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ENTERED
Office of Proceedings
December 8, 2020
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December 8, 2020

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: Cassatt Management, LLC D/B/A Bay Coast Railroad
– Discontinuance of Service Exemption –
in Norfolk, VA
Surface Transportation Board Docket No. AB 1267 (Sub. No. 1X)

Dear Ms. Brown:

Enclosed for e-filing in STB Docket No. AB 1267 (Sub. No. 1X) is a verified notice of exemption pursuant to the provisions of 49 C.F.R. Part 1152 Subpart F. Cassatt Management, LLC D/B/A Bay Coast Railroad (“BCR”) has authorized Canonie Atlantic Co. (“CAC”) to file this notice of exemption on its behalf.

CAC will simultaneously file a petition for exemption in STB Docket No. AB 1266 (Sub. No. 1X) for a portion of the line over which BCR seeks a discontinuance.

The filing fee of \$4,600 was paid using Pay.gov. Please let me know if there are any questions regarding this filing.

Sincerely,



Justin J. Marks

Enclosures

FEE RECEIVED
December 8, 2020
SURFACE
TRANSPORTATION BOARD

FILED
December 8, 2020
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 1267 (Sub. No. 1X)

CASSATT MANAGEMENT, LLC D/B/A BAY COAST RAILROAD
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN NORFOLK, VA

NOTICE OF EXEMPT DISCONTINUANCE

(color copies included)

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
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Dated: December 8, 2020

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 1267 (Sub. No. 1X)

CASSATT MANAGEMENT, LLC D/B/A BAY COAST RAILROAD
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN NORFOLK, VA

NOTICE OF EXEMPT DISCONTINUANCE

Cassatt Management, LLC d/b/a Bay Coast Railroad (“BCR”) is filing this Notice of Exemption under the Board’s class exemption procedures at 49 C.F.R. Part 1152, Subpart F, seeking exemption authority for its discontinuance of its freight operating rights over the line of railroad comprised of the segments (a) between milepost 102.1 and milepost 100.7 (“Segment A”), and (b) between milepost 100.7 and milepost 100.3 (“Segment B”), both in Norfolk, VA (the “Subject Line”). The Subject Line traverses through United States Zip Code 23504. No stations exist on the line. There has been no local or overhead freight service on the Subject Line in over two years. A map of the Subject Line is attached as Exhibit A.

Segment A of the Subject Line is owned by the Canonic Atlantic Co. (“CAC”), and Segment B of the Subject Line is owned by Norfolk Southern Railway Company (“NSR”). Simultaneously with BCR’s filing of this discontinuance notice of exemption, CAC will seek STB authority to abandon Segment A.¹ BCR understands that CAC intends to sell Segment A to the Virginia Department of Rail and Public Transportation (“DRPT”) in support of its state-

¹ CAC is acting on behalf of BCR in filing its discontinuance request. *See Petition for Exemption, Cassatt Management LLC d/b/a Bay Coast Railroad Discontinuance of Service Exemption Hallwood to Cape Charles, VA* STB Docket No. AB-1267 *et al.*, at 3 n.2 (filed July 15, 2019).

supported intercity passenger rail program. NSR will retain its common carrier obligations as the owner of Segment B.

This Notice of Exemption is being filed pursuant to the requirements of 49 C.F.R. part 1152 subpart F regarding exemptions for out of service rail lines. In accordance with such requirements, BCR hereby provides the following information in support of its request for a discontinuance exemption:

- 1) The exact name of the Applicant is Cassatt Management, LLC d/b/a Bay Coast Railroad.
- 2) BCR is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105. BCR has been a common carrier since approximately 2006.²
- 3) The relief sought by BCR is an exemption for the discontinuance of the line of railroad comprised of the segments (a) between milepost 102.1 and milepost 100.7, and (b) between milepost 100.7 and milepost 100.3 in Norfolk, VA. No stations exist on the Subject Line.
- 4) A Map of the Subject Line is attached hereto as Exhibit A.
- 5) The representative of BCR to whom correspondence should be sent is: Eric M. Hocky, Esq., Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8523; or Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004; (202) 772-0916.
- 6) The Subject Line traverses through United States Postal Service ZIP Code 23504.

² *Cassatt Management, LLC d/b/a Bay Coast Railroad Lease and Operation Exemption*, STB Finance Docket No. 34814 (served Feb. 6, 2006).

