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April 24, 2024

**Via E-Filing**

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

RE: Docket No. FD-36769 – MID-ATLANTIC GATEWAY LLC – FEEDER LINE APPLICATION –  
PORTION OF LINE OF HISTORIC RED CLAY VALLEY INC. D/B/A WILMINGTON & WESTERN  
RAILWAY CORPORATION – LOCATED IN NEW CASTLE COUNTY, DELAWARE

Dear Ms. Brown:

Enclosed for filing please find the original Feeder Line Application filed pursuant to 49 USC 10907(b)(1)(A)(i) for Mid-Atlantic Gateway LLC, a Delaware Limited Liability Company, to purchase and operate a portion of the Landenberg Branch Rail Line owned by Historic Red Clay Valley Inc. d/b/a Wilmington & Western Railway Corporation.

As all parties have been served, we request expedited processing of this initial application.

The \$2,600 filing fee was prepaid on Pay.gov (confirmation # 27DS134I / 76701273235 )

Please time and date stamp this filing and return a copy via email to [bob@magateway.com](mailto:bob@magateway.com) .

Thank you for your time and consideration of this request.

Sincerely,

  
Robert P. McGurk  
Mid-Atlantic Gateway

FILED  
April 24, 2024  
SURFACE  
TRANSPORTATION BOARD

FEE RECEIVED  
April 24, 2024  
SURFACE  
TRANSPORTATION BOARD

Cc: Historic Red Clay Valley, Inc.  
DeIDOT  
Government of New Castle County, DE

THIS FILING CONTAINS COLOR

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO:  
FD-36769

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MID-ATLANTIC GATEWAY LLC  
FEEDER LINE APPLICATION  
PORTION OF LINE OF HISTORIC RED CLAY VALLEY INC. D/B/A WILMINGTON & WESTERN  
RAILWAY CORPORATION

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Dated: April 24, 2024

## **I. SHOWINGS UNDER SECTION 1151.3**

### **A. Identification of Line to be Purchased (49 CFR § 1151.3(a)(1))**

#### **1. The name of the owning carrier**

**The name and address of the incumbent carrier is as follows:**

Historic Red Clay Valley Inc. (HRCV) – *parent non-operating holding co*

D/B/A Wilmington & Western Railway Corporation (WWRC) – *common carrier*

D/B/A Wilmington & Western Railroad (WWRR) – *tourist & excursion trade name*

1601 Railroad Avenue

Wilmington, DE 19808

Mailing Address:

Historic Red Clay Valley Inc.

PO Box 5787

Wilmington, DE 19808

#### **2. The exact location of the line to be purchased including milepost designations, origin and termination points, stations located on the line, and cities, counties and States traversed by the line.**

Mid-Atlantic Gateway LLC (MAG) seeks to acquire Historic Red Clay Valley Inc.'s (HRCV) interest in a portion of the Landenberg Branch that extends between Landenberg Junction at STA 0+00 through STA 24+45 and various ancillary tracks attached thereto, a total length of 2,445 linear feet or 0.463 miles. A map of the proposed acquisition is included as Exhibit "A". This segment is located in ZIP code 19808, near Marshallton, in unincorporated New Castle County, Delaware.

HRCV acquired 10.2 miles of the Landenberg Branch starting at Landenberg Junction STA 0+00 in ICC FD-29921. To our knowledge, there are no named stations on the line segment to be acquired.

**B. Identification of Applicant (49 CFR § 1151.3(a)(2))**

**1. The applicant's name and address:**

Mid-Atlantic Gateway LLC (MAG)

1300 Helen Drive, Unit 204

Newark, DE 19702

**2. The name, address, and phone number of the representative to receive correspondence concerning this application:**

Robert McGurk

Mid-Atlantic Gateway LLC

PO Box 12647

Wilmington, DE 19850

302-893-0258

[bob@magateway.com](mailto:bob@magateway.com)

**3. A description of applicant's affiliation with any railroad:**

MAG is a non-carrier that does not own or operate any other segments of rail nor is it affiliated with any other railroad. Through this application, MAG seeks operating authority to establish itself as a Class III rail carrier and will assume common carrier obligations on this segment.

**4. If the applicant is a corporation, the names and addresses of**



**its officers and directors.**

Chief Executive Officer and Member of Mid-Atlantic Gateway LLC

Robert P. McGurk

1300 Helen Drive, Unit 204

Newark, DE 19702

**5. Verified Statement of Applicant Authorizing Application**

The applicant's verified statement authorizing this application is included as Exhibit "B".

