 10 years because it is uneconomical to repair. There is no overhead traffic and has not been any for some years despite some efforts to develop that traffic. Murray V.S. at 4-5.

Inasmuch as there are no shippers that have used the Line for more than a year, there is no opportunity for abuse of a captive shipper as well. Petitioners have no reason to believe that any of the remaining customers or the buyer of the Bay Shore Concrete facility will protest this abandonment/discontinuance request.

Because this transaction involves the discontinuance over and abandonment of the remainder of the Line (a whole line abandonment), the imposition of employee protective conditions is not required. *See Wellsville, Addison & Galeton R. Corp.--Abandonment*, 354 I.C.C. 744 (1978); and *Northampton and Bath R. Co.--Abandonment*, 354 I.C.C. 784 (1978).[11] In any event, several former BCR employees elected to retire and several of the remaining ones have hired on with either the DCR or BBRR.

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[11] The Board and the ICC before it have generally declined to impose labor protective conditions where a carrier is abandoning its entire line and goes out of business, it does not appear to have had any rail employees to protect nor any corporate affiliate or parent who could benefit from the proposed abandonment.

IV.
OTHER REQUIREMENTS

Petitioners have consulted with various federal and state agencies, and based on the responses has prepared and is filing together with this Petition an Environmental and Historic Report.

Pursuant to the provisions of 49 C.F.R. §1152.60(c), Petitioners have attached, as Exhibit D, a draft Federal Register notice of the Petition to be published by the Board within 20 days of the Petition's filing with the Board.

A notice as required by 49 C.F.R. §1105.12 was published on June 28, 2019, in the *Eastern Shore Post*. A copy of the notice, and the proof of publication is attached as Exhibit E.

As shown in the certificate of service, a copy of this Petition is being sent to the persons designated in 49 C.F.R. §1152.50(d), as well as to the most recent shippers who have used the Line.

IV.
CONCLUSION

Petitioners believe that the Line meets the criteria for discontinuance of service and abandonment approval under the Board's individual exemption criteria as the public convenience and necessity show there is no need for continued rail service. Accordingly, Petitioners request that the Board expeditiously grant their request.

Respectfully submitted,

Sloane S. Carlough
John D. Heffner
Clark Hill, PLC
1001 Pennsylvania Ave., N.W.
Suite 1300 South
Washington, D.C. 20004
202-640-6673

Dated: July 15, 2019

the replacement of a total of 14,376 crossties (an average of 348 crossties per mile).

This line was reanalyzed from Hanover to Littlestown using adjusted trips provided by Pennsylvania OSPD and 1974 traffic levels. The line would still require a 128-percent traffic increase or 28-percent rate increase to become viable.

The tie replacement was reviewed and found to be correct. The 640 figure is a *minimum* number of good ties required.

RSPO testimony indicated an 11 percent increase in 1974 traffic over 1973 levels in Frederick County, Md. This would not meet the sixfold increase to make the line viable.

Although service to the entire line generates a loss, service to that portion of the line from Milepost 23.9 to Milepost 33.0 (serving shippers at Spring Grove and Hanover who generated 3,178 carloads in 1973) would generate $792,754 in revenue and $801,524 in costs with a resulting loss of only $8,770 or $3 per carload. Either a 4 percent traffic increase or a 1 percent rate increase would make this portion financially self-sufficient.

Service to the remainder of the line (from Milepost 33.0 to Milepost 65.2 serving shippers at Sell, Littlestown, Taneytown, Keymar, Legore, Woodsboro, Walkersville and Frederick who generated 959 carloads in 1973) would generate $351,151 in revenue and $689,802 in costs with a resulting loss of $338,651. Recovery of costs would require approximately a fourfold increase in traffic or a 96-percent rate increase over the 1973 levels.

Disposition

The portion of the Frederick Secondary Track from Milepost 23.9 to Milepost 33.0 shall be transferred to the Consolidated Rail Corp. It is recommended that this portion of the line be sold to the Maryland & Pennsylvania RR and that service be provided by that carrier (see section 206(g) of the Act).

The portion of the Frederick Secondary Track from Milepost 33.0 to Milepost 65.2 is *not* designated for transfer to Consolidated Rail Corp. and is available for subsidy pursuant to section 304 of the Act. Public officials have recommended that certain rail rights-of-way be used for other public purposes if rail service is discontinued. For line-specific recommendations, see section C of this appendix.

The Maryland & Pennsylvania RR has expressed an interest in acquiring the portion of the Frederick Secondary Track from Milepost 33.0 to Milepost 65.2. This sale would preserve rail service to 959 carloads, all of the traffic generated on this portion of the line.

PORTION OF THE CUMBERLAND VALLEY BRANCH

USRA Line No. 204a

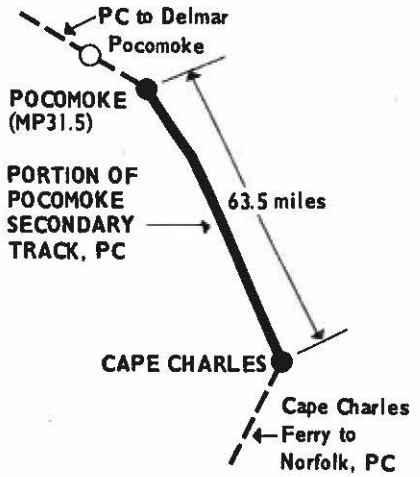
Penn Central

This portion of the Cumberland Valley Branch, extending from *Chambersburg, Pa.* (Milepost 51.6) to *Hagerstown, Md.* (Milepost 74.8), a distance of *23.2 miles*, in Franklin County, Pa., and Washington County, Md., a line which was recommended for inclusion on page 496 of the Preliminary System Plan, shall be transferred to the Consolidated Rail Corp.

PORTION OF THE POCOMOKE SECONDARY TRACK

USRA Line No. 166

Penn Central



This portion of the Pocomoke Secondary Track, formerly part of the Pennsylvania RR extends from *Pocomoke, Md.* (Milepost 31.5) to *Cape Charles, Va.* (Milepost 95.0), a distance of *63.5 miles*, in Worcester County, Md. and Accomack and Northampton Counties, Va. At Pocomoke this line continues north to Delmar. At Cape Charles the line connects with the PC Cape Charles freight-car ferry to Norfolk, Va. (see Line No. 165.)

Traffic and Operating Information

Stations (with their 1973 carloads) served by this line:

New Church	193
Lecato	306
Makemie Park	55
Oak Hall	5

Hallwood	138
Mears	2
Cheriton	372
Bay View	42
Bloxom	164
Hopeton	82
Parksley	131
Green Bush	165
Tasley	209
Onley	387
Cape Charles	914
Melfa	160
Keller	84
Painter	81
Belle Haven	148
Exmore	281
Nassawadox	19
Chesapeake	4
Wierwood	24
Birdsnest	21
Machipongo	86
Kendall Grove	1,439
Eastville	80
Simpkins	7
Total carloads generated by the line	5,549
Average carloads per week	106.7
Average carloads per mile	87.4
Average carloads per train	27.7
1973 operating information:	
Number of round trips per year	200
Estimated time per round trip (hours)	11
Locomotive horsepower	2,000
Train crew size	4

Public Comments on Preliminary System Plan

The Salisbury Area Chamber of Commerce states that much of the Delmarva main line is rated Class II and that the use of the line as an alternative North-South route is justification for retaining.

The Railway Industrial Clearance Association calls this route the best clearance route from the East to the South.

The present freight bill for Zapata Haynie Co.'s customers is $334 for 50 tons of fish meal by rail, and would be an additional $494 by truck. The company predicts its facility will close if rail service is discontinued on line 166 and the car float.

Smith Douglas sees the possibility of closing its plant if rail service is discontinued.

Perdue, Inc., has a rendering facility which is scheduled to be operative in mid-April 1975, with expected rail shipments to begin in June 1975. They anticipate shipping 300 carloads per year.

Southern States Co-op. recently built a facility on the line and projects a first-year rail movement of 6,000 tons and a third year total of 10,000 tons.

Consideration should be given to analyzing Delmarva main line as a single line.

Reported traffic:

Company	Carloads 1973	1974	Projected
Brown and Root			570 to 652.
Economy Feed and Milling Co., Inc		6-8	
Chesapeake Bay Plywood Corp		91	
H. & H. Poultry	160		
Golden Poultry	395		
Perdue and Co	105		300.
Holly Farm	140		812 by 1985.
Red/White Mills, Inc	561		
Zapata Haynie		358	500.
Smith Douglas		60	
Shore Fertilizer		141	
G. L. Webster Co	337		
Dulany Foods	35		
General Foods	5,500		
Campbell Soup	450	300	1,200 (with improved service).
Wm. B. Tilghman Co., Inc		200	
Suburban Propane		74	
Inland Container Corp	709	450	
Bayshore Concrete	319	413	

Information for Line-Transfer Decision

Revenue received by PC		$1,442,985
Average revenue per carload	$260	
Variable (avoidable) cost of continued service:		
Cost incurred on the branch line	682,483	
Cost of upgrading branch line to FRA Class I: (1/10 of total upgrading cost)	64,643	
Cost incurred beyond the branch line	1,001,280	
Total variable (avoidable) cost		1,748,406
Net contribution (loss): total		(305,421)
Average per carload	(55)	

This line would require upgrading to meet the requirements of the Federal Railroad Administration's minimum safety standards (Class I track, which has a maximum safe operating speed of 10 m.p.h.). Based on available information, this upgrading would include the replacement of a total of 6,500 crossties (an average of 102 crossties per mile).

General Foods, reported above as shipping 5,500 carloads in 1973, is not on this line as defined.

This analysis *excludes* the revenues and costs associated with the traffic using the float operation. There are alternative through routes for routing the overhead traffic using the car float.

Service to this line generated a loss of $305,422 in 1973. Recovery of this loss would require approximately a 70-percent increase in traffic or a 21-percent rate increase. Although the shippers served by this line have provided information indicating some traffic growth, the projected traffic level is significantly less than that required for viability.

Retention of this route for ConRail through movements has been analyzed and the line is *not* required for such through traffic purposes. Adequate alternative routes exist for ConRail.

Disposition

This portion of the Pocomoke Secondary Track shall be offered for sale to the Southern Ry., a profitable railroad operating in the Region. If this offer is not accepted, the line is *not* designated for transfer to Consolidated Rail Corp. and is available for subsidy pursuant to section 304 of the Act. Public officials have recommended that certain rail rights-of-way be used for other public purposes if rail service is discontinued. For line-specific recommendations, see section C of this appendix.

WINCHESTER SECONDARY TRACK

USRA Line No. 205

Penn Central

The Winchester Secondary Track, extending from *Hagerstown, Md.* (Milepost 74.8) to *Winchester, Va.* (Milepost 115.9), a distance of *41.1 miles*, in Washington County, Md., Berkeley County, W. Va. and Frederick County, Va., a line which was recommended for inclusion on page 499 of the Preliminary System Plan, shall be offered for sale to the Chessie System, a profitable railroad operating in the Region. If this offer is not accepted, the line shall be transferred to the Consolidated Rail Corp.

