

May 24, 2021

Assignment to VPRA of Comprehensive Rail Agreement and Ancillary Agreements; Transfer of Property Rights



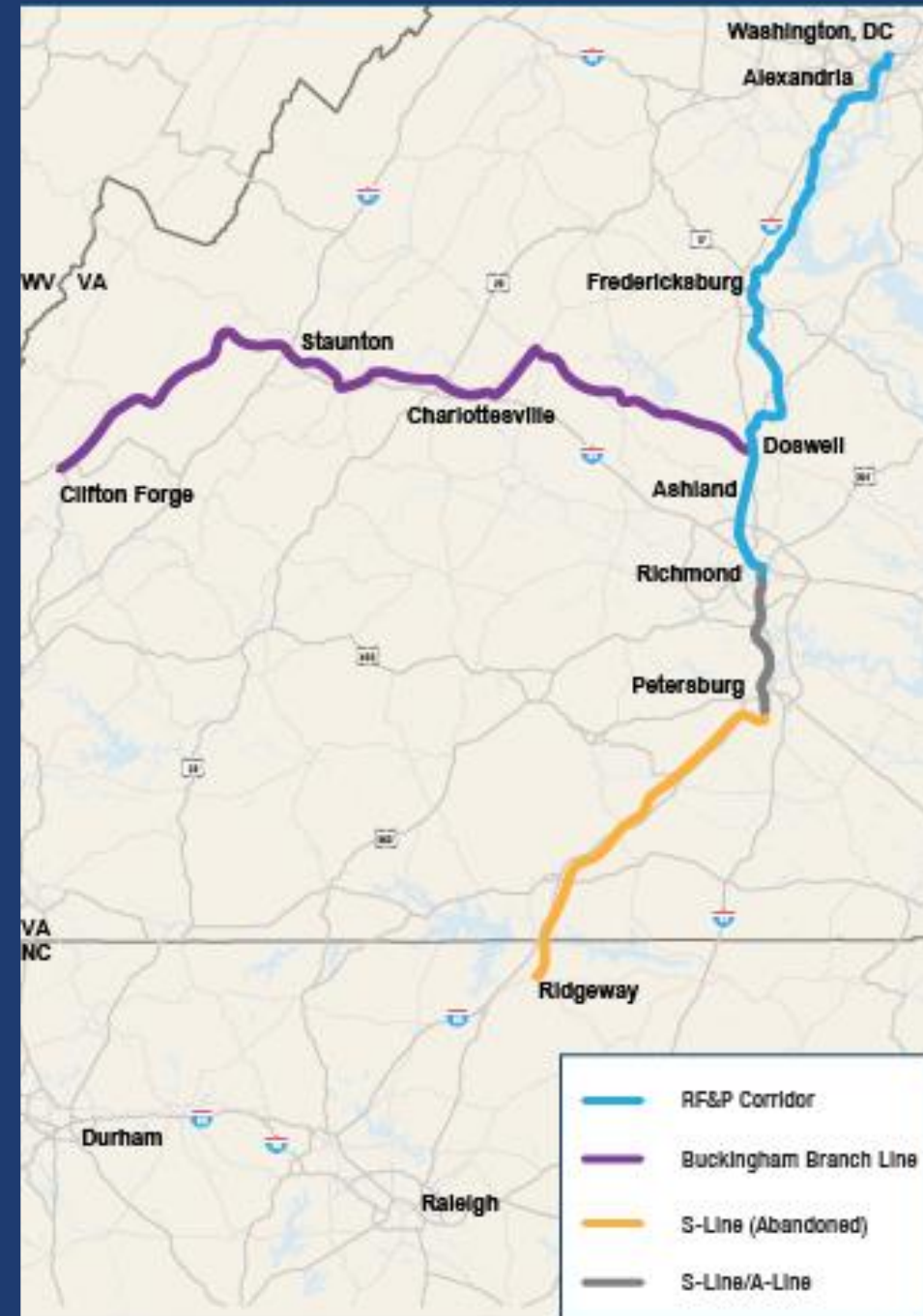
Background: Property Acquisition

Three Railroad Segments

- **Segment 1 (145 miles) – Washington D.C. to Petersburg/Dinwiddie**
- Segment 2 (75 miles of abandoned ROW) – Petersburg/Dinwiddie to Ridgeway, NC
- Segment 3 (165 miles) – Doswell to Clifton Forge