**C. Information sufficient to demonstrate that the applicant is a financially responsible person (49 CFR § 1151.3(a)(3)).**

1. While the Rule (Docket EP 729) regarding financial responsibility and preliminary financial responsibility specifically relates to Offers of Financial Assistance and not Feeder Line Applications, it does provide certain clarifications regarding methods and instruments available to applicants that the Board finds sufficient for demonstrating financial responsibility. Absent other guidance, we are relying on this Rule to demonstrate our financial responsibility to acquire this line.
2. Out of an abundance of caution, while not required for a Feeder Line Application, we are including information necessary to support a finding of our preliminary financial responsibility in order to acquire the line. Consistent with the rule, applicants must calculate the steel salvage value (136 tons/mile \* current steel price per ton) and two years of maintenance costs (\$4,000/mile/yr). Once that amount is determined,

Applicant must present an instrument to the Board that the Applicant has at least 10% of the Determined Amount in its possession.

3. A recent steel recycling quote for the rail was obtained on April 23, 2024 at \$0.09/lb (\$180/ton) for #2 Heavy Melting Steel (#2HMS) (Exhibit "C"). Therefore, the calculated value for determining preliminary financial responsibility is as follows:

$136 \text{ tons/mile} * \$180/\text{ton plus } \$4,000/\text{mile/yr} * 2 \text{ years} = \$32,480 \text{ per mile.}$

$\$32,480 * 0.463 \text{ miles} = \$15,038.24$

$\$15,038.24 * 10\% = \$1,503.83 = \text{PFR Escrow Amount}$

4. MAG is providing evidence of having placed the PFR Escrow Amount, in an escrow account, as shown in Exhibit "D".

5. Applicant must demonstrate the ability to pay the higher of the NLV or GCV (otherwise known as the CMV) and cover expenses with operating the line for a period of three years. We estimate the sum of these expenses to be \$9,396.00. Applicant is including proof of funds availability in excess of \$9,396.00, as shown in exhibit "E".

A. The line has not had local or overhead revenue traffic on it for at least the past two years, therefore the GCV is presumed to be zero.

B. The line's NLV is estimated to be negative, and thus set at zero. A detailed explanation of the NLV calculation is included below and in Exhibit "F".

C. Annual expenses are estimated as follows:

1. Property Taxes: \$0.00. In Delaware, Railroad operating property and trackage are exempt from property taxes, therefore there is no annual tax assessment on the line.
2. Maintenance Expenses: \$5,556.00. The Board, pursuant to the Rule in Docket EP 729 established \$4,000.00 per mile per year as the regulatory annual maintenance rate. The line to be acquired is 0.463 miles long, therefore maintenance costs over the first three years are expected to be:  
  
$$\$4000/\text{mile}/\text{year} * 0.463 \text{ miles} * 3 \text{ years} = \$5,556.00$$
3. Operations Working Capital: \$3,840.00. Pursuant to our proposed operating plan, MAG will initially offer rail service to customers on an as-needed basis and will fund operations from a working capital revolving fund. We are able to operate in this manner this because we own our own locomotive and thus avoid the expense of equipment leases while also using a part-time workforce. This allows us to cost effectively provide at least weekly service to customers and minimize working capital needs. We estimate that our working capital revolving fund needs to initially be established with a starting balance of \$3,840.00 to self-sustain operations over the first three years of service.

Presuming two crew members at \$35.00/hr each fully burdened and locomotive operating expenses of \$35.00/hr, weekly service including track inspection would take approximately 6 labor hours and 2 locomotive hours, and \$200/week for insurance for a weekly total cost of \$480.00. Presuming

payment for service from customers on a Net 45 basis, we need enough working capital to fund 8 weeks of operations, or 8 weeks \* \$480.00/week = \$3,840.00 in order to be self-sustaining.

**D. Estimate of the NLV and the GCV (49 CFR § 1151.3(a)(4))**

1. Although a part of the segment at issue has been used intermittently to store rail cars, based on information available to MAG, it has not been used for at least the past 36 months for common carrier purposes in revenue service to customers.
2. As a result, consistent with Board precedent, the segment has no going concern value ("GCV").
3. Therefore, the CMV will be the NLV.
4. Based on a study performed by MAG's CEO, a professional engineer (DE #19698) with experience in heavy civil construction, MAG submits that the Estimated NLV is (\$150,500). By rule the NLV cannot be negative therefore the Actual NLV is \$0.00. This study can be found in Exhibit "F".

**E. Offer to Purchase (49 CFR § 1151.3(a)(5)).**

MAG offers to buy a portion of the Landenberg Branch line between STA 0+00 and STA 24+45 for the CMV as determined by the Board plus \$11.00 (eleven dollars and 00/100 cents). We respectfully request the Board set the acquisition price at the CMV and force the sale of the portion of the line to MAG.