EXHIBIT A

REGION 7
DC/DE/MD/VA/WV

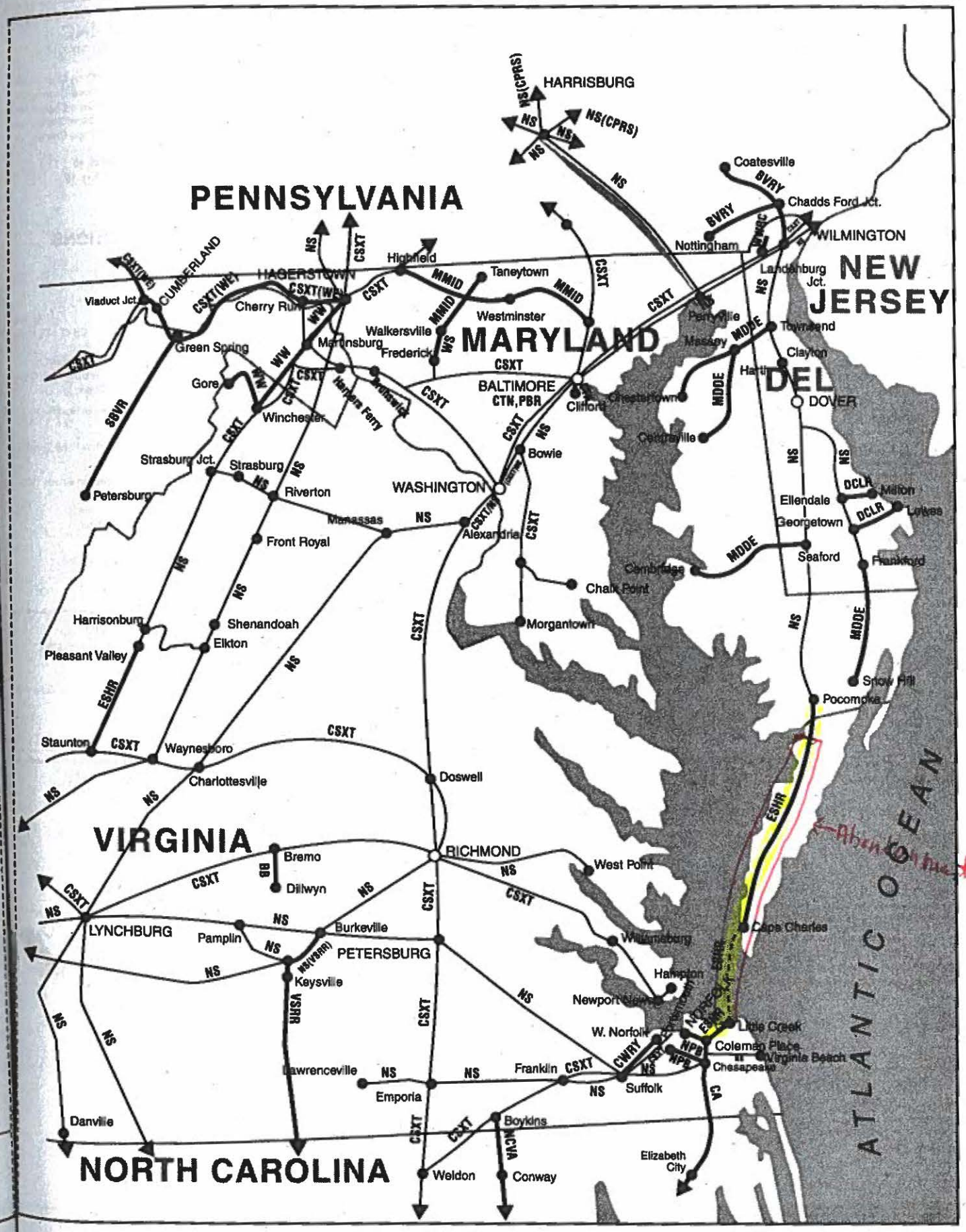


EXHIBIT B

AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into as of the 1st day of July, 2018, by and between CASSATT MANAGEMENT, LLC d/b/a Bay Coast Railroad, a Virginia limited liability company ("Cassatt"), and CANONIE ATLANTIC CO., a Virginia corporation ("CAC").

WHEREAS, Cassatt and CAC are parties to that certain Railroad Lease and Operating Agreement dated December 6, 2005 (the "Operating Agreement"), pursuant to which Cassatt agreed to assume responsibility for the operation of the rail transportation services from the St. Julian and Portlock Yards in Norfolk, Virginia, connecting with Norfolk and Portsmouth Belt Railway and Norfolk Southern Railway ("NS") northward over leased NS, and CAC-owned Facilities to a float pier at Little Creek, Virginia, together with a float operation from Little Creek, across the Chesapeake Bay to Cape Charles, Virginia, and CAC-owned Facilities from Cape Charles, Virginia, to Pocomoke City, Maryland (all of the above rail system and facilities referred to hereafter as the "Rail System"), the term of which is scheduled to end on December 31, 2036, and under which Cassatt and CAC have outstanding obligations and responsibilities (all of the above-stated obligations and responsibilities hereinafter referred to collectively as the "Operating Obligations"); and

WHEREAS, Cassatt desires to terminate its Operating Obligations and to surrender all of Cassatt's right, title, and/or interest in and under the Operating Agreement, a true and correct copy of which is attached hereto as Exhibit A.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Terminations of Operating Agreement by Segment. The Operating Agreement, and Cassatt's obligations thereunder, shall terminate in the following segments in stages as follows:

   (a) Pocomoke City, Maryland to Hallwood, Viginia ("Northern Segment"). CAC has reached an agreement with Delmarva Central Railroad Company ("DCR") to assume operation of the Northern Segment. The Operating Agreement shall terminate with respect to the Northern Segment upon the sooner of June 1, 2018 or the date of the Surface Transportation Board ("STB") authorization of DCR's lease and operation.

   (b) Hallwood Virginia to Cape Charles, Virginia, and the float bridge from Cape Charles, Virginia to Little Creek, Virginia ("Middle Segment"). The Operating Agreement shall terminate with respect to the Middle Segment effective as of June 1, 2018, subject to the provisions of paragraph 7 below related to STB discontinuance of the Middle Segment.

proceeds of the sale of the Nandua, provided the net proceeds of the sale exceed Twenty Thousand Dollars ($20,000.00). Net proceeds shall mean the total value of consideration received by CAC for the sale of the Nandua, less bona fide direct expenses associated with the sale, including but not limited to, surveys, appraisals, auction or other sales costs, brokers fees, attorneys' fees, and any debt/buyout required to be made to the Commonwealth of Virginia with respect to the Commonwealth's funding of repairs to the Nandua, and by any amounts paid to ANTDC under the Repair Agreement.

(d) The parties agree that the "CCRF Settlement" and any related transfer of real property shall not be subject to the prepayment requirements of Section 6(b). The parties agree that CAC may retain all of the proceeds of the CCRF Settlement, provided that CAC will apply a portion of the initial proceeds of the CCRF Settlement to cost of weed spraying on the Middle Segmentand to the cost of Directors and Officer's Liability Insurance for the CAC Board for the months of May and June, costs that would otherwise be Cassatt's obligations.

(e) The Note shall be secured by a Deed of Trust on property owned by CAC in Virginia. The Deed of Trust may be recorded by Cassatt at Cassatt's cost and expense. Cassatt to release parcels from the Deed of Trust for sale by CAC if (1) the net proceeds to CAC from the conveyance are less than or equal to Twenty Thousand Dollars ($20,000), or (2) CAC makes a payment to Cassatt equal to not less than twenty five percent (25%) of the net proceeds to CAC from the conveyance if the net proceeds to CAC from the conveyance exceeds Twenty Thousand Dollars ($20,000).

(f) To the extent CAC is required or elects in its sole discretion to pay any expenses that are Cassatt's responsibility hereunder other than the expenses specified in Section 6(b) to be paid from the CCRF Settlement proceeds, CAC shall receive a credit as a prepayment of the amounts due under the Note.

7. STB Discontinuance of Railroad Authority. CAC shall be responsible to pursue any and all necessary approvals from the STB as may be necessary for CAC, and Cassatt as necessary, to discontinue the common carrier obligations on the Middle Segment. Cassatt will cooperate in the preparation of any necessary filings and with the execution of any necessary verifications or other related documents to make the filings with the STB. Cassatt shall be responsible for one-half of the costs of proceedings before the STB, provided however, that CAC will pay all of the costs, and the amount of Cassatt's share will be credited as a prepayment of the amounts due under the Note.

8. Mutual Release. Except as to the terms and conditions of this Agreement, the Parties, their respective successors, assigns, agents, attorneys, heirs, relatives, executors, administrators, representatives, privies and insurers whether or not herein named, release and

15. Authority. The persons whose signature appears below each represent that he/she/they have the requisite company authority to sign this Agreement and agree to personally indemnify and hold the other Party harmless from any and all claims arising out of or related to any challenge to or lack of such authority.

16. Capitalized Terms. Capitalized terms used but not defined herein shall have the meanings for such terms that are set forth in the Operating Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CASSATT MANAGEMENT, LLC,
a Virginia limited liability company

By: Richard S Foster
Name: Richard S. Foster
Title: Manager

CANONIE ATLANTIC CO.
a Virginia corporation

By:_____
Name:_____
Title:_____

15. Authority. The persons whose signature appears below each represent that he/she/they have the requisite company authority to sign this Agreement and agree to personally indemnify and hold the other Party harmless from any and all claims arising out of or related to any challenge to or lack of such authority.

16. Capitalized Terms. Capitalized terms used but not defined herein shall have the meanings for such terms that are set forth in the Operating Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CASSATT MANAGEMENT, LLC,
a Virginia limited liability company

By:_____
Name:_____
Title:_____

CANONIE ATLANTIC CO.
a Virginia corporation

By: H. Spencer Murray
Name: H. SPENCER MURRAY
Title: SVP for Administration

NICOLE RACHELLE GREENE
COMMONWEALTH OF VIRGINIA
REGISTRATION NO. 7645317
MY COMM. EXPIRES 07/31/2019
NOTARY PUBLIC

EXHIBIT C

Zip Codes Containing the 55-mile segment of rail line proposed for abandonment (Cape Charles to Hallwood)

Accomac	23301
Belle Haven	23306
Birdsnest	23307
Bloxom	23308
Cape Charles	23310
Cheriton	23316
Craddockville	23341
Eastville	23347
Exmore	23350
Franktown	23354
Greenbush	23357
Hallwood	23359
Keller	23401
Machipongo	23405
Marionville	23408
Mears	23409
Melfa	23410
Nassawadox	23413
Onancock	23417
Onley	23418
Painter	23420
Parksley	23421
Tasley	23441
Wachapreague	23480

EXHIBIT D

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket Nos. AB-1267, AB-1276, and AB-1266]

CASSATT MANAGEMENT, LLC D/B/A BAY COAST RAILROAD, THE EASTERN SHORE RAILROAD, INC., AND CANONIE ATLANTIC, CO.
- PETITION FOR EXEMPTION –
IN ACCOMACK AND NORTHAMPTON COUNTIES, VIRGINIA

Notice of Petition for Exemption of Discontinuance and Abandonment

On or about July 15, 2019, Cassatt Management, LLC d/b/a Bay Coast Railroad, the Eastern Shore Railroad, Inc., and Canonie Atlantic, Co. (collectively the "Petitioners") will file with the Surface Transportation Board (STB), Washington, D.C. 20423, a petition for exemption for the discontinuance and abandonment of a line of railroad (Line) extending between railroad milepost 45.7 and railroad milepost 94.8, a distance of about 49.1 miles, in Accomack and Northampton Counties. The Line traverses through United States Postal Service ZIP Codes: 23301, 23306, 23307, 23308, 23310, 23316, 23341, 23347, 23350, 23354, 23357, 23359, 23401, 23405, 23408, 23409, 23410, 23413, 23417, 23418, 23420, 23421, 23441, and 23480 and does not include any stations. Petitioners state that the Line Segment does not contain federally granted rights-of-way. Any documentation in Petitioners' possession will be made available promptly to those requesting it.