- 7) The notice of exemption presented herein pertains to BCR's proposal to discontinue common carrier freight operations over the Subject Line and not abandonment authority. Accordingly, trail use / rail banking and other public use conditions are not appropriate.³
- 8) BCR proposes to consummate the discontinuance on or after January 27, 2020.
- 9) BCR certifies that:
 - a) No local or overhead traffic has moved over the Subject Line in over two years.
 - b) No formal complaint by a user of rail service on the Subject Line, or a state or local government entity acting on behalf of such user, regarding cessation of service over the Subject Line either is pending with the Board or any U.S. District Court, or has been decided in favor of the complainant within the two year period.
- 10) Although no employees of BCR will be affected by the proposed discontinuance, BCR recognizes that its discontinuance of the Subject Line will be made subject to the standard employee protective conditions as set forth in *Oregon Short Line Railroad Co .- Abandonment -- Goshen*, 360 I.C.C. 91 (1979).
- 11) Because BCR seeks only discontinuance and not abandonment authority (and because the Subject Line is owned by CAC and NSR and not by BCR), BCR will not be disposing of or altering the Subject Line or any structures that are 50 years old or older. An environmental and historic report is not required for a discontinuance proceeding.⁴

³ See *Norfolk Southern Railway Company – Discontinuance of Service Exemption – In St. Joseph and LaPorte Counties, IN*, STB Docket No. AB-290 (Sub-No. 307X) (served June 18, 2008); *Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA*, STB Docket No. AB-721X (served November 16, 2007); *Columbus and Greenville Railway Company – Discontinuance of Service Exemption – In Greenwood, MS*, STB Docket No. AB-297 (Sub-No. 103X) (served July 2, 2007).

⁴ See *supra* note 2 and 49 C.F.R. §1105.6(c) and §1105.8(b).

12) BCR certifies that it has complied with the legal (newspaper) notice requirements of 49

C.F.R. §1105.11. Notice of the proposed discontinuance was published in the *Virginia Pilot* on October 30, 2020. A copy of the form of notice and a copy of the proof of publication are attached as Exhibit B.

13) BCR certifies that it has complied with the notice requirements of 49 C.F.R. §1152.50(d)(1).

A copy of the notice dated November 9, 2020 that was sent to the required governmental agencies is attached hereto as Exhibit C.

For the reasons set forth above, the Board should find that BCR's proposed discontinuance of service qualifies for the use of the Board's class exemption procedures at 49 C.F.R. part 1152 subpart F, and it should issue the appropriate notice.

Respectfully submitted,



Eric M. Hocky
Clark Hill PLC
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Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

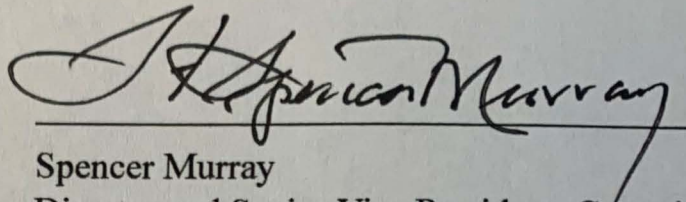
Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Dated: December 8, 2020

VERIFICATION

I hereby verify on behalf of Cassatt Management, LLC d/b/a Bay Coast Railroad ("BCR"), under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification as BCR's delegate.

Executed on December 7, 2020.

A handwritten signature in black ink, reading "Spencer Murray", is written over a horizontal line.

Spencer Murray
Director and Senior Vice President, Canonic
Atlantic Co., acting on behalf of Cassatt
Management, LLC d/b/a Bay Coast Railroad

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Notice of Exemption was served on the persons shown on the attached list by first class mail, postage prepaid.

United States Department of the Army
Military Surface Deployment and Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National
Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-1111

U.S. Department of the Interior -
National Park Service
RTCA Program
1849 C Street, NW
Washington, DC 20240

Mr. Jeremy Latimer
Director of Rail Programs
Virginia Department of Rail and Public
Transportation
600 East Main Street, Suite 2102
Richmond, VA 23219
drptpr@drpt.virginia.gov



Justin J. Marks

Dated: December 8, 2020

NOTICE OF EXEMPTION

EXHIBIT A

MAP

St. Julian Abandonment and Discontinuance



MP 102.1
at St. Julian

CAC line to be abandoned by CAC and
discontinued by BCR

MP 100.7 at
North Junction

NS line to be
discontinued by
BCR

MP 100.3

NOTICE OF EXEMPTION

EXHIBIT B

NEWSPAPER NOTICE



Sold To:
CLARK HILL PLC - CU80098175
1001 Pennsylvania Ave NW
Washington, DC 20004-2505

Bill To:
CLARK HILL PLC - CU80098175
1001 Pennsylvania Ave NW
Washington, DC 20004-2505

Affidavit of Publication

State of Illinois
County of Cook

Order Number: 6803258
Purchase Order: November 23, 2020

This day, Charlie Welenc appeared before me and, after being duly sworn, made oath that:

- 1) He/she is affidavit clerk of The Virginian Pilot, a newspaper published by Virginian-Pilot Media Companies, LLC in the city of Norfolk, Portsmouth, Chesapeake, Suffolk and Virginia Beach and the Commonwealth of Virginia and in the state of North Carolina.
- 2) That the advertisement hereto annexed has been published in said newspaper on the dates stated below
- 3) The advertisement has been produced on the websites classifieds.pilotonline.com and <https://www.publicnoticevirginia.com>

Published on: **Oct 30, 2020.**

A handwritten signature in black ink, appearing to read "Charlie Welenc", written over a horizontal line.

