

## **Section 4(f) and 6(f) Evaluations**

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## H.1 Section 4(f)

### H.1.1 Regulatory Setting

Section 4(f) of the U.S. Department of Transportation (DOT) Act (49 U.S.C. § 303(c)) (Section 4(f)) protects recreation areas, wildlife and waterfowl refuges, and historic properties or archaeological sites, whether publicly or privately owned, on or eligible for listing on the National Register of Historic Places (NRHP). The Federal Railroad Administration's (FRA) Procedures for Considering Environmental Impacts (64 *Federal Register* [FR] 25445) details FRA processes and protocols for analyzing the potential use of Section 4(f) resources. In addition, FRA uses the Section 4(f) implementing regulations for highways and transit projects (23 C.F.R. Part 774) as additional guidance when applying the requirements established in Section 4(f).<sup>1</sup>

Section 4(f) does not apply to the Surface Transportation Board (Board) actions or U.S. Army Corps of Engineers (Corps) actions; however, because of the potential for FRA grant funding for the proposed rail line in the future, this environmental assessment (EA) includes a 4(f) analysis. Based on the provisions of Section 4(f), FRA would not be permitted to provide funding for any Board-authorized alternative that would involve the use of a Section 4(f) property unless the impacts would be *de minimis* or there were no prudent and feasible alternatives that avoided Section 4(f) properties. FRA intends to use this EA to fulfill its National Environmental Policy Act (NEPA) responsibilities related to this proposed rail line.

Section 4(f) of the Department of Transportation Act of 1966 and implementing regulations (23 C.F.R. Part 774), declares that "it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites."

Section 4(f) mandates that the Secretary of Transportation will not approve any transportation project requiring the use of publicly owned parks, recreation areas, wildlife and waterfowl refuges, or significant historic sites, regardless of ownership, unless the following conditions apply.

- There is no prudent and feasible alternative to using that land.
- The program or project includes all possible planning to minimize harm to the park, recreation area, wildlife or waterfowl refuge, or historic site resulting from that use.

To be protected under Section 4(f), public parks, recreation facilities, and wildlife or waterfowl refuges must be considered *significant* (U.S. Department of Transportation 2012). Pursuant to 23 C.F.R. § 771.135(c), Section 4(f) resources are presumed to be significant unless the official having jurisdiction over the site concludes that the entire site is not significant. Historic sites qualifying for Section 4(f) protection must be officially listed on or eligible for inclusion on the National Register of Historic Places (NRHP), or contribute to a historic district that is eligible for or listed on the NRHP.

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<sup>1</sup> On October 29, 2018, FRA, the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA) published a Final Rule, which, in part, added FRA to 23 C.F.R. Part 774. The Final Rule is effective on November 28, 2018. For projects initiated before that date, FRA will continue to rely on 23 C.F.R. Part 774 as guidance.

Section 4(f) use, as defined in 23 C.F.R § 774.17, occurs when any of the following takes place:

- Land is permanently incorporated into a transportation facility.
- There is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose as determined by the criteria in 23 C.F.R § 774.13(d).

In addition, a constructive use, as determined by the criteria in 23 C.F.R § 774.15, could occur when no land is acquired from a Section 4(f) property but the proximity of the project results in indirect impacts that would *substantially impair* the current use of the property, such as visual, noise, or vibration impacts or impairment of property access.

Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2003: A Legacy for Users (SAFETEA-LU) amended existing Section 4(f) legislation to simplify the processing and approval of projects that have only *de minimis* impacts on resources protected by Section 4(f). A *de minimis* impact determination refers to a finding that a project would have little or no influence on the activities, features, or attributes of the Section 4(f) resource. Pursuant to 23 C.F.R § 774.3(b), *de minimis* impact determinations are made only by the Administration, which by regulatory definition includes FRA.

A transportation project's use of a park, recreation area, or wildlife and waterfowl refuge that qualifies for Section 4(f) protection may be determined to be *de minimis* if the following criteria are met.

- The transportation use of the Section 4(f) resource, together with any avoidance, minimization, and mitigation or enhancement measures incorporated into the project, does not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f).
- The official(s) with jurisdiction over the property are informed of the lead agency's intent to make the *de minimis* finding based on their written concurrence that the project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f).
- The public has been afforded an opportunity to review and comment on the impacts of the project on the protected activities, features, and attributes of the Section 4(f) resource.

A finding of *de minimis* impact on a historic site may be made when any of the following events occur.