In as much as there are no employees, there is no need to impose employee protections. Petitioners have requested that the STB exempt the proposed abandonment from the offer of financial assistance requirements. To the extent the STB were to allow the filing of offers of financial assistance, any such offer would be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following the discontinuance and abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238, or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Office of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Office of Environmental Analysis. EAs in these proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Flings in response to this notice must refer to Docket Nos. AB-1267, AB-1276, AB-1266 and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) Petitioners' representatives John D. Heffner or Sloane S. Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004. Replies to the petition are due on within 30 days of the date the Petition is filed with the STB.

Board decisions and notices are available on our website at WWW.STB.GOV.

Decided: _____

By the Board, _____, Director, Office of Proceedings

EXHIBIT E

AFFIDAVIT

New Post, LLC
P.O. Box 517
Onley, Va. 23418

We, New Post, LLC, publishers of the Eastern Shore Post, a weekly newspaper published in Onley, State of Virginia, do hereby certify that the enclosed notice has been published.

Published on 6/28/19

In the said Eastern Shore Post aforementioned.

Attest: Constance Morrison
Constance Morrison, Editor

Dated today 7/1/19

Total Printer's Fee $ 256.12

Phone: 757-789-7678
Fax: 757-789-7681

NOTICE OF INTENT TO DISCONTINUE AND ABANDON

Cassatt Management, LLC d/b/a Bay Coast Railroad, the Eastern Shore Railroad, Inc. and Canonie Atlantic Co. gives notice that on or after July 15, 2019, they intend to file with the Surface Transportation Board (Board), Washington, DC, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting the discontinuance of service and abandonment of a 49.1 mile line of railroad (Line) extending between railroad milepost 45.7 and railroad milepost 94.8. The Line traverses through Accomack and Northampton Counties, VA, and through the following United States Postal Service Zip Codes: 23301, 23306, 23307, 23308, 23310, 23316, 23341, 23347, 23350, 23354, 23357, 23359, 23401, 23405, 23408, 23409, 23410, 23413, 23417, 23418, 23420, 23421, 23441, 23480 and does not include any stations. The proceeding has been docketed as Nos. AB-1267, AB-1276 and AB-1266.

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for exemption for discontinuance and abandonment. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, 395 E Street S.W. Washington, DC 20423, or by calling OEA at (202) 245-0295.

We have requested that the Board exempt the proposed abandonment from the offer of financial assistance requirements. To the extent the Board were to allow the filing of offers of financial assistance, then appropriate offers of financial assistance to continue rail service could be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings, Washington, DC and one copy must be served on applicants' representative. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0245. Copies of any comments or requests for conditions should be served on the applicants' representatives, John D. Heffner and Sloane S. Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004.

CERTIFICATE OF SERVICE

I, Sloane S. Carlough, hereby certify that a copy of the Petition for Discontinuance and Abandonment was sent via U.S. Mail to all parties of record in this proceeding.

Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218

Stephen C. Brich, Commissioner
Virginia Department of Transportation
1401 E. Broad St.
Richmond, Virginia 23219

Virginia Historic Preservation Office
Virginia Department of Historic Resources
2801 Kensington Avenue
Richmond, VA 23221

Wendi Weber, Northeast Regional Director
U.S. Fish and Wildlife Service – Region 5
300 Westgate Center Drive
Hadley, MA 01035

Major General Jeffrey L. Milhorn
U.S. Army Corps of Engineers – North Atlantic Division
302 General Lee Avenue
Brooklyn, NY 11252-6700

Gay Vietzke, Regional Director
National Park Service – Northeast Region
1234 Market Street, 20th floor
Philadelphia, PA 19107

The National Geodetic Survey
SMCC-3 #9209
NOAA N/NGS2
1315 E-W Highway
Silver Spring, MD 20910

Natural Resources Conservation Service
1606 Santa Rosa Road
Richmond, VA 23229

Cosmo Servidio
Regional Administrator
Environmental Protection Agency – Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

Northampton County Administration
c/o Janice Williams
Deputy County Administrator
PO Box 66
16404 Courthouse Road
Eastville, VA 23347

Accomack County Administration
C/O Michael T. Mason
County Administrator
PO Box 388
Accomack, VA 23301

Virginia Coastal Zone Management
PO Box 1105
Richmond, VA 23218

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250

U.S. Department of the Interior
National Park Service
RTCA Program – Northeast Region
15 State Street
Boston, MA 02109

U.S. Department of the Interior -
National Park Service
RTCA Program (Org code 2220)
1849 C Street, NW
Washington, DC 20240-0001

United States Department of the Army
Military Surface Deployment and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
709 Ward Drive, Building 1990 [1Soldier Way]
Scott AFB, IL 62225

Division of Utility and Railroad Safety
P.O. Box 1197
Richmond, Virginia 23218

Kimberly Prisco-Baggett
Section Chief of the Special Projects
U.S. Army Corps of Engineers
Norfolk District Regulatory Branch
803 Front Street, Norfolk, VA 23510

Sloane S. Carlough

Dated: July 15, 2019

VERIFIED STATEMENT OF
H. SPENCER MURRAY

H. Spencer Murray, being duly sworn, deposes and states as follows:

My name is H. Spencer Murray. I am the Senior Vice President of Administration of Canonie Atlantic Co. ("CAC"), and its wholly owned subsidiary the Eastern Shore Railroad, Inc. (collectively "Petitioners"). My office address is Canonie Atlantic Co., 16404 Courthouse Road, P.O. Box 1027, Eastville, VA 23347. I have served in this capacity since January 1, 2018, and am fully familiar with the facts relevant to the preparation of this petition seeking authorization from the Surface Transportation Board for abandonment of and discontinuance of service over a 49.1 mile long rail line known as the Delmarva Secondary Track between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. My duties with CAC include setting and coordinating agendas for monthly meetings, coordinating all negotiations for new property leases and renewal of existing leases, coordinating all interactions with vendors and service providers, and signing all official documents.

Petitioners seek discontinuance and abandonment authorization for the simple reason that no service is currently being performed over the Line and there

are no active customers. In addition, the car float operation has been out of service since 2009 with traffic rerouted north to Wilmington, DE, and then to points south.

I will begin my statement with some background information about the history of this rail line and its various owning and operating entities. Historically the Line formed a part of a through Pennsylvania Railroad (and later Penn Central Transportation Company) route between Wilmington, DE, and Cape Charles, VA, and thence by car float to Little Creek (Norfolk), VA. At Little Creek it connected with predecessors to today's Norfolk Southern Railroad and CSX Transportation.[1] While the *Final System Plan* prepared by the US Railway Association included the segment of the Delmarva Secondary Track north of Pocomoke City, MD, in the Conrail System, it did not recommend retention of the Delmarva Secondary Track south of that point. Nevertheless, local interests preserved service south of that point initially through the Virginia and Maryland Railroad and then a series of short line operators and a public agency, the Accomack-Northampton Transportation District Commission ("ANTDC").

The ownership and operation of the Line prior to 2006 had a very complicated history which will be repeated to the extent relevant here. Briefly, the Accomack-Northampton Transportation District Commission ("ANTDC") was established as a political subdivision of the Commonwealth of Virginia on March

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[1] The CSX connection is through the Norfolk Portsmouth Belt Railway.

2, 1976, to preserve service over Line. After the Virginia and Maryland Railroad operating the railroad as ANTDC's designated operator terminated service in 1981, the ANTDC provided service over the Line doing business as the Eastern Shore Railroad ("ESRR"). Ultimately, a private corporation, CAC purchased the stock of ESRR from the ANTDC and then several years later the ANTDC reacquired CAC keeping ESRR as a separate corporate subsidiary. ESRR provided all rail service until 2006 when BCR replaced it as the operating common carrier pursuant to a lease and operating agreement with CAC. BCR terminated all operations on April 30, 2018, without seeking prior Board approval. Since neither CAC nor ESRR has the equipment or the personnel to resume operations on their own, they quickly made arrangements for operation of both the segment south of Pocomoke City and the Little Creek Yard by the carriers identified below.

Delaware Central Railroad ("DCR"), which had recently leased Norfolk Southern's line from Wilmington to Pocomoke City, agreed to lease the CAC-owned line from that point to Hallwood. Because DCR concluded that the traffic south of Hallwood was insufficient to support a viable operation on the remainder of the Line and the car float, it did not seek authority to operate beyond that point. As a result, no service has been provided to Cape Charles or to Little Creek by car float. While DCR has recently explored traffic potential south of Hallwood, its marketing efforts have not been successful. In fact, the only customer at Cape

Charles, Bay Shore Concrete, is out of business. The Bay Shore property has been sold recently but there is no indication the new owner would need rail service or that the traffic would be sufficient to support continuation of rail service. There are four other shippers who have made some minimal use of the Line: Crop Production Services, Helena Chemical, Sharp Energy, and Pep UP Propane. Both of the propane dealers can obtain rail service from DCR at facilities north of Hallwood. The last time BCR handled any freight over the Line was a handful of cars that moved in the first quarter of 2018. The two propane customers can receive cars at facilities north of Hallwood. The two remaining customers generated only 33 car loads of traffic for the period between April 1, 2017, and March 31, 2018.

ESRR entered into a lease and operating agreement for the Little Creek Yard with Virginia-based Buckingham Branch Railroad ("BBRR"), another Board licensed Class III short line railroad. BBRR has not shown any interest in operating the car float or service south of Hallwood.

In terms of public convenience and necessity, the Line no longer serves a useful transportation purpose. The Line has served five customers in the past three years. The average number of cars handled during that time in has been 18.04 cars, well under the 34 car per mile car count that was historically regarded as traffic density to make a line profitable. The car float has been out of service for

10 years because it is uneconomical to repair. There is no overhead traffic and has not been any for some years despite some efforts to develop that traffic.

As to Line's rural and community impact, the character of the real estate adjoining the right of way has changed drastically over the years. Much of the adjoining land is rural and some is undeveloped. The Line parallels US Route 13 where there are numerous fast food restaurants, pawn shops, stores selling fishing equipment, guns, and antiques but no industries or sites for industrial development. The potential for attracting rail served industry is low. Cape Charles has been transformed from an industrial area where the former Pennsylvania-Penn Central Railroad yards and float bridge was the prime land use to an area with cute shops, resort or vacation homes, and golf courses. There is even a beach in downtown Cape Charles.

