

SERVICE DATE – SEPTEMBER 13, 2019

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 1266X
Canonie Atlantic Co. – Abandonment Exemption –
Hallwood to Cape Charles, Va.

Docket No. AB 1267X
Cassatt Management LLC d/b/a Bay Coast Railroad – Discontinuance of Service
Exemption – Hallwood to Cape Charles, Va.

Docket No. AB 1276X
Eastern Shore Railroad, Inc. – Discontinuance of Service Exemption – Hallwood to Cape
Charles, Va.

BACKGROUND

In this proceeding, Canonie Atlantic Co. (CAC), Cassatt Management LLC d/b/a Bay Coast Railroad (BCR), and Eastern Shore Railroad, Inc. (ESRR) (referred to collectively as Applicants) filed a petition of exemption under 49 U.S.C. § 10502 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment by CAC and the discontinuance of service by BCR and ESRR of a line of railroad in Accomack and Northampton Counties, Virginia that extends 49.1 miles from MP 45.7 at Hallwood to the end of the line at MP 94.8 at Cape Charles (the Line) and the car float operation from Cape Charles to Little Creek, Virginia. A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, CAC will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

Applicants submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. Applicants served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The Environmental and Historic Reports are available for viewing on the Board's
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The Line was originally part of a Pennsylvania Railroad route between Wilmington, Delaware and Cape Charles that connected by car float to Little Creek. Connections were made at Little Creek with predecessors to today's Norfolk Southern Railroad and CSX Transportation. The car float operation has been out of service for 10 years because it is uneconomical to repair, with traffic rerouted north to Wilmington and then to points south via other routes.

The right-of-way is approximately 40 feet wide and is generally flat and straight. The Line parallels U.S. Route 13. Much of the adjoining land is rural and undeveloped. Applicants state that the Line does not contain any federally granted rights-of-way.

Diversion of Traffic

According to Applicants, there are no active customers on the Line and no service is currently being provided over the Line. BCR terminated service on April 30, 2018. The only customer at Cape Charles, Bay Shore Concrete, is out of business. Four other shippers, Crop Production Services, Helena Chemical, Sharp Energy, and Pep UP Propane, have made minimal use of the Line. The two propane dealers are able to obtain rail service from Delmarva Central Railroad at facilities north of Hallwood. The two remaining customers generated only 33 carloads of traffic for the period between April 1, 2017 and March 31, 2018. Applicants are not aware of any plans for industrial development of properties in the vicinity of the track. Applicants believe that the potential for attracting rail served industry is low and see little prospect for developing freight business in the foreseeable future. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. If abandonment authority is granted, operations and maintenance of the Line would cease.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Applicants have indicated that only the removal of rail, track material, and cross ties is contemplated, and no clearing, grading, or alteration of the topography would be involved.

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website at www.stb.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 1266X.

The National Geodetic Survey (NGS) has indicated that 82 geodetic survey markers are present in the right-of-way and could be disturbed by the proposed abandonment. Accordingly, OEA recommends a condition requiring CAC to notify NGS at least 90 days prior to beginning salvage activities to allow time for the geodetic survey markers to be preserved.

Applicants do not foresee any inconsistency with regional and/or local land use plans. Applicants state that no known hazardous waste sites or sites where there have been known hazardous material spills are located in or adjacent to the right-of-way. The Natural Resources Conservation Service in Richmond has indicated that the Line is located on an urban right-of-way, and there would be no effect on prime farmland as a result of the proposed abandonment.

Applicants state that no in-stream salvage operations would be required in connection with the proposed abandonment and no action known to be inconsistent with federal, state, and/or local water quality standards is contemplated. The U.S. Army Corps of Engineers, Norfolk District (USACE) noted that there are areas along the corridor that appear to include jurisdictional wetlands and/or waters of the U.S. Based on its review, USACE indicated that the proposed abandonment would likely impact waters and/or wetlands regulated under Section 404 of the Clean Water Act, and permits may be required prior to conducting salvage activities. USACE also noted that the Line is adjacent to the Norfolk District Dredged Material Placement Area at the Cape Charles City Harbor. USACE recommends coordination to determine whether Section 408 approval is needed. Accordingly, OEA recommended a condition requiring CAC to consult with USACE prior to conducting any salvage activities to address USACE's concerns.