- The process required by Section 106 of the National Historic Preservation Act (NHPA) of 1966 results in the determination of *no adverse effect* or no historic properties affected with the concurrence of the State Historic Preservation Office (SHPO) if participating in the Section 106 consultation.
- The SHPO is informed of the lead agency's intent to make a *de minimis* impact finding based on their written concurrence in the Section 106 determination.
- The lead agency has considered the view of any consulting parties participating in the Section 106 consultation.

## H.1.2 Proposed Action

### H.1.2.1 Purpose and Need

The Applicant has stated that the purpose of the proposed project is to locate, build, own, and operate an industrial rail line that will connect an existing Class I rail line with the Camp Hall Commerce Park. The Applicant has further stated that the need for the proposed rail line derives from development in the Camp Hall Commerce Park, which has increased the demand for rail service to connect the park with an

existing Class I rail network, in a manner that is logistically feasible, to better serve the needs of future park tenants and industry for transportation, distribution, and logistics.

### **H.1.2.2 Proposed Action**

The proposed rail line would extend 28.01 miles to connect the CSX Transportation (CSXT) Charleston Subdivision, also known as the A-Line (CSXT A-Line), via the Cross Subdivision at the Santee Cooper Cross Generating Station (Cross Generating Station) in Berkeley County, South Carolina, to the existing Camp Hall Commerce Park. The entire rail corridor would be within Berkeley County, South Carolina. The proposed route would run south-southwest from the Cross Generating Station, cross the Diversion Canal between Lake Marion and Lake Moultrie (via a proposed bridge), through the unincorporated community of Cross, and south through pine plantations into Camp Hall Commerce Park. The proposed rail line would have two termination points within the Camp Hall Commerce Park—one in the Volvo Cars North America (Volvo Cars) facility and one adjacent to Volvo Cars Drive and approximately 10,000 feet south of the crossing of Fish Road.

### **H.1.3 Section 4(f) Properties**

Three recreation resources have been identified within the vicinity of the proposed rail line that may be subject to Section 4(f). In addition, three historic properties eligible for protection under Section 4(f) were identified within the area of potential effects.<sup>2</sup> Figure 1 shows the location of recreational and cultural resources in relation to the proposed rail line.

#### **H.1.3.1 Recreation Resources**

##### **Palmetto Trail, Lake Moultrie Passage**

The Palmetto Trail is a multi-use trail that traverses South Carolina from the Blue Ridge Mountains to the Intracoastal Waterway near Awendaw. The trail connects state and county parks, national forests, nature preserves, wildlife management areas, Revolutionary War battlefields, Native American paths, urban to rural, swamps to mountains, maritime to sandhills to piedmont, and much more. There are an existing 350 miles of trail consisting of 26 passages of 1.3 to 47 miles in length. The trail is closed to motorized vehicles, but open to hiking, backpacking, mountain biking, horseback riding, and camping depending on the specific passage. The Palmetto Trail is one of 16 cross-state trails in the U.S. and is a designated a Millennium Legacy Trail (Palmetto Conservation Foundation 2018a).

The Palmetto Trail, Lake Moultrie Passage (Lake Moultrie Passage) is 26.9 miles long, extending from the southern trail head at Swamp Fox near Moncks Corner to the northwestern trailhead on Eadie Lane near Eutaw Springs. This passage is open to hiking and mountain biking. Within the project vicinity, the western-most portion of the segment is approximately 4 miles long, extending south from the bridge crossing near Springwood Road, crossing the CSXT Cross Subdivision, and continuing southwest through the forest until it meets Viper Road. At Viper Road the trail turns northwest traveling along the roadway to South Carolina Highway 45 (SC 45) where it turns south to the trailhead at Eadie Lane. The two trailheads are the primary access points for trail users.

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<sup>2</sup> The area of potential effects for this project is defined as the project footprint plus a 100-foot-wide buffer zone on either side of the footprint. The footprint itself includes multiple aspects of the project that may or may not be completely in the right-of-way. The project footprint is a compilation of the right-of-way, disturbance footprint, bridge, rail yard, sidings, and the rail alignment.