I am attaching to my statement an excel spreadsheet which identifies the economic results for operating the Line for the three years April 1, 2015, through March 31, 2016, April 1, 2016, through March 31, 2017, and April 1, 2017 through March 31, 2018.

Period		Commodity	Revenues
4/1/15-03/31/16	448	grain, propane concrete, soybeans, fertilizer, insecticide	$387,072
4/1/16-3/31/17	232	grain, propane, concrete, soybeans, fertilizer, insecticide	$206,690

4/1/17-3/31/18	222	propane, concrete, soybeans, fertilizer, insecticide	$241,887

The spread sheet reviews the costs incurred by BCR in providing this service. Including avoidable train operating expenses such as crew costs, fuel and supplies, locomotive rental and maintenance, track and right of way maintenance, car hire, utilities, insurance, and administrative expenses, those expenses totaled $741,893.63 for April 1, 2015, through March 31, 2016, $817,247.00 for April 1, 2016, through March 31, 2017, and $922,631.00 for April 1, 2017, through March 31, 2018. After deducting operating expenses for the periods involved, BCR's losses were $404,822 for the period 4/1/2015 through 3/31/2016, $610,557 for the period 4/1/2016 through 3/31/2017, and $680,744 for the period 4/1/2017 through 3/31/2018, respectively. While it would be difficult to prorate many of these expenses for just the portion of the line to be abandoned, the simple fact is that expenses have far outpaced revenues. Assuming a mileage pro rate between the total number of miles operated by BCR, approximately 70 miles including the segment north of Hallwood (about 15 miles) and the Little Creek trackage in Norfolk (about 5 miles) and the subject 49 miles, the expenses of operation far exceed the revenues. Had BCR or ESRR maintained the Line to the Board

accepted $6,000 per mile standard[2] for Federal Railroad Administration Class I track, BCR's revenues would barely cover that amount for the period ending March 31, 2016, and would not even cover that expense for the periods ending March 31, 2017 and 2018. BCR incurred certain additional expenses which were supposed to be covered by the rent paid by BCR. In addition to that, after BCR terminated operations, CAC has incurred continuing expenses such as for grade crossing maintenance, grade crossing signal maintenance, and insurance. These total $63,925 for the remainder of 2018 and 2019 to date. While CAC does collect a modest amount of money for property leases, crossing rights, and so forth, these amounts are too small to overcome the large operating losses.

The bottom line is that the expenses incurred by BCR in providing service far outweigh the revenues generated on the subject 49 miles of railroad and that the prospects for generating additional traffic and revenues are slim.

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[2] *SWKR Operating Co.-Abandonment Exemption in Cochise County, AZ*, Docket No. AB-441 (Sub-No. 2X) STB served Feb. 14, 1997, the STB found that $6,000 per mile/per year is a reasonable figure for maintenance by a Class III railroad, and actually accepted a figure of $6,028.78 per mile.

VERIFICATION

STATE OF Virginia)
County)
~~CITY~~ OF Northampton)

H. Spencer Murray, being duly sworn according to law, hereby deposes and states that (s)he holds the position of Sr. Vice President - Operations with affiant, is authorized to make this Verification, had read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of (her)his knowledge, information, and belief.

Spencer Murray

Subscribed to and sworn to before me, a Notary Public, in and for the County of Northampton in the State of Virginia, this 28 day of June 2019.

Janice K. Williams

Notary Public

Janice K. Williams
Notary Public
Commonwealth of Virginia
Notary Registration Number 157669
My Commission Expires: 4/30/2023

My Commission expires: April 30, 2023

BCR CARLOAD INFORMATION

YEAR	CUSTOMER	ADDESS	COMMODITY	# OF CARLOADS	REVENUE
			2016		
4/1/15-3/31/16	ASSOCIATED GRAIN (757/442-7900)	11430 Oakland Drive, Exmore, VA 23350	GRAIN	96	$ 37,248.00
	BAYSHORE CONCRETE (757/331-2300)	1134 Bayshore Rd., Cape Charles, VA 23310	CEMENT, CONCRETE STRUCTURES	187	$ 207,933.00
	HELENA CHEMICAL (757/414-0245)	7422 Lankford Hwy., Nassawadox, VA 23413	FERTILIZER, INSECTICIDES, FUNGICIDES	10	$ 9,470.00
	SHARP ENERGY (757/442-4328)	36296 Lankford Hwy., Belle Haven, VA 23306	PROPANE	67	$ 60,903.00
	PEP UP PROPANE (757/787-3580)	24411 Lankford Hwy., Tasley, VA 23441	PROPANE	58	$ 54,288.00
	T&F GRAIN (757/442-7300)	35070 Lankford Hwy., Painter, VA 23420	GRAIN	20	$ 7,760.00
	CROP PRODUCTION SVCS (757/678-5165)	5253 Newman Lane, Eastville, VA 23347	SOYBEANS	10	$ 9,470.00
			TOTALS:	**448**	**$ 387,072.00**
4/1/16-3/31/17			2017		
	BAYSHORE CONCRETE		CEMENT, CONCRETE STRUCTURES	66	$ 54,098.00
	CROP PRODUCTION SERVICES		SOYBEANS	4	$ 1,552.00
	HELENA CHEMICAL		FERTILIZER , INSECTICIDES, FUNGICIDES	14	$ 13,258.00
	SHARP ENERGY		PROPANE	83	$ 75,447.00
	PEP UP PROPANE		PROPANE	65	$ 62,335.00
			TOTALS:	**232**	**$ 206,690.00**
4/1/17-3/31/18			2018		
	BAYSHORE CONCRETE		CEMENT, CONCRETE STRUCTURES	66	$ 15,782.00
	CROP PRODUCTION SERVICES		SOYBEANS	15	$ 91,102.00
	HELENA CHEMICAL		FERTILIZER, INSECTICIDES, FUNGICIDES	18	$ 17,046.00
	SHARP ENERGY		PROPANE	57	$ 54,663.00
	PEP UP PROPANE		PROPANE	66	$ 63,294.00
			TOTALS:	**222**	**$ 241,887.00**

BCR OPERATING EXPENSES

YEAR 2016	4/1/15-3/31/16	
EXPENSE	**AMOUNT**	
MAINTENANCE OF WAY	$ 106,716.00	(includes labor, vehicle, travel, repairs, materials, fuel, employee taxes)
BUILDING SERVICES	$ 33,731.00	
CAR HIRE	$ 16,683.00	
MECHANICAL	$ 36,062.94	(includes locomotive labor, travel, materials, supplies, subcontracts)
TRAIN SERVICE	$ 98,778.00	(includes labor, vehicle, travel, supplies, radio maintenance, insurance, employee taxes
FUEL FOR LOCOMOTIVES	$ 60,637.69	
BARGE REPAIRS	$ 397.00	
INSURANCE	$ 81,946.00	(other)
UTILITIES	$ 35,632.00	(includes xings, water, electric)
MARKETING	$ 97,256.00	(labor, travel, insurance, taxes, vehicle, projects)
ACCOUNTING	$ 85,371.00	(includes labor, travel, insurance, taxes, computer services)
PROPERTY LEASE	$ 7,000.00	
LEGAL FEES	$ 7,318.00	
DUES AND CLUBS	$ 9,154.00	

MANAGEMENT	$	26,530.00	(includes labor, travel, insurance, taxes)
OFFICE SUPPLIES	$	8,653.00	
MISC EXPENSES	$	6,152.00	
MISC TAXES	$	23,876.00	
TOTAL:	**$**	**741,893.63**	

YEAR 2017	**4/1/16-3/31/17**		
MAINTENANCE OF WAY	$	177,795.00	(includes labor, vehicle, travel, repairs, materials, fuel, employee taxes)
BUILDING SERVICES	$	4,645.00	
CAR HIRE	$	5,237.00	
MECHANICAL	$	35,406.00	(includes locomotive labor, travel, materials, supplies, subcontracts)
TRAIN SERVICE	$	95,588.00	(includes labor, vehicle, travel, supplies, radio maintenance, insurance, employee taxes
FUEL FOR LOCOMOTIVES	$	58,299.00	
BARGE REPAIRS	$	1,709.00	
INSURANCE	$	84,393.00	(other)
UTILITIES	$	38,687.00	(includes xings, water, electric)
MARKETING	$	146,977.00	(labor, travel, insurance, taxes, vehicle, projects)

ACCOUNTING	$	87,080.00	(includes labor, travel, insurance, taxes, computer services)
PROPERTY LEASE	$	7,000.00	
LEGAL FEES	$	21,340.00	
DUES AND CLUBS	$	10,227.00	
MANAGEMENT	$	6,238.00	(includes labor, travel, insurance, taxes)
OFFICE SUPPLIES	$	8,383.00	
MISC EXPENSES	$	5,011.00	
MISC TAXES	$	23,232.00	
TOTAL:	**$**	**817,247.00**	

YEAR 2018	**4/1/17-3/31/18**		
MAINTENANCE OF WAY	$	65,157.00	(includes labor, vehicle, travel, repairs, materials, fuel, employee taxes)
BUILDING SERVICES	$	11,830.00	
CAR HIRE	$	16,058.00	
MECHANICAL	$	65,295.00	(includes locomotive labor, travel, materials, supplies, subcontracts)
TRAIN SERVICE	$	95,437.00	(includes labor, vehicle, travel, supplies, radio maintenance, insurance, employee taxes

FUEL FOR LOCOMOTIVES	$	60,245.00	
INSURANCE	$	89,851.00	(other)
UTILITIES	$	35,077.00	(includes xings, water, electric)
MARKETING	$	206,255.00	(labor, travel, insurance, taxes, vehicle, projects)
ACCOUNTING	$	1,321.00	(includes labor, travel, insurance, taxes, computer services)
LEGAL FEES	$	79,054.00	
DUES AND CLUBS	$	8,314.00	
MANAGEMENT	$	132,016.00	(includes labor, travel, insurance, taxes)
OFFICE SUPPLIES	$	5,635.00	
MISC EXPENSES	$	47,609.00	
MISC TAXES	$	3,477.00	
TOTAL:	$	922,631.00	

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1267
CASSATT MANAGEMENT LLC D/B/A BAY COAST RAILROAD
DISCONTINUANCE OF SERVICE EXEMPTION

DOCKET NO. AB-1276
EASTERN SHORE RAILROAD, INC., DISCONTINUANCE OF SERVICE EXEMPTION

DOCKET NO. AB-1266
CANONIE ATLANTIC CO. ABANDONMENT EXEMPTION
HALLWOOD TO CAPE CHARLES, VA

PETITION FOR EXEMPTION

COMBINED ENVIRONMENTAL AND HISTORIC REPORT

Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR"), the Eastern Shore Railroad, Inc. and Canonie Atlantic Co. ("Canonie" or "CAC") (collectively the "Petitioners") submit this Environmental and Historic Report in accordance with 49 CFR §§ 1105.7 and 1105.8. Agency transmittal letters and responses are included as Exhibits. *See* Exhibit 1 for the letters. Agency responses, if received, are attached as Exhibit 2.

Petitioners seek discontinuance and abandonment authorization as no service has been performed over the 49.1 mile line of railroad (the "Line") in over a year

and there are no active customers. In addition, the car float operation has been out of service since 2009 with traffic rerouted north to Wilmington, DE, and then to points south via other routes. *See* Exhibit 3 for a detailed map of the Line.