**F. The Dates for the Proposed Period of Operation of the Line (49 CFR § 1151.3(a)(6))**

Operations will commence on the later of A) the effective date of the decision granting this Feeder Line Application or B) approximately 30 days after the date this Feeder Line

Application decision is published in the Federal Register, allowing sufficient time for the orderly handover of the line and transition of operations from HRCV/WWRC to MAG.

**G. Operating Plan (49 CFR § 1151.3(a)(7))**

1. MAG seeks to establish itself as a Class III rail carrier in order to conduct all freight rail operations over the line from STA 0+00 to STA 24+45 on an as-needed or weekly basis. If our Feeder Line Application is successful, MAG respectfully requests the Board to concurrently grant MAG authority to acquire the line under 49 USC 10907 and operate the line under 49 USC 10901 through the class exemptions offered in 49 CFR 1150.31 and 49 CFR 1150.32. Initial operations will likely consist of truck to rail and rail to truck transload operations for customers, in addition to MAG's own internal transload operations utilizing our owned Trackmobile 8TM locomotive with train air and trained crews.
2. We plan to interchange freight with CSX at Landenberg Junction (STA 0+00) and HRCV's common carrier subsidiary WWRC at Marshallton (STA 24+45).
3. It is our understanding that ESPN, as a successor operator to the Octoraro Railway on the Wilmington & Northern Branch, may have retained the Octoraro Railway's bridge trackage rights through CSX's Wilsmere Yard originally granted in ICC FD 29921 to serve traffic on the Landenberg Branch west of Landenberg Junction. Provided the OR/ESPN bridge trackage rights remain intact, we also seek authority, as the proposed operator on the feeder line segment of the Landenberg Branch, to to interchange with ESPN at Landenberg Junction, as this would allow MAG to indirectly interchange freight traffic with NS via ESPN.

4. As described above in the section describing our financial responsibility, MAG will maintain a working capital revolving fund to meet cash requirements sufficient to provide at least weekly rail service on the line. The fund is designed to be self-sustaining in order to cover operations for at least three years. MAG also maintains the regulatory required amount of funds to cover maintenance and property taxes on the line for three years. This base amount of funds will also be supplemented with operating revenues received from shippers for their use of the line.
5. This transaction does not involve any interchange commitments.
6. MAG does not anticipate that revenues associated with this transaction will exceed the current revenue threshold for a Class III carrier.

**H. Liability Insurance Coverage (49 CFR § 1151.3(a)(8))**

Trackage rights are not being requested in this Feeder Line Application. MAG maintains a \$2,000,000 Commercial General Liability Policy.

**I. Preconditions (49 CFR § 1151.3(a)(9))**

MAG is not seeking STB approval of any preconditions at this time. Absent the STB approval, no preconditions will be placed upon shippers in order to receive service over the Corridor.

**J. Name and Address of Subsidizing Person (49 CFR § 1151.3(a)(10))**

MAG will bear the entire cost of acquisition as described above and does not anticipate that any form of subsidization will be required.



**K. Applicant Seeks To Acquire A Segment Of The Landenberg Branch From HRCV Pursuant To A Finding By The Board That The Public Convenience And Necessity Requires The Sale Of The Segment (49 CFR § 1151.3(a)(11))**

**1. Current Ownership of the Corridor**

HRCV purchased the entire 10.2 mile Landenberg Branch in 1982 via ICC FD 29921. A review of the CSX/B&O valuation map for the Landenberg Branch (Exhibit "A") revealed that from Landenberg Junction at STA 0+00 to 11+91, the ICC FD 29921 acquisition included ownership of the track on an underlying Permanent Track Easement. West of STA 11+91, the acquisition was Fee Simple to HRCV. Initially served by the Octoraro Railway, the common carrier obligation on the line eventually transferred to HRCV's common carrier subsidiary WWRC in FRA (ICC?) Docket 30470. The line is an active line and has not been subject to any formal abandonment procedures. WWRC is the current freight operator of the line (not exempt from Board jurisdiction). HRCV operates a tourist & excursion railroad (exempt from Board jurisdiction) between Greenbank Station, DE and Hockessin, DE with shops in Marshallton, DE. HRCV primarily operates west of STA 24+45 and only intermittently stores railcars east of STA 24+45. The Marshallton yard is located on NCC parcel 07-041.20-001. The approximate divide between NCC parcel 07-041.20-001 and NCC parcel is 07-037.40-222 is STA 24+45.

**2. HRCV has failed to make the necessary efforts to provide adequate service on this segment of the line.**



HRCV and its subsidiaries WWRC & the Wilmington & Western Railroad collectively have refused to offer freight service when asked. The HRCV Board, through an email by its General Manager (Exhibit "G"), stated "Unfortunately, the Wilmington & Western Railroad is not moving freight at this time." Applicant therefore concludes that WWRC, as the common carrier subsidiary of HRCV, refuses to meet its statutory common carrier obligations to provide freight service, even after being asked to provide service multiple times. Freight service on the line is non-existent and the current operator refuses to provide service.