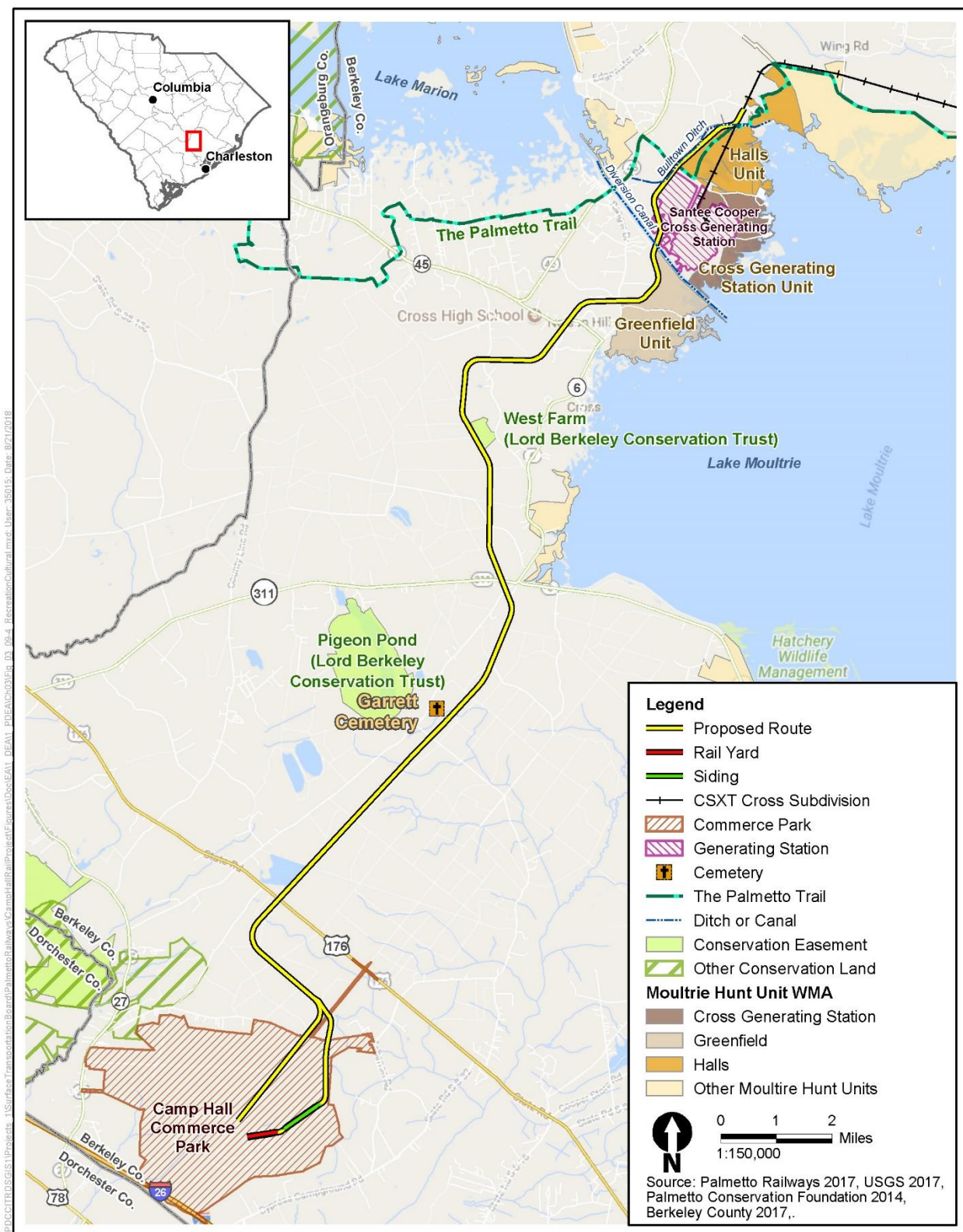


Figure 1. Recreation and Cultural Resources

The Lake Moultrie Passage was developed by the South Carolina Public Service Authority (Santee Cooper), a State of South Carolina-owned utility. The majority of this segment travels on Santee Cooper's service roads on the levees around the western and northern shores of Lake Moultrie (Palmetto Conservation Foundation 2018b), which are owned and maintained by Santee Cooper. In the project vicinity, the trail travels through portions of the Moultrie Hunt Unit Wildlife Management Areas (WMA), undeveloped forested lands encompassing the Cross Generating Station north of the Diversion Canal, also owned by Santee Cooper. Although the trail's route is primarily located along Santee Cooper service roads on levees that serve purposes other than for recreation, the Lake Moultrie Passage was developed for public use as part of the Palmetto Trail. Thus, FRA considers the Lake Moultrie Passage a significant recreational trail that qualifies it as a Section 4(f) property.