Environmental Issues

(1) Proposed Action and Alternatives

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Response: Petitioners propose to discontinue service over and abandon, respectively, the Line that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Creek, VA.

(2) Transportation System

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Response: Petitioners anticipate that the proposed action will have no effect on regional or local transportation systems or patterns and will result in no diversion of traffic to other transportation modes or systems.

(3) Land Use

(i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

Response: Petitioners believe that the proposed action will not be inconsistent with local land use plans. Petitioners contacted the Accomack County Administrator and Northampton County Administrator. As of this date, no comments have been received. Petitioners are not aware of any plans for industrial development of properties in the vicinity of the track and believe there is little prospect for developing freight business on the Line in the foreseeable future.

(ii) Petitioners contacted the Natural Resources Conservative Service to ascertain the effect of the proposed action on any prime agricultural land. *See* Exhibit 1.

Response : The State Soil Scientist determined that the abandonment will have "no effect on prime farmland." *See* Exhibit 2.

(iii) Petitioners believe the action affects a "coastal area" as defined by 16 U.S.C. § 1453(1). Petitioners contacted the Virginia Department of Environmental Quality to request its comments on the proposed abandonment. *See* Exhibit 1. The Virginia Department of Environmental Quality via phone call requested the

Petitioners submit a Federal Consistency Determination. Petitioners filed the requested document on July 15, 2019.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. §10906 and explain why.

Response: Petitioners believe that because the right-of-way is flat and generally straight, it would be well suited to conversion to trail use under the National Trails Act. Petitioners would be willing to enter into trail use discussions with any entity willing to convert the Line to a trail in accordance with the trail use regulations at 49 CFR § 1152.29.

Petioners contacted the National Geodetic Survey ("NGS") to determine whether there are any geodetic markers which could be affected by the proposed transaction. *See* Exhibit 1. NGS stated that there are geodetic markers in the area, and "just about all bench marks are in the area of the railroad from St Charles to Hallwood, VA." In the event marks are disturbed, Petitioners must consult with NGS. *See* Exhibit 2.

(4) Energy

(i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (iv) If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) An average of 50 rail carloads per mile per year for any part

of the affected line, quantify the resulting net change in energy consumption and show the date and methodology used to arrive at the figure given.

Response: The proposed abandonment will have no effect on the transportation of energy resources because minimal traffic has moved over the Line in a few years. There will be no effect on the transportation of recyclables because no recyclables move over the Line. The proposed action will increase overall energy efficiency by saving the energy that would otherwise be needed to maintain the unused Line. The proposed action will cause no diversion from rail to motor carriage.

(5) Air

Will the proposed action result in (A) a minimum increase in rail traffic of 100 percent (measured in gross tons annually) or eight trains per day on an affected rail line, (B) an increase in rail yard activity of 100 percent as measured in carload activity or (C) an increase in motor carrier traffic of either 50 vehicles per day or an increase in truck traffic exceeding 10 percent of the average daily traffic on a given highway segment? If any of the enumerated thresholds is exceeded, quantify the anticipated increase in air emissions. If a Class I or nonattainment area is affected, are increased emissions within parameters of the affected State Implementation Plan?

Response : The above thresholds will not be exceeded. See (2) above.

(6) Noise

If any of the thresholds identified in item (5) is surpassed, state whether the proposed action will cause an increase in noise levels exceeding either (1) a three decibel Ldn incremental increase or (ii) 65 decibels?

Response : The above thresholds will not be exceeded.

(7) Safety

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

Response : Petitioners believe that the proposed action will result in improvement to public safety by eliminating grade crossings on the Line.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the Petitioners' safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

Response : The proposed action is a discontinuance and abandonment, therefore, no hazardous materials are expected to be transported over the Line.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Response : There are no known hazardous waste sites on the Line, and Petitioners are not aware of any hazardous materials spills that may have occurred along the right-of-way.

(8) Biological Resources

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

Response : Petitioners are unaware of any endangered species or area designated as a critical habitat likely to be adversely affected by the proposed abandonment. Petitioners contacted the U.S. Fish and Wildlife Service to obtain its views. *See* Exhibit 1. As of this date, no comments have been received.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected and describe any effects.

Response : Petitioners do not anticipate that the abandonment will affect any wildlife sanctuaries or refuges, or National or State parks or forests. Nevertheless, Petitioners contacted the National Park Service to obtain its views. *See* Exhibit 1. As of this date, no comments have been received.

(9) Water

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistency.

Response: No in-stream salvage operations will be required. No action known to be inconsistent with federal, state, and/or local water quality standards is contemplated. If any permits or applications are found to be necessary, they will be obtained and any conditions or procedures required by regulatory agencies will

be complied with. Petitioners contacted Virginia state and federal agencies in responsible for environmental matters. The Virginia Department of Environmental Quality via phone call requested the Petitioners submit a Federal Consistency Determination. Petitioners filed the requested document on July 15, 2019.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the affects.

Response: No in-stream salvage operations will be required and Petitioners are unaware of any inconsistency of the proposed action with applicable federal, state, and local water quality standards. Petitioners contacted the North Atlantic Division of the U.S. Army Corps of Engineers. *See* Exhibit 1. As of this date, no comments have been received. However, the Norfolk District office reached out and asked to be included on further filings. *See* Exhibit 2.

Inasmuch as the proposed discontinuance and abandonment only contemplates the removal of rail, track material, and cross ties and that no clearing, grading, or alteration of the topography will be involved, no permits will be required under Section 404 or that any designated wetlands or 100-year flood plains will be affected.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. §1342) are required for the proposed action.

Response: No permits will be required under section 402 of the Clean Water Act (33 U.S.C. § 1342).

(10) Proposed Mitigation

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Response: Inapplicable as there are no adverse environmental impacts.

Historic Issues

The following information is provided in accordance with 49 CFR §1105.8(d).

(1) Map

Response: A copy of a detailed map of the Line is attached to this report as Exhibit 3.

(2) Description of the Line

Response: The right-of-way proposed for discontinuance and abandonment is located in Accomack and Northampton counties. It extends from approximately MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA. The Line is approximately 40 feet wide. The topography of the surrounding area is flat as shown in the topographic map attached to this report. Much of the surrounding area is rural and undeveloped. The Line parallels US Route 13.

(3) Photographs of structures at least 50 years old.

Response: There is one structure 50 years or older on the Line and photographs are attached to this report as Exhibit 3.

(4) Dates of construction/alteration of structures

Response: The small building on the Line is estimated to have been constructed around 1915.

(5) History of carrier operations

Response : Historically, the Line formed part of a through Pennsylvania Railroad (and later Penn Central Transportation Company) route between Wilmington, DE, and Cape Charles, VA, and thence by car float to Little Creek (Norfolk), VA. At Little Creek, it connected with predecessors to today's Norfolk Southern Railroad and CSX Transportation.

The ownership and operation of the Line prior to 2006 had a very complicated history not relevant here. Briefly, the Accomack-Northampton Transportation District Commission ("ANTDC"), a political subdivision of the Commonwealth of Virginia was established on March 2, 1976, to preserve service over Line. After the Virginia and Maryland Railroad, an Interstate Commerce Commission licensed Class III short line railroad operating the railroad as ANTDC's designated operator terminated service in 1981, the ANTDC provided service over the Line doing business as the Eastern Shore Railroad ("ESRR").

Ultimately, a private corporation, CAC purchased the stock of ESRR from the ANTDC and then several years later the ANTDC repurchased the stock of CAC from that entity keeping ESRR as a separate corporate subsidiary. ESRR provided all rail service until 2006 when BCR replaced it as the operating common carrier pursuant to a lease and operating agreement with CAC. BCR terminated all operations on April 30, 2018 without seeking prior Board approval. Since neither CAC nor ESRR has the equipment or the personnel to resume operations on its own, they quickly made arrangements for operation of both the segment south of Pocomoke City and the Little Creek Yard by the carriers identified below.

Delmarva Central Railroad, a Board licensed Class III shortline ("DCR"), which had recently leased Norfolk Southern's line from Wilmington to Pocomoke City, agreed to lease the CAC-owned line from that point to Hallwood. Because DCR concluded that the traffic south of Hallwood was insufficient to support a viable operation on the remainder of the Line and the car float, it did not seek authority to operate beyond that point. As a result, no service has been provided to Cape Charles or to Little Creek by car float. While DCR a, has recently explored traffic potential south of Hallwood, its marketing efforts have not been successful.

ESRR entered into a lease and operating agreement for the Little Creek Yard with Virginia-based Buckingham Branch Railroad ("BBRR"), another Board

licensed Class III short line railroad. BBRR has not shown any interest in operating the car float or service south of Hallwood.

Documents in carriers' possession

Response : Petitioners do not have engineering drawings in their possession.

(7) Eligibility for National Register; archeological resources

Response : Petitioners do not believe the small building on the right-of-way is eligible for listing in the National Register and there is no likelihood of archeological resources or any other previously unknown historic properties on the Line. Nevertheless, Petitioners contacted the State Historic Preservation Officer to get his or her views. *See* Exhibit 1. As of this date, no comments have been received.

(8) Description of ground disturbance or fill

Response : Petitioners are unaware of any prior subsurface ground disturbance or fill or environmental conditions that might affect the archeological recovery of resources. Petitioners contacted the State Historic Preservation Office in this regard. *See* Exhibit 1. As of this date, no comments have been received.

Certification

In accordance with the requirement at 49 CFR §1105.7(c), Petitioners certify that they have sent a copy of the Environmental and Historic Report to all agencies listed at §1105.7(b) and to the State Historic Preservation Officer and that they have consulted with these agencies in preparing this report.