Three Purchase Installments & Closing Dates

- **\$200M already paid on April 14, 2021**
 - closing date for Segment 1
- \$200M on or before November 30, 2021
 - closing date for Segment 3
- \$125M on or before November 30, 2022
 - closing date for Segment 2



Purpose: Resolution for Assignment and Transfer

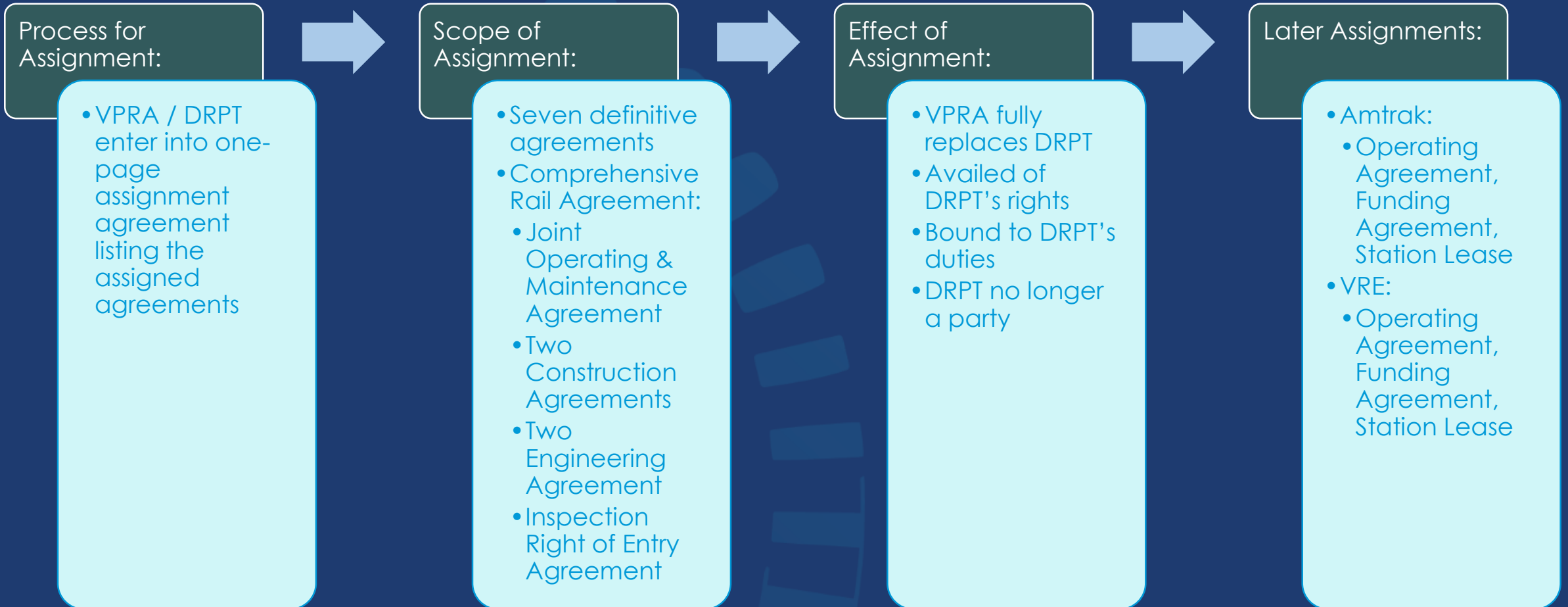
Comprehensive Rail Agreement

- CRA by Assignment
- 6 Ancillary Agreements

Segment 1

- Transfer of Property Rights Already Acquired
- Requires Deed Execution
- Limited to Dinwiddie/Petersburg to DC Corridor