The Applicant is the party seeking service, the service (or lack thereof) made available to the Applicant is inadequate for the Applicant's needs, therefore the Applicant concludes that HRCV has failed to make the necessary efforts to provide adequate service on this segment of the line.

**3. The transportation over such line is inadequate for all shippers who wish to transport traffic over this segment of the corridor.**

Mr. McGurk contacted HRCV's General Manager via phone in the Fall of 2022 seeking to transload sand at Landenberg Junction for one of MAG's clients in New Garden Township, PA either through an HRCV transload or a lease of a portion of the line to permit MAG to perform the transload operation. The General Manager responded that the answer would likely be no, but he would check with the HRCV Board. During a follow up phone call a few weeks later, the GM conveyed that the HRCV Board was not interested in conducting freight operations on the line and did not want to lease the line. During the Spring of

2023, Mr. McGurk again contacted the HRCV GM to see if the Board had changed its mind regarding freight operations. The GM again spoke with the HRCV Board and the Board reiterated its stance that it did not want to conduct freight operations. Mr. McGurk asked the HRCV GM to provide this response via email (Exhibit "G"), writing, "Unfortunately, the Wilmington & Western Railroad is not moving freight at this time." Applicant must therefore conclude that service is inadequate for all shippers who wish to transport traffic over the line.

**4. The sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line.**

HRCV is a tourist excursion railroad that refuses to provide freight service. Based on information available to the Applicant, the line has not had local or overhead revenue freight traffic for at least the past two years and perhaps as many as the past ten years and thus HRCV derives no common carrier revenues from this segment of rail. Nearly all of HRCV's excursion operations occur on the Landenberg Branch west of STA 24+45. MAG observed HRCV's operations over many years to develop a freight operation that would have minimal impact to HRCV's operations. MAG seeks to acquire the trackage between Landenberg Junction at STA 0+00 and STA 24+45, the section of trackage HRCV rarely uses for excursion operations. In the rare occurrences HRCV uses this section of track for equipment storage, MAG would offer that HRCV would be left with nearly 9.7 miles of track to store a handful of railcars and that the inability to use the 0.463

miles of rail MAG is seeking to acquire will not adversely affect HRCV's existing operations.

MAG acknowledges that HRCV intermittently uses a part of the line to be acquired to store idle rail cars for itself, a third party, or parties. MAG anticipates that HRCV may attempt to demand that MAG compensate it for the loss of car storage revenues. However, using a mainline track to store cars does not constitute freight operations that would cause the valuation of the Line to be based on GCV instead of NLV.

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As the Board has repeatedly recognized, it looks to whether the sale would have an effect on any existing common carrier operations over the line. In this case, because HRCV is not performing any common carrier operations over the Line between STA 0+00 and STA 24+45, the sale of the track for its NLV will not have any effect on HRCV.

MAG urges the Board to follow its consistent practice of rejecting similar arguments in the past and recognizing that if the incumbent railroad receives the CMV, it does not matter that some revenues will be lost.

The continued ownership of this segment of the line by an obligated common carrier that refuses to provide freight service is inconsistent with the goal of restoring consistent rail service over the line. In stark contrast, MAG's acquisition of this segment complies with the National Rail Transportation Policy of ensuring "the development and continuation of a sound rail transportation system with

effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense.” 49 U.S.C. § 10101(4).

5. **The sale of the line will not have an adverse effect on the overall operational performance of HRCV.**

The sale of the 0.463 mile segment of the line is limited in scope and will have no adverse effect on the overall operational performance of HRCV, as nearly all of HRCV’s operations are conducted west of STA 24+45, which is not included in this acquisition. As evidenced above, HRCV has not provided any common carrier rail freight operations over the segment for several years and there are no current shippers on the line.

6. **The sale of the Line segment between STA 0+00 and STA 24+45 will clearly result in improved transportation for shippers that have been unable to transport rail traffic over such line for several years.**

HRCV’s retention of a segment of the line for its private benefit derived from its refusal to provide common carrier freight service at the expense of the overall public interest is unwarranted. The sale of the line to MAG will allow it to conduct its desired freight operations and offer competitive freight service to others. Readily available freight service is most certainly an improvement over the non-existent freight service currently offered by HRCV.

**L. Election of Exemption from the Provisions of Title 49 (49 CFR 1151.3(a)(12))**

This application falls under 49 USC 10907. Applicant does not seek to be exempt from the provisions of Title 49, U.S.C. at this time, other than the exemptions listed below.