Respectfully submitted,



Sloane S. Carlough
John D. Heffner
Clark Hill, PLC
1001 Pennsylvania Ave., N.W.
Suite 1300 South
Washington, D.C. 20004
Telephone: (202) 640-6673

Dated: July 15, 2019

Exhibit 1

CLARK HILL

Clark Hill PLC
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

Sloane S. Carlough
T 202.640.6673
F 202.640.6690
Email: scarlough@clarkhill.com

June 13, 2019

State Conservationist
Natural Resources Conservation Service
1606 Santa Rosa Road
Richmond, VA 23229

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Sir or Madam:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with the Natural Resources Conservation Service regarding any potential environmental impacts of the proposed abandonment. Petitioners do not believe that the proposed abandonment will result in any adverse environmental impacts, but we would appreciate your comments about these issues. Particularly, please state the effect of the proposed action on any prime agricultural land.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

CLARK HILL

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1001 Pennsylvania Avenue NW
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Washington, DC 20004
T 202.772.0909
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clarkhill.com

Sloane S. Carlough
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Email: scarlough@clarkhill.com

June 13, 2019

Gay Vietzke, Regional Director
National Park Service – Northeast Region
1234 Market Street, 20th floor
Philadelphia, PA 19107

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Director Vietzke:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with certain government entities regarding any potential environmental impacts of the proposed abandonment. Petitioners do not believe that the proposed abandonment will result in any adverse environmental impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on the following issue:

- Whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and what such effects might be.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

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Email: scarlough@clarkhill.com

June 13, 2019

Wendi Weber, Northeast Regional Director
U.S. Fish and Wildlife Service – Region 5
300 Westgate Center Drive
Hadley, MA 01035

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Director Weber:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with certain government entities regarding any potential environmental impacts of the proposed abandonment. Petitioners do not believe that the proposed abandonment will result in any adverse environmental impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on the following issues:

- Whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as critical habitat and, if so, please describe such effects;

- Whether wildlife sanctuaries or refuges, National or State parks or forests will be affected and, if so, please describe such effects.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

CLARK HILL

Clark Hill PLC
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

Sloane S. Carlough
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Email: scarlough@clarkhill.com

June 13, 2019

Cosmo Servidio
Regional Administrator
Environmental Protection Agency – Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Mr. Servidio:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with certain government entities regarding any potential environmental impacts of the proposed abandonment. Petitioners do not believe that the proposed abandonment will result in any adverse environmental impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on the following issues:

- Any potential adverse environmental effects of the proposed abandonment on the surrounding area;

- The location of any known hazardous materials spills on the right-of-way of the Line, and list the types of hazardous materials involved;

- Whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed abandonment.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

CLARK HILL

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Email: scarlough@clarkhill.com

June 13, 2019

Janice Williams
Deputy County Administrator
Northampton County Administration
PO Box 66
16404 Courthouse Road
Eastville, VA 23347

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Ms. Williams:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with certain government entities regarding any potential environmental impacts of the proposed abandonment. Petitioners do not believe that the proposed abandonment and discontinuance will result in any adverse environmental impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on the following issue:

- Whether the proposed action is consistent with existing land use plans.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

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June 13, 2019

David Fanz, Assistant Director
Virginia Coastal Zone Management
P.O. Box 1105
Richmond, VA 23218

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Mr. Fanz:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with certain government entities regarding any potential environmental impacts of the proposed abandonment. Petitioners do not believe that the proposed abandonment will result in any adverse environmental impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on the following issues:

- Whether the abandonment is consistent with federal, state or local water quality standards;

- Whether the proposed abandonment is an action listed for review in Virginia's coastal zone management plan; and

- If the action is so listed, whether the proposed action is consistent with the coastal zone management plan.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

CLARK HILL

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Sloane S. Carlough
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Email: scarlough@clarkhill.com

June 13, 2019

The National Geodetic Survey
SMCC-3 #9209
NOAA N/NGS2
1315 E-W Highway
Silver Spring, MD 20910

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Sir/Madam:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with certain government entities regarding any potential environmental impacts of the proposed abandonment. Petitioners do not believe that the proposed abandonment will result in any adverse environmental impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on whether there are any geodetic markers which could be affected by the proposed transaction.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

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June 13, 2019

Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Sir or Madam:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with the State Environmental Protection Agency regarding environmental impacts of the proposed abandonment and that Petitioners prepare an environmental report that includes any comments from those government entities. Petitioners do not believe that the proposed abandonment will result in any adverse environmental impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on the following issues:

- Any potential adverse environmental effects of the proposed abandonment on the surrounding area;
- The location of any known hazardous materials spills on the right-of-way of the Line, and list the types of hazardous materials involved;

- Whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed abandonment.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax). We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

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June 13, 2019

Michael T. Mason
County Administrator
PO Box 388
Accomack, VA 23301

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Ms. Williams:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with certain government entities regarding any potential environmental impacts of the proposed abandonment. Petitioners do not believe that the proposed abandonment and discontinuance will result in any adverse environmental impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on the following issue:

- Whether the proposed action is consistent with existing land use plans.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

CLARK HILL

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Email: scarlough@clarkhill.com

June 13, 2019

Stephen C. Brich, Commissioner
Virginia Department of Transportation
1401 E. Broad St.
Richmond, Virginia 23219

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Commissioner Brich:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

Sloane S. Carlough

SSC:mf
Enclosure

CLARK HILL

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June 13, 2019

Mark Wagner
State Historic Preservation Office
Virginia Department of Historic Resources
2801 Kensington Avenue
Richmond, VA 23221

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Mr. Wagner:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter, as well as photographs of a small building along the Line. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with the State Historic Preservation Office regarding any potential historical impacts of the proposed abandonment. We do not believe that the proposed abandonment will result in any adverse historical impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on the following issues:

- Any known structures on the Line that are historically significant and that are 50 years old or older; whether the proposed abandonment would have an adverse effect on such structures; and efforts that could be taken during removal of the tracks in the Line to mitigate any such adverse effects;

- Whether there is a likelihood of archaeological resources or any other previously unknown historic properties on the Line.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or after July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax). We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

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Email: scarlough@clarkhill.com

June 13, 2019

Major General Jeffrey L. Milhorn
U.S. Army Corps of Engineers
North Atlantic Division
302 General Lee Avenue
Brooklyn, NY 11252

Re: STB Docket Nos. AB-1267 Cassatt Management LLC d/b/a Bay Coast Railroad, AB-1276 Eastern Shore Railroad, Inc., AB-1266 Canonie Atlantic Co. Discontinuance and Abandonment Exemption – In Accomack and Northampton Counties, V.A.

Dear Major General Milhorn:

The purpose of this letter is to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR") and the Eastern Shore Railroad, Inc. plan to file a petition for exemption with the Surface Transportation Board ("STB") permitting them to discontinue operations over and for Canonie Atlantic Co.("Canonie" or "CAC") (collectively the "Petitioners") to abandon a 49.1 mile line of railroad ("the Line") that extends between MP 45.7 at Hallwood, VA, to the end of the Line at MP 94.8 at Cape Charles, VA, and the car float operation from Cape Charles to Little Ferry (Norfolk), VA. A map of the Line is attached to this letter. Petitioners believe that the Line should be abandoned because there is no traffic moving over the Line and the last movement of a minimal amount of traffic occurred in early 2018.

The STB's regulations require consultation with certain government entities regarding any potential environmental impacts of the proposed abandonment. Petitioners do not believe that the proposed abandonment will result in any adverse environmental impacts, but we would appreciate your comments about these issues. In particular, we request any comments you have on the following issues:

- Whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed abandonment;
- Whether any designated wetlands or 100-year flood plains will be affected, and please describe any such effects.

Enclosed is a preliminary Environmental and Historic Report that outlines the scope of the proposed project. We will integrate any comments received from your office prior to submitting the report to the STB. Please note that we are planning to file the Environmental and Historic Report with the STB on or July 15, 2019. Please submit any comments you have before that date so that they can be reflected in the final report that is filed.

Please send your comments to Sloane Carlough, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004, scarlough@clarkhill.com, or 202-640-6690 (fax).

We appreciate your assistance in this matter. If you have any questions, please feel free to call or email me.

Sincerely,

CLARK HILL

Sloane S. Carlough

SSC:mf
Enclosure

Exhibit 2

Carlough, Sloane S.

From: Harper, John - NRCS, Richmond, VA <john.harper@usda.gov>
Sent: Wednesday, June 19, 2019 11:35 AM
To: Carlough, Sloane S.
Cc: Bricker, Jack - NRCS, Richmond, VA
Subject: AB-1267 Bay Coast Railroad Abandonment

[External Message]

Mr. Carlough,

The area of interest you are requesting comments on is currently located on an Urban right of way. There is no effect on prime farmland as a result of abandonment of the railroad.

If you have further questions, please do not hesitate to contact me.

Sincerely,

J. David Harper

State Soil Scientist
State Resource Inventory Coordinator
1606 Santa Rosa Road, Suite 209
Richmond, Virginia 23229
804-287-1647

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

Carlough, Sloane S.

From: deborah.brooks <ngs.infocenter@noaa.gov>
Sent: Monday, July 8, 2019 6:23 PM
To: Carlough, Sloane S.
Subject: [JIRA] (IMOV-5877) STB Docket Nos. AB -1267 AB-1276 AB-1266

[External Message]

A comment is added on your issue:

Re: STB Docket Nos. AB -1267 AB-1276 AB-1266

NGS Response, STB DOCKET NOs. AB-1267 AB-1276 AB-1266 - In Accomack and North Hampton Counties, VA.

Thank you for informing the National Geodetic Survey (NGS) of Cassatt Management LLC d/b/a Bay Coast Railroad(BCR), Eastern Shore Railroad, Inc. and Canonie Atlantic Co.'s decision to abandon a 49.1 mile railroad line between milepost 45.7 at Hallwood, VA to milepost 94.8 at Cape Charles, VA.

There could be geodetic survey marks located in the area described, and any marks still present could be disturbed by the abandonment. While it is illegal to disturb or destroy a mark, sometimes disturbing or destroying a mark is unavoidable. In such cases, the mark can often be preserved or reset with advanced planning. NGS provides the public with tools to search for and locate survey marks, see the NGS Data Explorer (https://geodesy.noaa.gov/NGSDataExplorer/).

If a mark will be disturbed by the abandonment, BCR, the Eastern Shore Railroad, Inc. and Canonie Atlantic Co. should consult with NGS at least 90 days prior to beginning salvage activities that will disturb, or destroy any geodetic marks identified nearby. Information is available online to help reset marks or report disturbed/destroyed marks: https://geodesy.noaa.gov/surveys/mark-recovery/index.shtml.

This notice is also being shared with Scott.Lokken (scott.lokken@noaa.gov, (240) 678-2167) the Regional Geodetic Advisor, so he may work with any interested local agencies or stakeholders.

If you have additional questions, email NGS.Infocenter@noaa.gov.

Sincerely,

Deborah M. Brooks
Geodesist
deborah.brooks@noaa.gov

National Geodetic Survey

Carlough, Sloane S.

From: scott.lokken <ngs.infocenter@noaa.gov>
Sent: Friday, July 12, 2019 12:43 PM
To: Carlough, Sloane S.
Subject: [JIRA] (IMOV-5877) STB Docket Nos. AB -1267 AB-1276 AB-1266

[External Message]

A comment is added on your issue:

Re: STB Docket Nos. AB -1267 AB-1276 AB-1266

NGS Database search results:
82 marks, just about all bench marks are in the area of the railroad from St Charles to Hallwood, VA.
Disturbing the marks should be avoided when possible.

National Geodetic Survey

Carlough, Sloane S.

From: scott.lokken <ngs.infocenter@noaa.gov>
Sent: Friday, July 12, 2019 12:50 PM
To: Carlough, Sloane S.
Subject: [JIRA] (IMOV-5877) STB Docket Nos. AB -1267 AB-1276 AB-1266

[External Message]

A comment is added on your issue:

Re: STB Docket Nos. AB -1267 AB-1276 AB-1266

NGS Database search results:
82 marks, just about all bench marks are in the area of the railroad from St Charles to Hallwood, VA. Note many are scaled positions so the plotted positions are only estimates. Disturbing the marks should be avoided when possible.



National Geodetic Survey

Carlough, Sloane S.