Charlie Welenc

Subscribed and sworn to before me in my city and state on the day and year aforesaid this 2 day of
November, 2020

My commission expires November 23, 2020

A handwritten signature in black ink, appearing to read "Brendan Kolasa", written over a horizontal line.

Notary Signature



Notary Stamp

**NOTICE OF INTENT TO
DISCONTINUE RAIL SERVICE**

Cassatt Management, LLC d/b/a Bay Coast Railroad gives notice that on or about November 23, 2020, it intends to file with the Surface Transportation Board, Washington, DC, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the discontinuance of service on a 1.8 mile line of railroad comprised of the two segments (a) between milepost 102.1 and milepost 100.7, and (b) between milepost 100.7 and milepost 100.3 in Norfolk, VA which traverses through United States Postal Service ZIP Code 23504. The proceeding will be docketed as No. AB 1267 (Sub-No. 1X).

Because the proposed action entails the discontinuance of service over the Line, rather than abandonment, no environmental or historic documentation is required under 49 CFR 1105.6 and 1105.8.

Appropriate offers of financial assistance to subsidize rail service can be filed with the STB. Trail use / rail banking and public use condition requests are not appropriate in discontinuance proceedings. Any pleading that raises matters other than environmental issues (such as appropriate offers of financial assistance) must be filed directly with the Board's Office of Proceedings either via e-filing or addressed to 395 E. Street S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. 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) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W. Suite 1300 South, Washington, DC 20004; jmarks@clarkhill.com.

10/30/2020 6803258

NOTICE OF EXEMPTION

EXHIBIT C

10-DAY NOTICE LETTERS

CLARK HILL

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Email: jmarks@ClarkHill.com

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

clarkhill.com

November 9, 2020

To: All Agencies on the Attached Service List

Re: STB Docket No. AB- 1267 (Sub-No. 1X)
Cassatt Management, LLC d/b/a Bay Coast Railroad
-Discontinuance of Service Exemption-
In Norfolk, VA

Dear Sir or Madam:

This letter is being sent to you pursuant to the requirements of 49 C.F.R. §1152.50(d), to advise you that Cassatt Management, LLC d/b/a Bay Coast Railroad (“BCR”) plans to seek authorization from the Surface Transportation Board (“STB”) to discontinue service over the line of railroad described below, by filing a verified notice of exemption pursuant to the provisions of 49 CFR Part 1152 Subpart F. BCR expects to file the notice of exemption with the STB on or about November 26, 2020 under STB Docket No. AB 1267 (Sub-No. 1X).¹

BCR will invoke the STB’s exemption procedures to discontinue service over the line of railroad comprised of the segments (a) between milepost 102.1 and milepost 100.7, and (b) between milepost 100.7 and milepost 100.3 in Norfolk, VA (the “Line”). The Line traverses through United States Zip Code 23504. A map of the Line is enclosed with this letter.

Because this proceeding would involve the discontinuance of common carrier service and not abandonment of the Line, BCR understands that the question of whether the Line contains federally granted rights-of-way is inapplicable. Any pertinent documentation in the railroad’s possession will be made available promptly to those requesting it.

Under STB regulations a party seeking authority to discontinue operations is not required to prepare an environmental and historic report.

No local service has been provided on the Line for more than two years. BCR does not own the

¹ Simultaneously with BCR’s filing for discontinuance, in AB 1267 (Sub-No. 1X), Canonic Atlantic Co. will seek STB authority to abandon the segment of the rail line that is subject of BCR’s discontinuance petition between Milepost 100.7 at North Junction and Milepost 102.1 at St. Julian in Norfolk, VA

November 9, 2020

Page 2

track, and there are no current plans to salvage the track along the Line as a result of the discontinuance.

Sincerely,



Justin J. Marks

*Counsel to Cassatt Management, LLC d/b/a Bay
Coast Railroad*

Enclosure

CLARK HILL

St. Julian Abandonment and Discontinuance



MP 102.1
at St. Julian

CAC line to be abandoned by CAC and
discontinued by BCR

MP 100.7 at
North Junction

NS line to be
discontinued by
BCR

MP 100.3

U.S. Department of the Interior -
National Park Service
RTCA Program
1849 C Street, NW
Washington, DC 20240

United States Department of the Army
Military Surface Deployment and Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National
Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-1111

Virginia State Corporation Commission
P.O. Box 1197
Richmond, Virginia 23218

Mr. Jeremy Latimer
Director of Rail Programs
Virginia Department of Rail and Public
Transportation
600 East Main Street, Suite 2102
Richmond, VA 23219
drptpr@drpt.virginia.gov