Acquisition and operation of a line by a non-carrier falls under 49 USC 10901 and qualifies for the class exemptions offered in 49 CFR 1150.31 and 49 CFR 1150.32.

Applicant also requests exemption from the notice requirements in 49 CFR 1150.33 and 49 CFR 1150.34 as it would be duplicative of the service and notice requirements required for this Feeder Line application and all information required in 49 CFR 1150.33 is included in this application. Applicant respectfully requests the Board concurrently grant operating authority over the line to MAG if the Feeder Line acquisition is successful.

If the application is granted, Applicant will not seek further exemptions from Title 49 for this line.

**M. Trackage Rights Sought Over the Owning Railroad (49 CFR 1151.3(a)(13))**

Applicant does not seek trackage rights over HRCV's tracks. Following MAG's acquisition of this segment of the Corridor, it will grant limited overhead haulage rights to HRCV/WWRC for the transit of historic railroad equipment necessary for its excursion line and restoration operations.

**N. No Joint Rate and Division Agreement (49 CFR 1151.3(a)(14))**

Applicant does not request the establishment of joint rates and divisions at this time.

**O. Owning Railroad's Employees Who Service the Line (49 CFR 1151.3(a)(15))**

No common carrier service is provided over this segment of HRCV's Landenberg Line.

HRCV is a volunteer operated tourist excursion railroad and the FRA has made multiple determinations that HRCV/WWRC is exempt from Railroad Retirement Board regulations due to railroad operations being performed by volunteers, so MAG can reasonably expect that no HRCV employees will be affected by this transaction.

**P. Service**

I certify that I have this day served copies of this document upon all parties of record in this proceeding via first class mail.



4/29/24

Robert P. McGurk

Date

The service requirements of 49 CFR 1151.2(a) have been met. Copies of this filing have been served via first class mail to the following parties:

**1. The owning railroad**

Historic Red Clay Valley Inc.

PO Box 5787

Wilmington, DE 19808

**2. All patrons who originated and/or received traffic on the line in the 12 months preceding the month in which the application was filed**

The line has not had local or overhead traffic on it for at least the past two years.

**3. The designated State Agency in the State where the property is located**

DeIDOT

PO Box 778

Dover, DE 19903

**4. County Governments where the line is located**

New Castle County, Delaware

87 Reads Way

New Castle, DE 19720

**5. The National Railroad Passenger Corporation if Amtrak operates on the line**

Amtrak does not operate on the line.

**6. The national offices of rail unions with employees on the line**

HRCV is operated by volunteers, therefore there are no employees on the line  
and no rail unions to contact.



## II. ENVIRONMENTAL ISSUES

MAG respectfully submits that the Transaction will not result in any action that would normally require environmental documentation. Plainly, had HRCV decided to rehabilitate the segment, no authority or environmental documentation would have been required.

Because MAG's acquisition of the segment of the line will result in a minimal increase in rail freight movements (approximately 1 to 4 trains per day) that will not trigger the Board's thresholds established in 49 CFR § 1105.7(e )(4) or (5), MAG submits that the proposed transaction does not require environmental documentation.

Given the foregoing, and consistent with Board precedent, there is no need for the Board to undertake an additional environmental review under NEPA. See, e.g., KCVN, LLC and Colorado Pacific Railroad, LLC-Feeder Line Application—Line of V and S Railway, LLC, Located in Crowley, Pueblo, Otero, and Kiowa Counties, Colorado, slip op. at 16; Missouri Central Railroad Company—Acquisition and Operation Exemption—Lines of Union Pacific Railroad Company, FD 33408, slip op. at 7 (STB served Apr. 30, 1998) (finding that where there had been no recent traffic on a rail line that would be reactivated, the relevant threshold for environmental review is eight trains per day), *aff'd sub nom. Lee's Summit, Mo. v. STB*, 31 F.3d 39, 42 (D.C. Cir. 2000).

### III. CONCLUSION

For all of the above-stated reasons, the Board should grant MAG's Feeder Line Application.

Respectfully submitted,



Robert P. McGurk

Mid-Atlantic Gateway LLC

PO Box 12647

Wilmington, DE 19850

302-893-0258

bob@magateway.com

April 24, 2024

# Exhibit "A"

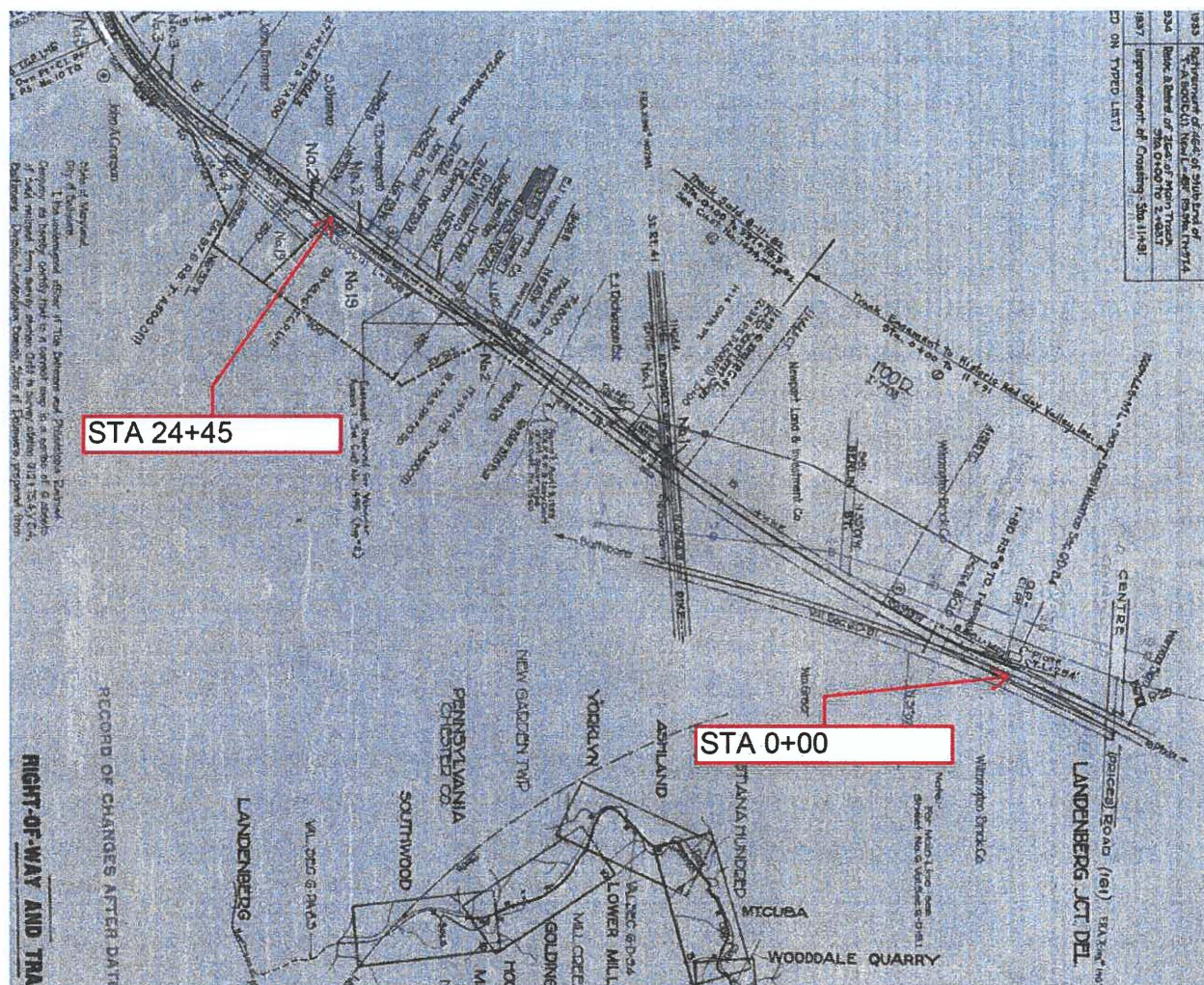


Exhibit "B"

I, Robert P. McGurk, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Feeder Line Development Application. Executed on 4/24/2024.



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Robert P. McGurk

CEO

Mid-Atlantic Gateway LLC



Exhibit "C"



Bob McGurk <bobmcgurk@gmail.com>

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**Fwd: Pricing Sullivans Scrap Metals**

1 message

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**Bob McGurk** <bobmcgurk@gmail.com>

Tue, Apr 23, 2024 at 1:15 PM

To: Bob McGurk <bobmcgurk@gmail.com>, bob <bob@magateway.com>

----- Forwarded message -----

From: **Desiree Quintana** <dispatch@sullivanscrap.com>

Date: Tue, Apr 23, 2024, 1:12 PM

Subject: Pricing

To: Bob McGurk <bobmcgurk@gmail.com>

Good afternoon,

The current price for #2HMS is 9¢ per pound.

Prices are subject to change depending on market conditions.

Have a great day.

MID-ATLANTIC GATEWAY LLC

~ 24 ~

FD 36769

or for any other information about this item

FOR YOUR PROTECTION SAVE THIS COPY  
**CASHIER'S CHECK**

Customer Copy

9642705623

04/24/2024

Void after 7 years

Remitter: MID-ATLANTIC GATEWAY LLC

\$\*\* 1,503.83 \*\*

Pay To The Order Of: DARRELL J. BAKER ESQ

Memo: *Feeder Line Escrow FD-36769*

Note: For information only. Comment has no effect on bank's payment.

Drawn: JPMORGAN CHASE BANK, N.A.  
**NON NEGOTIABLE**

252111107 6/2023 83\*0004306

HOLD DOCUMENT AT ANGLE TO VIEW ARTIFICIAL WATERMARK ON BACK

**CHASE**

**CASHIER'S CHECK**

Date: 04/24/2024 Void after 7 years

9642705623 253 440

Remitter: MID-ATLANTIC GATEWAY LLC

Pay To The Order Of: DARRELL J. BAKER ESQ

Pay: ONE THOUSAND FIVE HUNDRED THREE DOLLARS AND 83 CENTS \$\*\* 1,503.83 \*\*

Do not write outside this box

Memo: *Feeder Line Escrow FD-36769*

Note: For information only. Comment has no effect on bank's payment.

Drawn: JPMORGAN CHASE BANK, N.A.

*Rebecca Griffin*

Rebecca Griffin, Chief Administrative Officer  
JPMorgan Chase Bank, N.A.  
Columbus, OH


1 964 2705623

CHASE

Exhibit "D"

Exhibit "E"

CHASE

for BUSINESS®

Accounts

Pay & transfer

Collect & deposit

Account man

Good afternoon

Bank accounts

MID-ATLANTIC GATEWAY LLC

PERFBUS CHK (...8668) >

\$19,040.88

Available balance

\$19,040.88

Present balance



## Exhibit "F"

Calculation of the Net Liquidation Value of the portion of the Landenberg Branch between STA 0+00 and STA 24+45. The NLV is the sum of the salvage value of the rail, OTM, and ballast plus the residual real estate value less the cost of salvaging the track and restoring the corridor to a natural state (grassed condition). To the benefit of HRCV, excluded from our calculation are the salvage, removal, and restoration costs associated with the railroad grade crossing on Newport Pike. While these costs are significant and certainly lower the NLV, these costs would likely be paid for by others (i.e. DelDOT) in all scenarios. Even if the residual real estate were valued at a higher amount, it is unlikely that the real estate valuation would exceed \$217,000/acre given the site's non-conforming lot status, narrow width, and prior use as railroad operating property, which, due to the significant negative contribution of salvage and restoration costs, is the valuation necessary to flip the Estimated NLV from a negative value to a positive value.

Salvage Value of Rail, OTM, and ballast	\$48,000
Residual real estate value	\$79,500
Cost of Salvage and Restoration	(\$278,000)
<b>Subtotal: Estimated Net Liquidation Value</b>	<b>(\$150,500)</b>
<b>NLV by rule cannot be negative, therefore the Actual NLV is:</b>	<b>\$0.00</b>

As stated in Exhibit "C", scrap steel value in April 2024 for #2HMS is \$0.09/lb or \$180.00/ton. This value is based on scrap steel delivered to the recycling center.

HRCV's Historical Timeline included a Track Map which shows that trackage between STA 0+00 and STA 24+45 is a mix of 100- and 130-lb/yd steel rail. The level of detail provided on the track map could allow one to infer that the split is roughly 50/50 between the 100 lb rail and 130 lb rail. For this analysis, we will presume an average rail weight of 115 lbs/yd. Even if 130 lb/yd were used in the calculation, the Estimated NLV would still be negative.

### **Demolition and Restoration Costs - ~2350 LF of track (1190 LF west outside of crossing, 1160 LF east outside of crossing)**

Rail Contractor Mobilization and Oversight - \$25,000

Removal of Ballast, trucking, & disposal - 2 tons/LF - \$20.00/ton - 4700 tons = \$94,000

Trucking \$100/hr (20 tons/trip, 1.5 hr round trip)

disposal \$10/CY (\$5/ton)

Excavation \$15/CY (\$7.50/ton)

= \$20.00/ton @ 2 tons/CY

Removal of Rail Ties - 3300/mile - \$10/tie – 1,470 ties = \$14,700

Removal of Track - \$5/LF x 2 rails – 4700 LF = \$23,500

Removal of OTM - \$5/LF - 2350 LF = \$11,750

Erosion & Sediment Control (silt fence, stabilized construction entrances) = \$15,000

Installation of Topsoil - 40' wide - \$5/SY – 10,444 SY = \$52,220

Installation of Seed and Matting - 40' wide - \$4/SY – 10,444 SY = \$41,776

SUBTOTAL = \$277,946 -> \$278,000.00

**Demolition and Restoration Costs - Roadway Crossing (100 LF on skew)**

Roadway Contractor Mobilization and Oversight - \$35,000

Roadway Engineering & Plan Approval - \$30,000

Inspection Fees - \$15,000

Electrical Abandonment - \$7,500

Removal of Signals and Safety Gates - \$15,000

Maintenance of Traffic - \$2500/day - 12 days - \$30,000

Sawcutting Concrete- \$3,000

Torch Rail in Half - \$2,500

Concrete Demolition - \$20,000

Disposal Costs - \$5,000

Concrete Patching First Half - \$30,000

Concrete Patching Second Half - \$30,000

Temporary Striping - \$2,500

Milling - 500'x50'x2" - 5600 SY-IN - \$4/SY-IN = \$22,400

Top Paving - 500'x50'x2" - 320 Tons @ \$160/ton = \$51,200

Temporary Striping - \$5,000

Permanent Striping - \$10,000

Roadway Crossing Removal SUBTOTAL = \$314,100

## Equipment Salvage Value

From the demolition of the track, only a few items have a non-de minimis salvage value.

Railroad Ties - \$3/tie purchased by wholesaler – 1,470 ties \* 60% useful = \$2,646

115 LB/SY Track @ \$0.25/LB - \$9.58/LF delivered - 4,700 LF = \$45,026

The April 2024 scrap value for #2HMS shown in Exhibit “C” is \$0.09/lb. We presume that any salvage operation of this line may include some rail of relay or reroll grade, which would receive higher than scrap value, therefore we presume an average salvage value of \$0.25/lb to the rail for this section of track, which is significantly higher than the current market value for scrap steel and favors HRCV in the NLV calculation.

Ballast salvage value – \$0.00 – Once excavated by the site contractor, ballast becomes the property of the site contractor and has no value to the owner. Often, the contractor does not have a site readily available to receive the material and greenfield sites are reluctant to take material from railroad property due to potential for contamination. This often results in the ballast material having to be disposed of at cost to the contractor, therefore it does not have a positive salvage value.

SALVAGE SUBTOTAL NLV = \$47,672 -> \$48,000

## Residual Real Estate Value

The Feeder Line real estate consists of a parcel of land (NCC parcel 07-037.40-222) acquired in fee simple, west of STA 11+91, includes 25' north of centerline and 35' south of centerline approximately 1200 feet long, and not subject to any Federal land grants. South of the centerline, HRCV conveyed a shared use driveway 22' wide to an adjoining parcel. The terms of the shared use driveway easement conveyance include an abandonment clause. In the event the trackage is ever removed, the railroad's right to use the shared use driveway is extinguished. This essentially means that upon track removal, the remaining real estate would consist of 25' north of the centerline and 13' south of the centerline, for a parcel width of 38'.

The residual parcel would roughly be 38' wide by 1200' deep subject to Light Industrial Zoning in New Castle County, DE. The parcel is cut in half by a creek and culvert approximately 365' from the road frontage. The narrow width of the parcel would pose some challenges for a developer to productively use the site. One-way fire lane minimums are 16' and building minimum widths are 24' per code, so it would be impossible to build a 16' fire lane adjacent to a 24' side building (40' minimum width necessary) on a 38' wide parcel. At 38' wide, the parcel is also narrower than the minimum lot width for the zoning district, and is thus considered a non-conforming lot. The site is further constrained by required Riparian Buffer Area setbacks for wetlands that run near both side lot lines. As such, we would consider this to be a

'constrained' parcel. Unconstrained Light Industrial property in New Castle County, DE, less than 5 acres, typically sells for \$125,000/acre. Property value is also depressed due to its prior use as railroad operating property and the perceived potential for contamination. Given the likely development constraints, we would assign a reduced value of 60% of market value on the property, or \$75,000/acre. The 38x1220' parcel contains approximately 1.06 acres, thus we would assign a value of \$79,500 to the underlying residual real estate.

The permanent Track Easement between STA 0+00 and STA 11+91 has no marketable real estate value once the track is removed, therefore it's value is set at zero.

REAL ESTATE SUBTOTAL NLV = \$79,500

Respectfully submitted,

Robert P. McGurk

DE # 19698

A red circular professional engineer seal for Robert Patrick McGurk, Delaware, License No. 19698. The seal is stamped over a blue ink signature. To the right of the signature, the date "4/24/24" is handwritten in blue ink.

Exhibit "G"



Bob McGurk <bobmcgurk@gmail.com>

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**Conversation**

1 message

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**Kevin Martin** <kmartin@wwrr.com>  
To: bobmcgurk@gmail.com

Mon, May 22, 2023 at 3:03 PM

Bob,

Thank you for your phone call this afternoon. Unfortunately, the Wilmington & Western Railroad is not moving freight at this time. Thank you for your inquiry and have a wonderful rest of your week.

---

*Kevin J. Martin*

General Manager

Wilmington & Western Railroad

"A museum in motion"

302.998.1930

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