From: Fuerst, Lee A CIV USARMY CENAO (USA) <Lee.A.Fuerst@usace.army.mil>
Sent: Thursday, July 11, 2019 11:57 AM
To: Carlough, Sloane S.
Cc: Prisco-Baggett, Kimberly A CIV USARMY USACE (US); Okorn, Barbara; Dave Davis; Walker, William T Jr CIV USARMY CENAO (USA); Aymond, Angel
Subject: Potential Study for Rails to Trails project from Cape Charles to Norfolk - Request for Agency Comments

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

[External Message]

Dear Sloane Carlough,

Good morning. I have a question regarding an article about a potential plan to turn a 49.1 mile stretch of existing railroad tracks to a trail. By chance, the Norfolk District Public Affairs office brought this article to our attention. In the article it states that USACE, EPA, DEQ, etc. have each been sent a letter with this preliminary information and request for comments regarding a petition that has been filed with the Surface Transportation Board.

Article: https://www.delmarvanow.com/story/news/2019/07/02/va-shore-looks-rails-trails-railroad-seeks-abandon-tracks/1616241001/

Embedded in the article is a copy of the report that was submitted requesting agency comments by July 15. The request for comments was sent to Major General Milhorn at the USACE North Atlantic Division Headquarters office on June 13, 2019. However, this request for comments was not received by the Norfolk District office regulatory branch which would have potential jurisdiction over portions of this corridor if there are any proposed potential impacts to wetlands and/or waters of the United States under Section 404 of the Clean Water Act or Section 10 of the 1899 Rivers and Harbors Act.

Petition and Agency Letters:
https://www.stb.gov/Filings/all.nsf/d6ef3e0bc7fe3c6085256fe1004f61cb/ef13b1bb90bbb8fe8525841c006d00cf/$FILE/247967.pdf

I am cc'ing a few of our federal and state partner agencies, to ensure that they have received the request for comments and are aware of the comment deadline.

If you can please forward a copy of the submittal and any other associated information to Ms. Kimberly Prisco-Baggett, Section Chief of the Special Projects section in the Norfolk District regulatory branch, it would be appreciated. Her email address is: Kimberly.A.Baggett@usace.army.mil.

We would like to request that the comment period be extended once we have received the information from your office to allow time for a sufficient review of the materials.

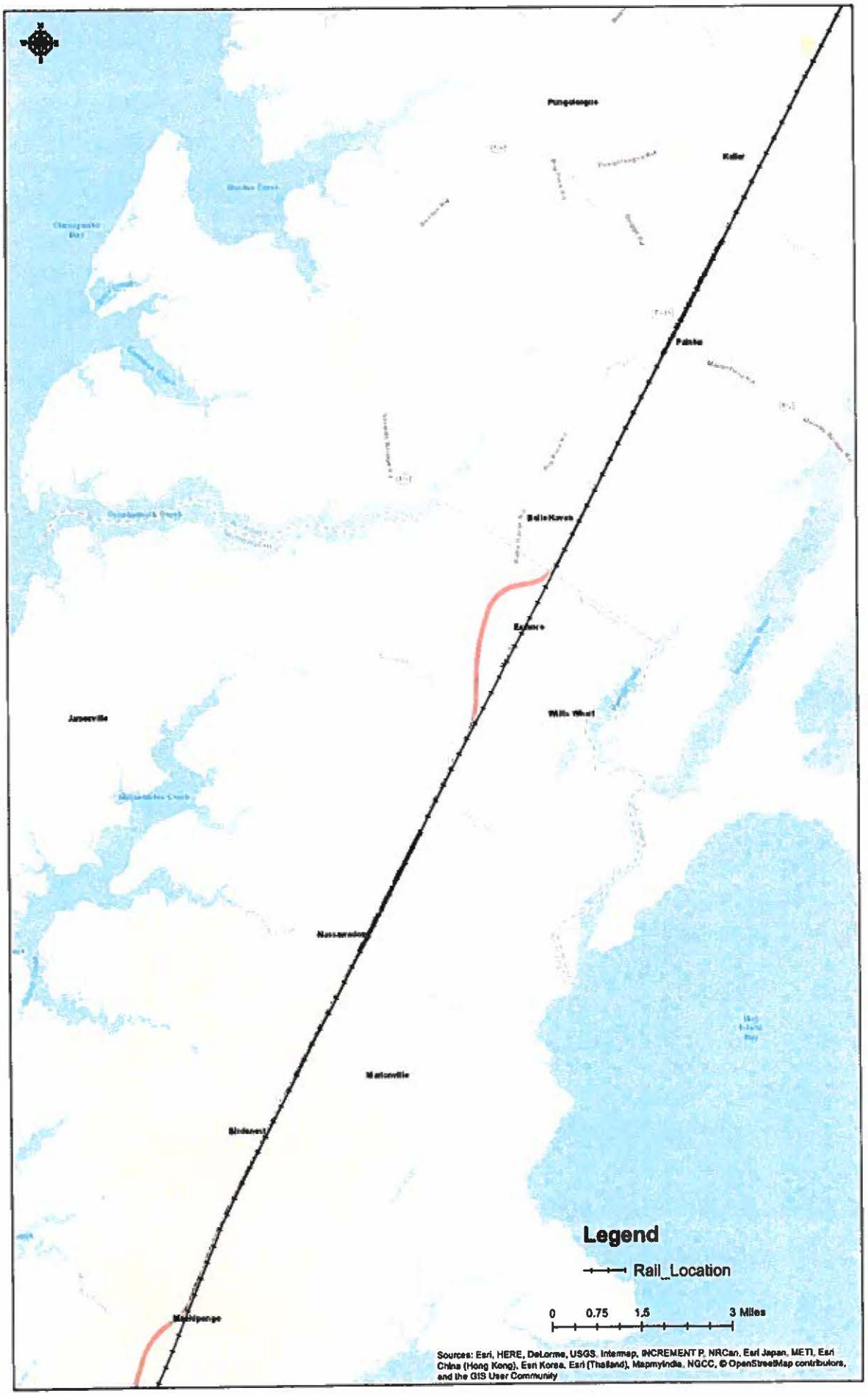
Please let me know if you have any questions. Thank you.

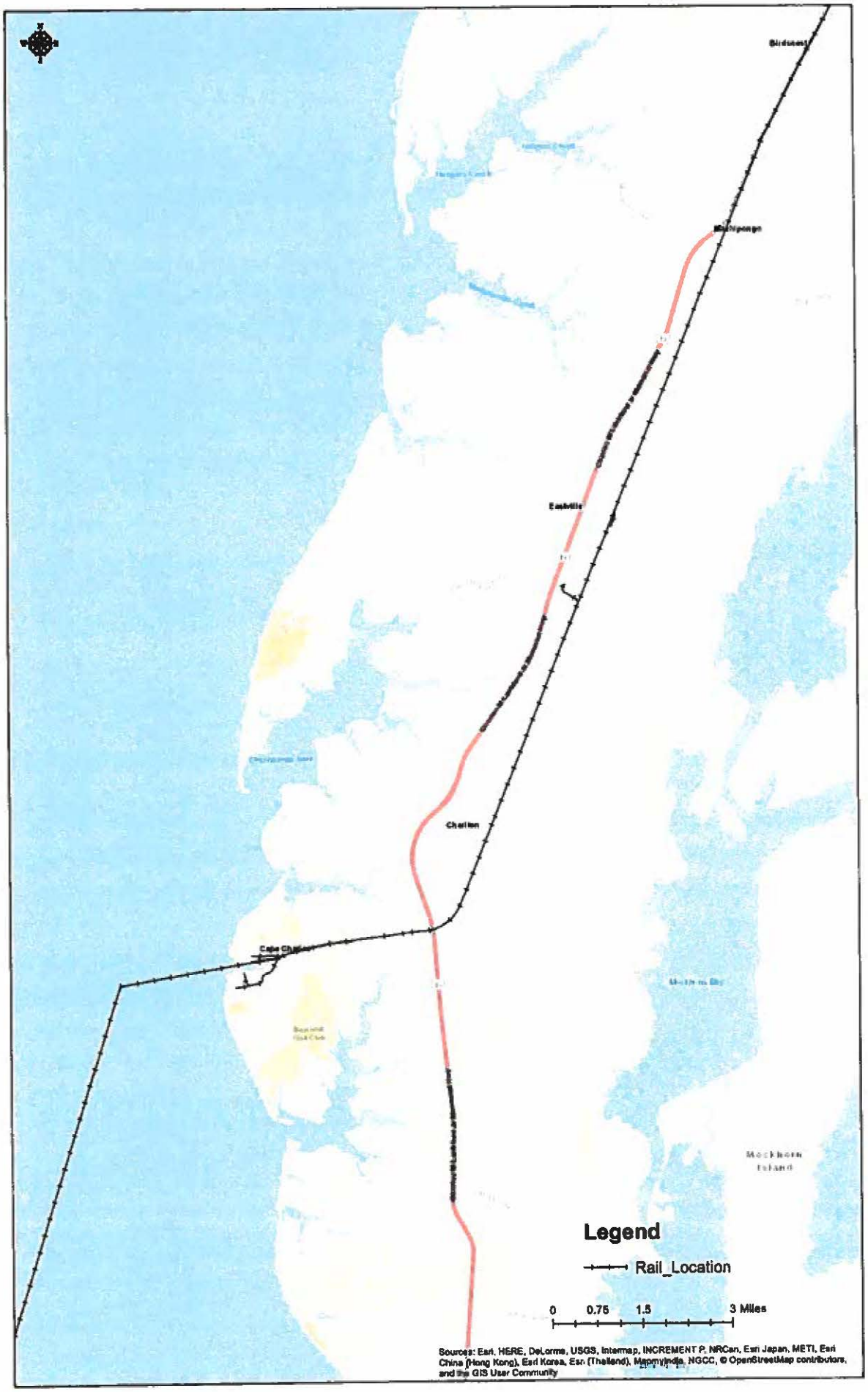
Sincerely,

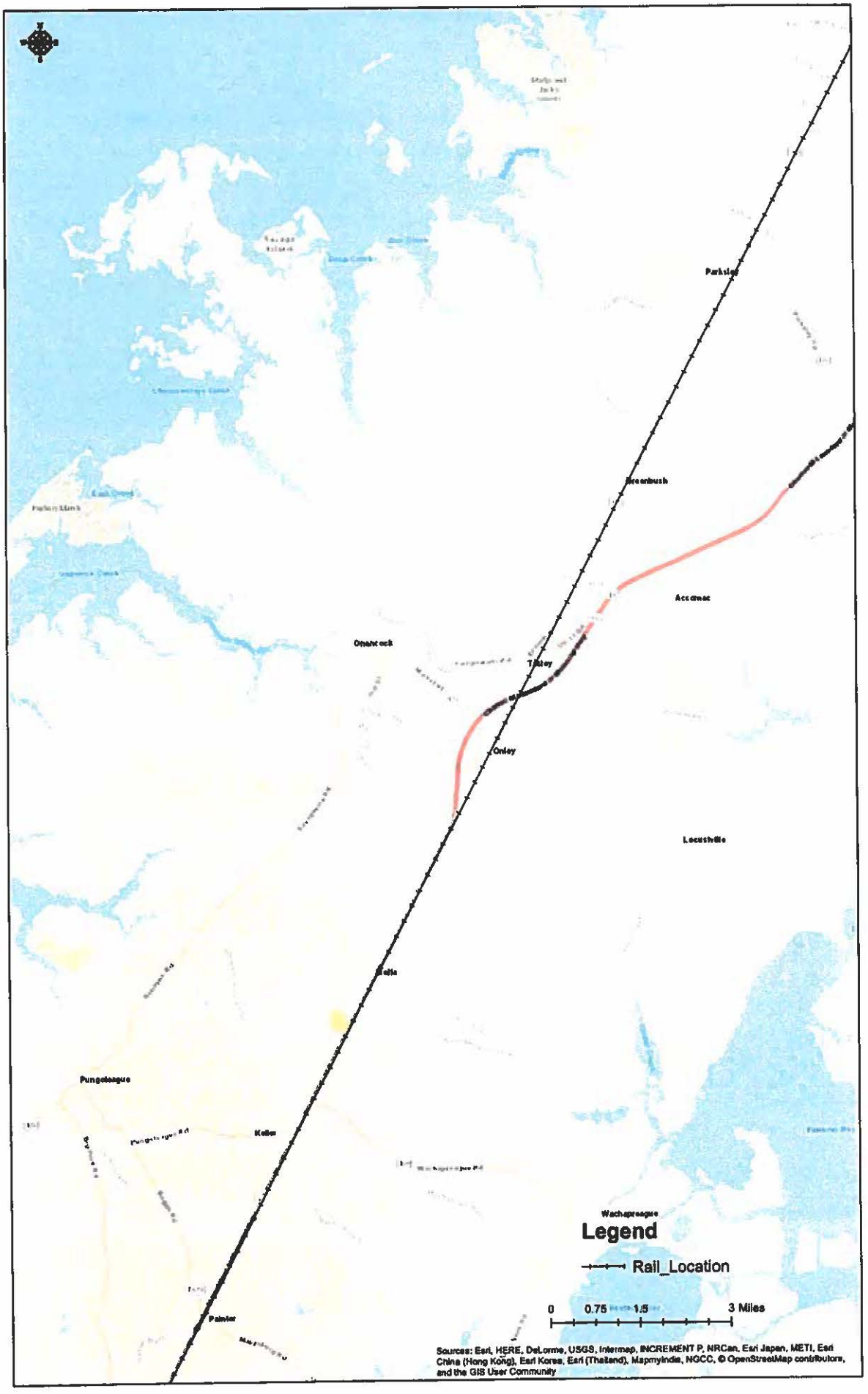
Lee A Fuerst
Environmental Scientist
U.S. Army Corps of Engineers
Norfolk District Regulatory Branch
803 Front Street, Norfolk, VA 23510
Office 757-201-7832 / Cell 757-536-5954

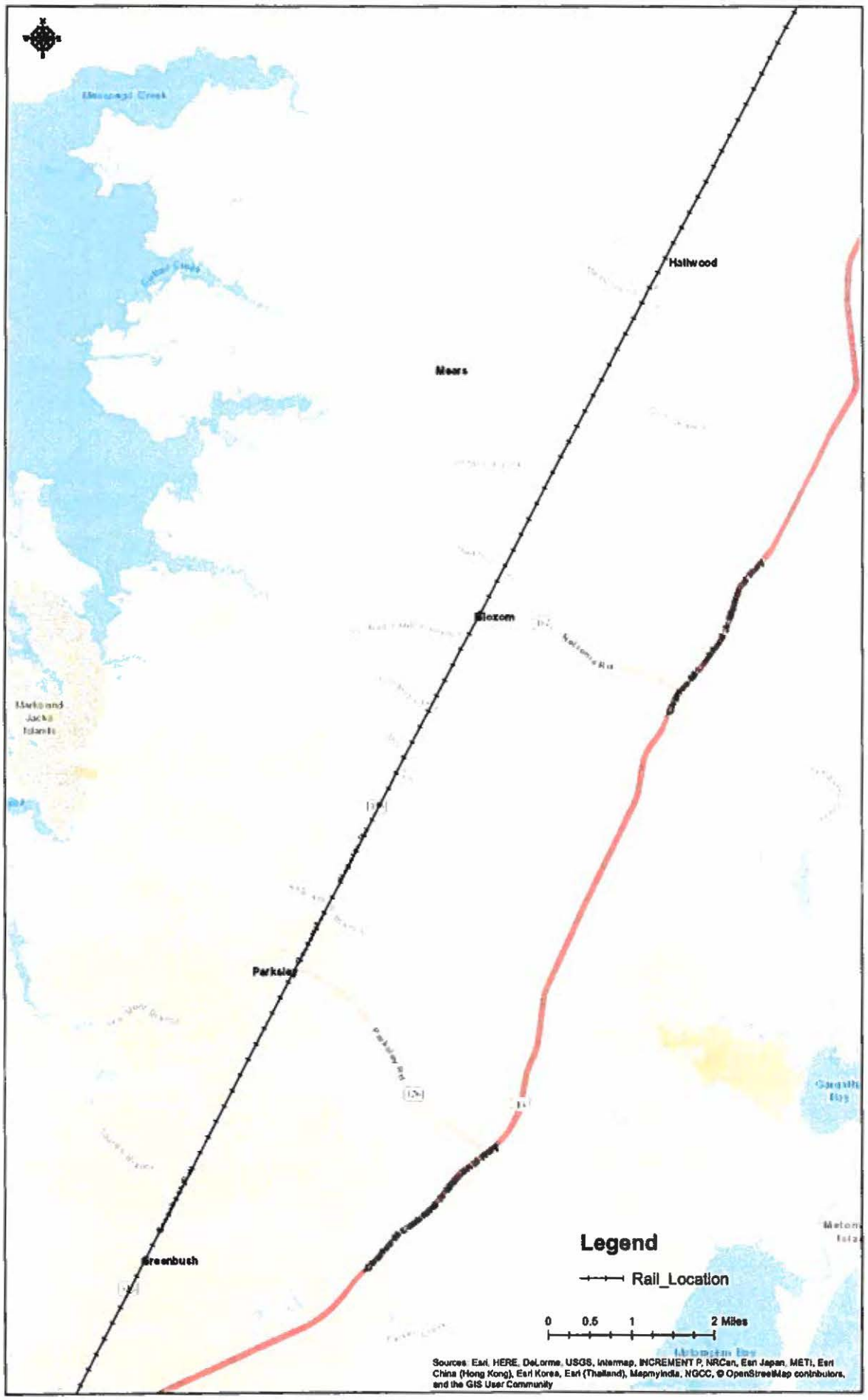
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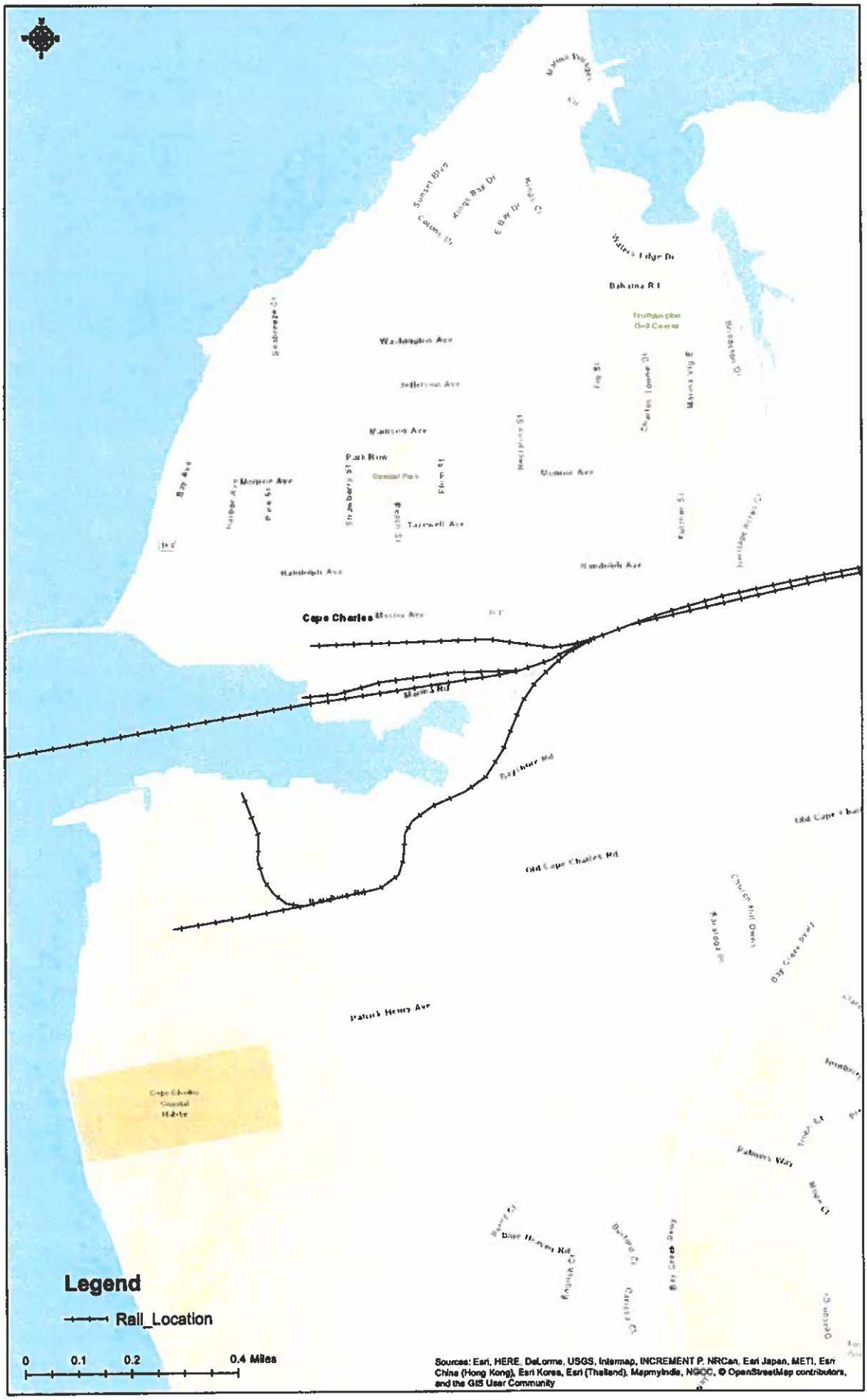
Exhibit 3


Pungoteague
Keller
Painter
Belle Haven
Eastville
Willis Wharf
Jamesville
Nassawadox
Machipongo
Legend
Rail_Location
0 0.75 1.5 3 Miles
Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community


Eastville
Charlton
Legend
Rail_Location
0 0.75 1.5 3 Miles
Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community


Parkton
Greenbush
Accomac
Onancock
Tasley
Onley
Locustville
Bells
Pungoteague
Keller
Painter
Wachapreague
Legend
Rail_Location
0
0.75
1.5
3 Miles
Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community


Hallwood
Mears
Blozom
Parksley
Greenbush
Legend
Rail_Location
0 0.5 1 2 Miles
Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), Mapmyindia, NGCC, © OpenStreetMap contributors, and the GIS User Community


Legend
Rail_Location
0
0.1
0.2
0.4 Miles
Cape Charles
Mason Ave
Main St Rd
Old Cape Charles Rd
Patrick Henry Ave
Bahama Rd
Washington Ave
Jefferson Ave
Madison Ave
Monroe Ave
Randolph Ave
Tazewell Ave
Park Row
Palmers Way
Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community