## Moultrie Hunt Unit Wildlife Management Areas

The Moultrie Hunt Unit is property owned by Santee Cooper that is generally open to the public for recreational activities. The South Carolina Department of Natural Resources (SCDNR) leases 9,480 acres of the Moultrie Hunt Unit from Santee Cooper for public hunting. Other recreation activities available include biking, camping, hiking, fishing and wildlife viewing, primarily associated with the Palmetto Trail. The Moultrie Hunt Unit comprises six WMAs along the shores of Lakes Marion and Moultrie, as shown on Figure 1. Two WMAs in the unit, the Hall and Greenfield WMAs are located north and south of the Cross Generating Station. The Hall WMA is open for archery-only deer hunting except for the area between Viper Road and the Diversion Canal around the generating station, which is open for youth-only draw hunts. The Greenfield WMA is open to still-gun hunting for deer (South Carolina Department of Natural Resources 2018).

The lease agreement between SCDNR and Santee Cooper is an at-will agreement that allows limited public access for hunting compatible with the primary use of the land (generation of hydroelectric power by Santee Cooper). The land is not specifically managed by SCDNR or Santee Cooper for recreational purposes, including public hunting, nor is it managed as a waterfowl or wildlife refuge. Hunting is permitted to manage local deer populations as long as it remains compatible with the primary purpose of generating hydroelectric power. Finally, the proposed rail line would be located near to, but would not cross the WMA. For these reasons, FRA's initial determination is that the WMAs are not significant for the purposes of public recreation or waterfowl or wildlife refuge, and they do not qualify as Section 4(f) properties. In addition, the proposed rail line would not affect the WMAs, so even if FRA determined that they were 4(f) properties, the proposed rail line would not use them (McWhorter pers. comm.). The Moultrie Hunt Unit WMA is not discussed further in this evaluation.

## Diversion Canal (Recreation)

As shown on Figure 1, the Diversion Canal connects Lake Marion on the west and Lake Moultrie on the east. Together the two lakes form the Santee Cooper Reservoir, created by the Santee Cooper Hydroelectric Project. The lakes are popular for boating, freshwater fishing, and other water-related activities. The Diversion Canal is also a contributing element to a historic district as described in Section H.1.3.2, *Cultural Resources*. This discussion addresses the recreational use of the canal. The Diversion Canal is a navigable water that would be spanned by the proposed rail line and is used by recreational boats as well as occasional commercial traffic. However, the number or types of boats that use the canal are not known (Palmetto Railways 2018). During construction of the proposed bridge over the canal, boat traffic would continue, however there could be delays while bents are constructed and/or girders are installed. Advance notification of any interference to navigation during construction would be

required by the U.S. Coast Guard (Coast Guard) permit authorizing construction of the bridge. This information would be made available to boaters via a Coast Guard Local Notice to Mariners and Coast Guard Marine Safety Information Broadcasts. If delays occur, they would be temporary.

Although recreational use of the canal occurs, FRA's preliminary determination is that such use is incidental and secondary to the primary purpose of the canal, which is Santee Cooper's generation of hydroelectric power. For these reasons, FRA does not consider the canal significant for the purpose of public recreation.

### **H.1.3.2 Cultural Resources**

Section 4(f) applies to historic sites, defined in 23 C.F.R. § 774.17 to include any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the NRHP. Historic sites include properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization. For the purpose of Section 4(f) evaluations, historic sites are identified during the process required under Section 106 of the NHPA and its implementing regulations. The cultural resources relevant to the proposed rail line are shown on Figure 1.

### **Diversion Canal**

The Diversion Canal was constructed in 1942. It extends approximately 5 miles, connecting Lake Marion to Lake Moultrie, which were both created by the implementation of the Santee Cooper Hydroelectric Project. Water from the Santee River impounded by the Santee Dam exits Lake Marion through the Diversion Canal and into Lake Moultrie. Currently, one bridge carrying SC 45 crosses the Diversion Canal (ICF 2018).

The Diversion Canal has been determined to be a contributing element to a NRHP-eligible historic district with SHPO concurrence (Appendix C, *Interagency and Tribal Correspondence*). The Diversion Canal contributes to a NRHP-eligible district associated with the development of a 1930s hydroelectric project, the Santee Cooper Hydroelectric Project. It was not identified as individually NRHP-eligible. Because it lacks distinction to be individually eligible, the Diversion Canal's primary importance is the physical and historical role it plays in the functioning of the hydroelectric project overall (ICF 2018).

The Diversion Canal, has been determined NRHP-eligible as contributor to the NRHP-eligible historic district associated with the Santee Cooper Hydroelectric Project. Therefore, the Diversion Canal qualifies as a Section 4(f) property.

### **Bulltown Ditch**

The Bulltown Ditch may be a component of either a feeder or overflow system of the Santee Canal system that is no longer functioning but is a recognizable landscape feature associated with the system and has undergone little alteration in appearance since its original construction. The ditch is currently crossed by the CSXT line and a transmission line (Palmetto Railways 2017).

The Bulltown Ditch has been determined NRHP-eligible under Criterion A for its association with the Santee Canal transportation system, which was designed to facilitate trade; and under Criterion C for its engineering as part of the Santee Canal system (Palmetto Railways 2017). Therefore, the Bulltown Ditch qualifies as a Section 4(f) property.

## **Garrett Cemetery**

The Garrett Cemetery is located in a grove of trees with a boundary delineated by rope fence and a ditch, with 12 marked burials. The burial markers consist of a combination of stone, wood, and brick. A few markers are whitewashed. Most do not have identifiers carved in them. Although the identifying features are few, “the markers and the grave goods indicate that the Garrett Cemetery is an African-American cemetery that dates to the second half of the nineteenth century” (Palmetto Railways 2017).

The Garrett Cemetery has been determined NRHP-eligible under Criterion A as “reflective of a specific cultural and historical period that helped shape the broad patterns of the history of Berkeley County,” under Criterion C for its “distinctive grave markers that are reflective of African American family cemeteries,” and Criterion D for its information potential (Palmetto Railways 2017). Therefore, the Garrett Cemetery qualifies as a Section 4(f) property.

## **H.1.4 Use and Impacts on the Section 4(f) Properties**

This section describes the potential impacts of the proposed rail line on the four Section 4(f) properties.

### **H.1.4.1 Recreation Resources**

#### **Palmetto Trail, Lake Moultrie Passage**

The proposed rail line would cross the Lake Moultrie Passage once at Viper Road, where a proposed at-grade crossing would be constructed. At this location, the trail exits the forest and turns west along the roadway to SC 45, as shown on Figure 2. This approximately 1-mile section of the trail is generally located within the road right-of-way. Viper Road functions primarily as part of the local transportation system, not as a recreational resource.

FRA’s initial determination is that, for just this section of the trail that overlaps with Viper Road, the trail is not a 4(f) resource. As noted, FRA can look to 23 C.F.R § 774 for guidance on 4(f) determinations. Under 23 C.F.R. §77413(f)(3), FHWA recognizes as an exception to Section 4(f) “trails, paths, bikeways, and sidewalks that occupy a transportation facility right-of-way without limitation to any specific location within that right-of-way, so long as the continuity of the trail, path bikeway is maintained.” No land specific to the trail would be acquired and/or incorporated into the rail line. The only element of the trail that would be affected is the trail’s route, which is within the Viper Road right-of-way. The trail’s route would change temporarily for the length of time needed to construct the crossing but the route would revert to Viper Road once construction is complete. The trail’s route would not permanently change nor would it become discontinuous because of construction of the at-grade crossing.

During construction of the rail line at Viper Road, traffic and trail users would be detoured around the construction zone. Prior to construction, the Applicant would be required to obtain an encroachment permit from the South Carolina Department of Transportation, and specific details related to the detours would be included in the construction plans developed during final design. Trail users would be excluded from the construction zone to ensure their safety and signs would be posted directing trail users along the detour route. Moreover, as noted, once construction of the crossing at Viper Road is completed, use of the trail would resume along its existing route within the Viper Road right-of-way.

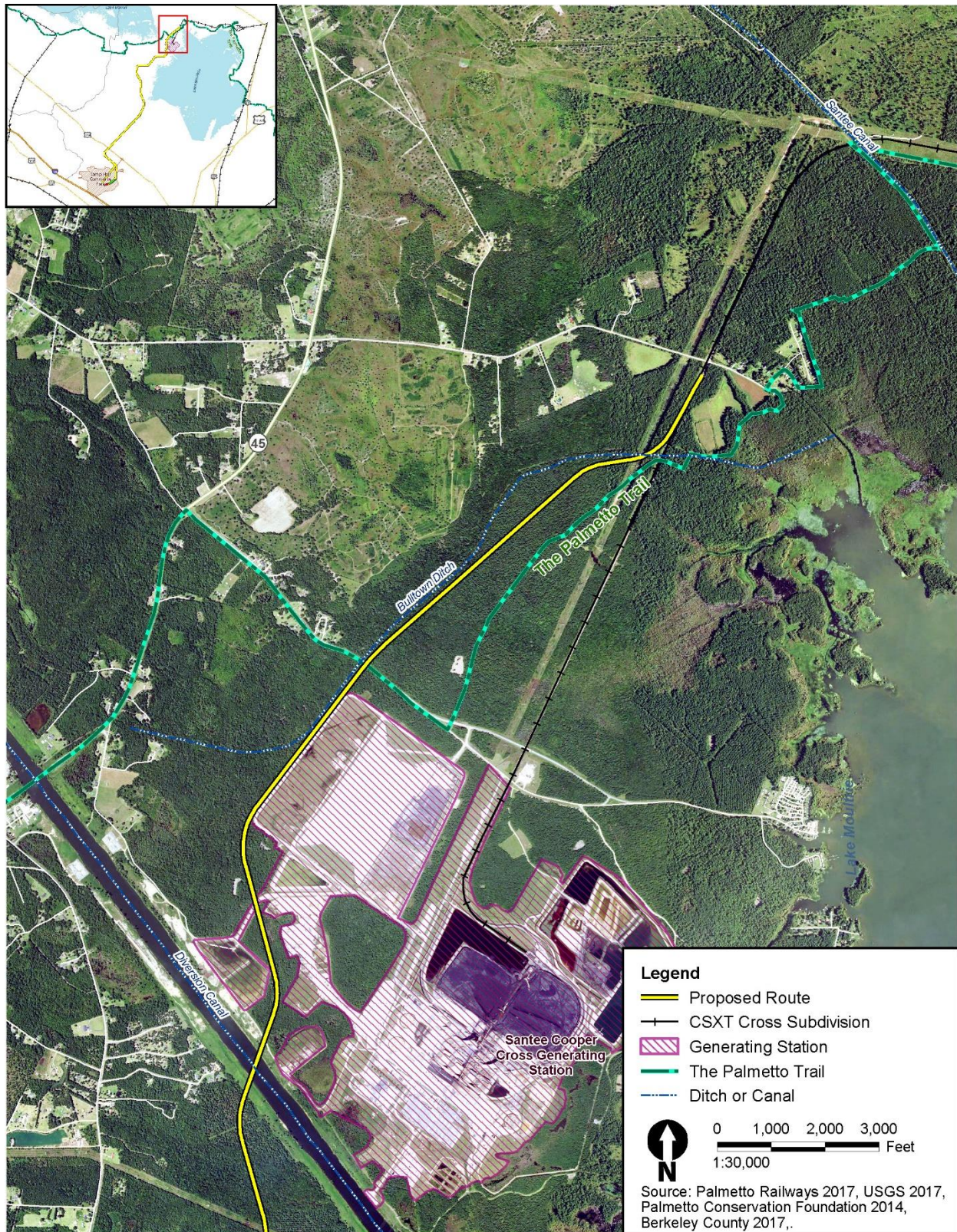


Figure 2. Palmetto Trail

Given that this is FRA's preliminary determination, FRA may revisit this determination after the conclusion of the public involvement period. FRA notes that even if, as a result of public input, FRA decides that this is 4(f) use, it is likely that it would be a *de minimis* use. FRA and the joint lead agencies will consult with Santee Cooper, which has jurisdiction over the trail.

Trail users would experience temporary construction-related impacts, including temporary changes in views and noise levels. Views from the Lake Moultrie Passage toward the proposed rail line are very limited because of the surrounding vegetation and development. Direct views would be available on the north where the trail crosses the transmission line right-of-way that parallels the CSXT Cross Subdivision and where the proposed rail line would join the CSXT Cross Subdivision, as well as at Viper Road, and the bridge on SC 45 that crosses the Diversion Canal. Trail users would have direct views of the construction activities while passing through these areas and partial views through the trees where the trail is closest to the proposed rail line. Similarly, increased noise levels from construction equipment would also be most apparent at the same locations. These temporary construction-related effects would not impair the use of the trail or the experience of trail users as they pass through the area. Access to the trail is from areas outside the study area and there would be no change in access.

During operations, additional train passbys would occur between the Diversion Canal and point where the two rail corridors merge. However, the CSXT Cross Subdivision generally parallels the existing trail along the western and northern shores of Lake Moultrie; noise and views of trains passing are existing elements along this segment of the trail. The addition of 1.4 passbys per day on average would not affect the use or enjoyment of the trail.

### **H.1.4.2 Cultural Resources**

The following summary of effects on cultural resources has been summarized from the draft Finding of Effect document prepared for the proposed project (ICF 2018). OEA and FRA have designated the Corps as the lead agency for 106 consultation for the proposed rail line.

### **Diversion Canal**

The proposed rail line would span the Diversion Canal via a new six-span bridge, approximately 520 feet in length (Figure 2) with a 50-foot clearance.<sup>3</sup> The bridge would be supported by seven bents, including four that would be placed within the canal. No other structures, such as riprap or bank armoring, are proposed to be constructed. The new bridge design is modeled generally on the existing SC 45 highway bridge that crosses the Diversion Canal approximately 1 mile north of the proposed new crossing.