Applicants indicate that no 100-year flood plains would be affected by the proposed abandonment. The Line is located in a coastal zone. The Virginia Department of Environmental Quality - Office of Environmental Impact Review (DEQ-OEIR) coordinates Virginia's review of Federal Consistency Certification (FCC) documents prepared pursuant to the Coastal Zone Management Act (CZMA) which applies to all federal activities that are reasonably likely to affect any land or water use or natural resources of Virginia's designated coastal resources management area. Federal activities must be consistent with the enforceable policies of the Virginia Coastal Zone Management Program. DEQ-OEIR conducted a sufficiency review of Applicants' petition and did not find sufficient information to support an FCC. DEQ-OEIR has requested additional FCC documentation from Applicants with the necessary data and information to allow it to conduct a coordinated review and provide its consistency determination. Accordingly, OEA recommends a condition requiring CAC to consult with DEQ-OEIR prior to conducting any salvage activities to address DEQ-OEIR's concerns.

No wildlife sanctuaries, refuges, national or state parks, or forests would be adversely affected by the proposed abandonment. Based on information that Applicants included in their report, OEA obtained an official list of threatened or endangered species that may be present in the project area using the U.S. Fish and Wildlife Service (USFWS) online Information for

Planning and Consultation (IPaC) tool.² The northern long-eared bat was identified as a federally threatened species potentially present in the project area. According to the IPaC report, there are no designated critical habitats within the project area. OEA has determined that this species would not be adversely affected by salvage activities based on the information provided because CAC's salvage activities are of limited scope. Applicants have indicated that only the removal of rail, track material, and cross ties is contemplated and that no clearing, grading, or alteration of the topography would be involved. Applicants do not contemplate new access roads or tree removal. The proposed abandonment would have no adverse effect on areas designated as critical habitat. OEA is providing a copy of this EA to the USFWS Virginia Ecological Services Field Office for review and comment.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts.

HISTORIC REVIEW

Applicants submitted a Historic Report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Virginia Department of Historic Resources (Virginia State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c).³ Applicants indicate that there is only one small building on the Line 50 years old or older estimated to have been constructed around 1915 which they do not believe to be eligible for listing in the National Register of Historic Places (NRHP). Applicants do not believe that there are archeological resources or any other previously unknown historic properties on the Line. Applicants are unaware of any prior subsurface ground disturbance or fill or environmental conditions that might affect the archeological recovery of resources.

² U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <http://ecos.fws.gov/ipac> (last visited September 4, 2019).

³ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act (NHPA). Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board's website at [https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation of 106 in Rail Abandonments.pdf](https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation%20of%20106%20in%20Rail%20Abandonments.pdf).

The SHPO has not yet commented and, therefore, OEA has not been able to consider the SHPO's opinion in determining the impact of the proposed abandonment on historic resources. Accordingly, we are recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect or APE) eligible for listing or listed in the National Register until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's tribal directory assessment tool to identify federally-recognized tribes that may have ancestral connections to the project area.⁴ The database identified the Delaware Nation of Oklahoma, Delaware Tribe of Indians, and the Pamunkey Indian Tribe as federally-recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the APE of the proposed abandonment. OEA is sending a copy of this EA to these tribes for review and comment.

CONDITIONS

OEA recommends that the following environmental conditions be imposed on any decision granting abandonment authority:

1. Canonie Atlantic Co. shall notify the National Geodetic Survey at NGS.Infocenter@noaa.gov at least 90 days prior to beginning salvage activities to allow time for the geodetic survey markers in the right-of-way to be preserved.
2. Prior to commencement of any salvage activities, Canonie Atlantic Co. shall consult with the U.S. Army Corps of Engineers, Norfolk District (USACE) regarding potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of USACE.
3. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*) and the Board's environmental regulations at 49 C.F.R. § 1105.9, Canonie Atlantic Co. (CAC) shall consult with the Virginia Department of Environmental Quality - Office of Environmental Impact Review and obtain state coastal management consistency certification. CAC may not file its consummation notice or initiate any salvage activities

⁴ U.S. Department of Housing and Urban Development, <http://egis.hud.gov/tdat> (last visited September 4, 2019).

related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Office of Environmental Analysis and the Board has removed this condition.

4. Canonie Atlantic Co. (CAC) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. CAC shall report back to the Office of Environmental Analysis regarding any consultations with the Virginia Department of Historic Resources and the public. CAC may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the Line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 1266X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Kenneth Blodgett by phone at (202) 245-0305, fax at (202) 245-0454, or e-mail at Kenneth.Blodgett@stb.gov.

Date made available to the public: September 13, 2019.

Comment due date: October 11, 2019.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment