



KAPLAN KIRSCH ROCKWELL

September 10, 2013

234782

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

ENTERED
Office of Proceedings
September 10, 2013
Part of the Public
Record

**Re: Chesapeake Railroad Company – Certificate of Interim Trail Use and
Termination of Modified Certificate
STB Finance Docket No. 32609**

Dear Ms. Brown:

I am attaching the Notice of the Maryland Transit Administration of Consummation of a Trail Use Agreement in the above-captioned proceeding.

Please contact me with any questions concerning the enclosed.

Sincerely,

Charles A. Spitulnik

Enclosure

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 32609

CHESAPEAKE RAILROAD COMPANY – MODIFIED RAIL CERTIFICATE

**NOTICE OF CONSUMMATION OF
TRAIL USE AGREEMENT**

Communications with respect to this pleading
should be addressed to:

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Counsel for the Maryland Transit Administration

Dated: September 10, 2013

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 32609

CHESAPEAKE RAILROAD COMPANY – MODIFIED RAIL CERTIFICATE

**NOTICE OF CONSUMMATION OF
TRAIL USE AGREEMENT**

The Maryland Transit Administration, a modal agency of the Maryland Department of Transportation (“MTA”), hereby submits this notice that MTA has entered into a trail use agreement for the line of railroad from milepost 0.0 in the Town of Clayton, Kent County, Delaware, to milepost 45.30 in Easton, Talbot County, Maryland, and also including the Oxford Branch connecting track from milepost 0.0 in Queen Anne, Queen Anne’s County, Maryland, to milepost 8.8 in Denton, Kent County, Maryland, a total of 54.10 miles (collectively, the “Clayton-Easton Line”). As described more fully below, MTA has entered into a trail use agreement with the Maryland Department of Transportation (“MDOT”) for the line. The existing Certificate of Interim Trail Use (“CITU”) covering the line is supported by a statement of willingness to assume financial responsibility (“SWAFR”) executed by MDOT, dated February 26, 2013, and submitted in the docket of this proceeding on March 1, 2013.

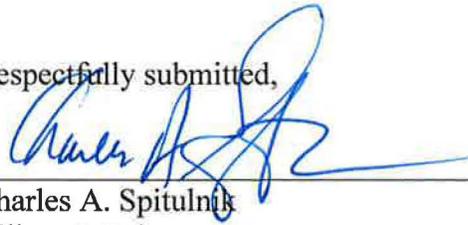
The Board issued Decisions in this proceeding granting MTA’s requests to extend the time to negotiate a trail use agreement on July 10, 2006, January 5, 2007, July 5, 2007, December 26, 2007, March 25, 2008, April 22, 2011, September 9, 2011, and March 15, 2013. The current negotiating period will expire on September 11, 2013. A map of the line currently subject to the CITU is attached hereto as **Exhibit A**.

MTA owns the Clayton-Easton Line, which the State of Maryland acquired from the Penn Central Corporation and others in 1982. This line is subject to a CITU issued by the Board on January 9, 2006, in STB Docket No. 32609, *Chesapeake R.R. Co. – Certificate of Interim Trail Use and Termination of Modified Certificate*, and STB Docket No. 29830, *Maryland and Delaware R.R. Co. – Termination of Modified Certificate*.

On July 7, 2007, the Board issued a decision in this proceeding partially vacating the CITU with respect to a 1,645 foot segment of track in Easton, Talbot County, Maryland, known as the Easton Spur. MTA consummated the abandonment of the Easton Spur by notice filed at the Board on July 23, 2007.

MDOT's current SWAFR replaced the SWAFR originally submitted by MDOT in this matter on June 26, 2006. In the interim, MTA had conducted negotiations with, and obtained SWAFRs from, other prospective trail users. The Board's rejection of these proposed substitute SWAFRs was the subject of litigation and was upheld by the United States Court of Appeal for the Fourth Circuit (*Maryland Transit Administration v. STB*, Case No. 11-1412 (4th Cir. November 21, 2012)). In order to resume this proceeding afresh following the Court's decision, MTA, in an abundance of caution, obtained a renewed SWAFR from MDOT, which MTA filed on March 1, 2013, and the Board ratified on March 15, 2013. *Chesapeake R.R. Co. – Certificate of Interim Trail Use and Termination of Modified Certificate*, STB Docket No. 32609 (Service Date March 15, 2013). MTA relied on this renewed SWAFR in order to enter into the trail use agreement with MDOT, execution of which is confirmed by this Notice.

Respectfully submitted,



Charles A. Spitulnik

Allison I. Fultz

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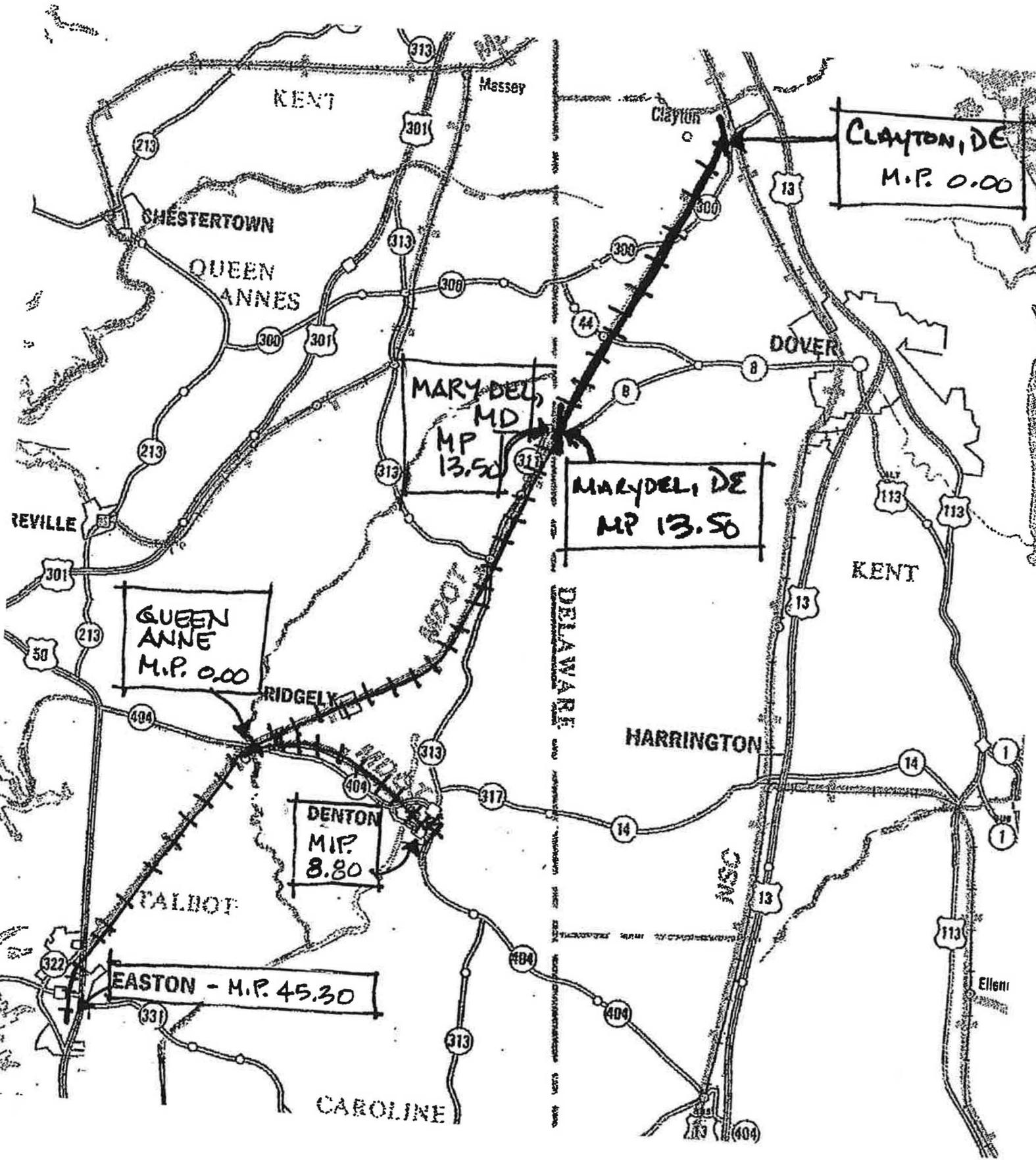
(202) 955-5600

Counsel for the Maryland Transit Administration

Dated: September 10, 2013

Exhibit A

Map of the Clayton-Easton Line



CLAYTON, DE
M.P. 0.00

MARYDEL, MD
MP 13.50

MARYDEL, DE
MP 13.50

QUEEN ANNE
M.P. 0.00

DENTON
M.P. 8.80

EASTON - M.P. 45.30

DELAWARE

MSC

Ellen

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served a copy of the foregoing NOTICE OF THE MARYLAND TRANSIT ADMINISTRATION OF CONSUMMATION OF TRAIL USE AGREEMENT, upon the following parties of record in this proceeding by first class mail with postage prepaid and properly addressed:

General Counsel
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Charles A. Spitulnik

Dated this 10th day of September, 2013