The Santee Cooper Hydroelectric Project is considered NRHP-eligible for its role in the bringing electricity to the region (Criterion A) and as an impressive engineering achievement (Criterion C). The Santee Cooper Hydroelectric Project historic district to which the Diversion Canal contributes relies on its individual components and their relationships to one another to convey significance. Similarly, to the extent that the Santee Cooper Hydroelectric Project is NRHP-eligible as a cultural or historic landscape, its significance is conveyed by its individual components, the spatial relationships among them, and their collective use and operation.

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<sup>3</sup> The U.S. Coast Guard may determine that the bridge crossing of the Diversion Canal would require a 40-foot clearance rather than a 50-foot clearance for safe ship passage. If so, it is anticipated that the impacts of a 40-foot clearance would be similar to those of a 50-foot clearance.

While the construction of new railroad infrastructure (including installation of railbed, signaling apparatus, bridges and culverts) has the potential to directly affect the structural integrity of the canal, the Applicant's current plans include stabilization measures and best management practices designed to avoid effects of this nature. Due to the nature of engineering and historical importance, the canal's significance is not adversely affected by auditory or vibratory effects. Nevertheless, the Applicant has developed measures to minimize any such effects during construction. Because aesthetic qualities of the Diversion Canal are not among the features that convey its significance, indirect temporary or permanent visual effects introduced by the proposed new bridge would not be adverse. The Diversion Canal relies on its functionality and relationship to other Santee Cooper Hydroelectric Project components to convey significance.

The proposed rail line would not have an adverse effect on the Diversion Canal and a Section 106 finding of *no adverse effect* would meet the requirements for a *de minimis* impact. The SHPO has concurred that there would be *no adverse effect* on the Diversion Canal (Appendix C, *Interagency and Tribal Correspondence*). Based on the SHPO's concurrence, FRA has notified the SHPO that it intends to make a determination that the proposed rail line would result in a *de minimis* use of the Diversion Canal (McWhorter pers. comm.).

## Bulltown Ditch

The proposed crossing structure at Bulltown Ditch would be a three-barrel culvert and the proposed rail line would cross a section of the Bulltown Ditch (Figure 2) that is already crossed by an existing rail line (with a culvert) and an electrical transmission line. The Bulltown Ditch relies on its association with the Santee Canal for its significance, which is tied to its role as a transportation corridor and an engineering achievement. Temporary or permanent visual or noise effects would, therefore, not be adverse because neither its visual qualities nor a quiet setting are essential to understanding the historic property.

While the proposed rail line would cross a section of the Bulltown Ditch already affected by an existing CSXT subdivision and a transmission easement, construction of new railroad infrastructure still has the potential to affect the structural integrity of the canal. Current conditions include an existing culvert system, which the Applicant proposes to extend. The Applicant has proposed stabilizing the ditch's bank during construction, which would avoid a direct adverse effect to the physical and structural integrity of the ditch. In addition, the ditch would run parallel to the proposed rail line at a distance of approximately 150 feet. This distance is adequate to buffer the ditch from construction or operation impacts.

As previously discussed, a finding of *no adverse effect* would meet the requirements for a *de minimis* impact on the Bulltown Ditch. The SHPO has concurred that there be *no adverse effect* on the ditch (Appendix C, *Interagency and Tribal Correspondence*). Based on the SHPO's concurrence, FRA has notified the SHPO that it intends to make a determination that the proposed rail line would result in a *de minimis* use of the Bulltown Ditch (McWhorter pers. comm.).

## Garrett Cemetery

The closest edge of the right-of-way for the proposed rail line would be located approximately 120 feet from the character-defining physical features of Garrett Cemetery. Because the distance of the historic property from the construction and operation of the proposed rail line, the grave markers that convey the cemetery's significance would not be directly affected. Temporary and permanent changes of setting, including the construction and operation of the railroad, therefore have the potential to affect the

Garrett Cemetery. Visual and auditory settings are not essential to conveying the Garrett Cemetery's significance but constitute an important aspect of its integrity. Nevertheless, the design and construction of the proposed rail line incorporate measures designed to avoid adverse effects, in accordance with South Carolina law. For the Garrett Cemetery, these measures include a 50-foot buffer around the perimeter of the cemetery. In order to avoid any potential effects, the Applicant recommends, and the SHPO concurred, that a 50-foot buffer be established around the cemetery (Appendix C, *Interagency and Tribal Correspondence*). Based on the Applicant's current project design, the "Garrett Cemetery is located outside the area where construction and operation activities would occur and ... [proposed project activities] would more than comply with the 50 foot buffer established around the resource."

A finding of *no adverse effect* would meet the requirements for a *de minimis* impact on the Garrett Cemetery. The SHPO has concurred there would be *no adverse effect* on the Garrett Cemetery (Appendix C, *Interagency and Tribal Correspondence*). Based on the SHPO's concurrence, FRA intends to make a determination that the proposed rail line would result in a *de minimis* use of Garrett Cemetery (McWhorter pers. comm.).

## H.1.5 Avoidance Alternatives

Pursuant to 23 C.F.R. § 774.3, an analysis of feasible and prudent avoidance alternatives would be required if the proposed rail line results in a greater than *de minimis* impact on a Section 4(f) property. As noted previously, construction and operation of the proposed action would result in the *de minimis* use of the Diversion Canal, Bulltown Ditch, and Garrett Cemetery. The SHPO has concurred with the findings of *no adverse effect* on the historic properties (Appendix C, *Interagency and Tribal Correspondence*). Based on the SHPO's concurrence, FRA intends to make a determination that the proposed rail line would result in a *de minimis* use of these historic properties. Thus, an analysis of feasible and prudent avoidance alternatives is not required.

## H.1.6 Measures to Minimize Harm

General measures that would minimize harm to all potentially affected properties as a result of noise or visual intrusion are provided in Chapter 4, *Proposed Mitigation*. The measures discussed for the cultural resources also included in Chapter 4. The following sections present specific measures for each individual resource.

### H.1.6.1 Recreation Resources

Access to the Lake Moultrie Passage would be maintained at all times during construction of the proposed rail line and signs would be posted directing trail users along the detour route at Viper Road.

### H.1.6.2 Cultural Resources

The following specific mitigation measures have been identified for the individual historic properties.

- During construction, the Applicant shall employ stabilization measures and best management practices designed to avoid affecting the structural integrity of the canal and the ditch.
- The Applicant shall design culverts to maintain existing surface water drainage patterns and not cause or exacerbate flooding.

- The Applicant shall maintain at least a 50-foot buffer between the right-of-way for the proposed rail line and the Garrett Cemetery.

## H.1.7 Coordination

Agencies and the public will have the opportunity to comment on this Draft Environmental Assessment (EA) and this Section 4(f) and 5(f) Evaluation. Coordination will continue throughout the NEPA process. Chapter 1, *Introduction*, describes the coordination efforts conducted during the preparation of this Draft EA. Once the comment period on the Draft EA has concluded, the joint lead agencies and cooperating agencies will prepare a Final EA, which will include a discussion of the comments received on the Draft EA and any appropriate modifications to the existing analysis or additional analysis.

The Section 4(f) process (23 C.F.R. Part 774) has been undertaken and applied in this EA because the FRA is a cooperating agency and the Applicant might apply for a grant from the FRA to help fund the proposed rail line. FRA intends to use the Draft and Final EAs to fulfill its NEPA responsibilities related to this project, and FRA anticipates issuing a separate Finding of No Significant Impact.

Consultation with the SHPO at the South Carolina Department of Archives and History was initiated by OEA in September 2017. OEA and FRA have designated the Corps as the lead agency for Section 106 consultation. The SHPO concurred that the project would result in no adverse effect in a concurrence letter dated August 24, 2018 (Appendix C, *Interagency and Tribal Correspondence*). Based on the SHPO concurrence, FRA intends to make a determination that the proposed rail line would result in a *de minimis* use of the Section 4(f)-eligible resources. Consultation with the SHPO will continue throughout the NEPA process.

## H.2 Section 6(f)

State and local governments often obtain grants through the Land and Water Conservation Fund Act (16 U.S.C § 460l-8[f] and 36 C.F.R § 59.1) to acquire or make improvements to parks and recreation areas. Section 6(f) of the act prohibits the conversion of property acquired or developed with these grants to a non-recreational purpose without the approval of the U.S. Department of the Interior's National Park Service. Section 6(f) directs the Department of the Interior to ensure that replacement lands of comparable value and function, location, and usefulness are provided as conditions to such conversions.

No recreational facilities in the project vicinity were found to have been developed or improved with grants from the Land and Water Conservation Fund Act (Appendix B, *Environmental Report*).

## H.3 References

ICF. 2018. *Camp Hall Rail Project, National Historic Preservation Act Section 106 Finding of Effect*. August. Los Angeles, CA. Prepared for Surface Transportation Board, Office of Environmental Analysis and U.S. Army Corps of Engineers, Charleston District, Charleston, SC.

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