Assignment



Transfer of Segment 1 Property Rights

PROCESS: DRPT / VPRA will execute new set of real property deeds

SCOPE:

- Transfer to VPRA:
 - Segment 1 real property interests acquired by DRPT on April 14, 2021
 - Easement over passenger corridor
 - Easement over freight corridor
 - 100 years or earlier buildout
 - Ownership of 13 VRE passenger facilities

EFFECT:

- Property Interests run to VPRA not DRPT
- CSXT remains freight common carrier
- CSXT remains counterparty to occupant licenses and easements
- CSXT can grant new licenses and easements that do not unreasonably interfere with passenger service

Comprehensive Rail Agreement – Key Terms

- Master agreement between CSXT and VPRA
- Rights and duties for acquisition of Segments 3 and 2
- Freight operations reserved to CSXT
- Conditions to unlock new passenger service
- Liability
- Responsibility for environmental conditions
- Dispute resolution

Comprehensive Rail Agreement – Key Terms

Process for Closing Segments 3 and 2 between VPRA and CSXT

- Title examination
- Inspection
- Environmental Releases
- Material Damage
- Exchange of deed for cash payment; execution of collateral documents

Freight Operations

- CSXT retains common carrier obligation on Segment 1
- CSXT backstops BBRC common carrier obligation on Segment 3; retains limited trackage rights
- CSXT has first right to conduct freight operations on Segment 2 if restored

Comprehensive Rail Agreement – Key Terms

Segment 1 Incremental Passenger Infrastructure Program

- Closing Date 1
- Phase 1 Improvements (2026)
- Phase 2 Improvements (2030)

Liability

- No direct train operations by VPRA (Va. Code § 33.2-292(B))
- Immunity, Indemnity, and Insurance

Comprehensive Rail Agreement – Key Terms

Immunity

- VPRA has immunity from tort liability, generally, except as has been abrogated by the General Assembly under the Virginia Tort Claims Act (maximum \$100K liability to an injured party)

Indemnity

- CSXT indemnifies VPRA against injuries or damage arising from a “CSXT Train Incident” to CSXT employees, property, or cargo, third parties, and damage to VPRA property

Insurance

- DRPT/VPRA have liability policy with \$15M/\$30M of coverage and CSXT is an additional insured; pollution liability coverage of \$10M with CSXT as additional insured

Comprehensive Rail Agreement – Key Terms

Environmental Conditions

- DRPT conducted Phase 1 and 2 environmental inspections
- CSXT must reimburse VPRA for half remediation costs for pre-existing conditions (\$7M cap)
- CSXT has a duty to remediate any conditions that arise due to freight operations

Dispute Resolution Process

- Senior Representatives
- Mandatory Mediation
- Court

Joint Operating and Maintenance Agreement

- Defines roles and responsibilities of CSXT and VPRA
- 100 years
- Does not apply to Segment 2
- Dispatch
- Maintenance
- Future Capital Improvements on Segment 1
- Passenger Schedules

Joint Operating and Maintenance Agreement – Key Terms

Dispatch

- Segment 1
 - CSXT dispatches Segment 1 until after Phase 4
 - VPRA has option to dispatch north of Alexandria after Phase 2
- Segment 3
 - BBRC will continue to dispatch at its cost

Maintenance

- Segment 1
 - CSXT will maintain Segment 1 until after Phase 4
 - VPRA must maintain north of Alexandria if opts to dispatch after Phase 2
- Segment 3
 - BBRC will continue to maintain at its cost

Joint Operating and Maintenance Agreement – Key Terms

Future Improvements to Segment 1

- Establishes a regime where each party can propose future improvements within the corridor
- Requires collaboration so neither party introduces improvements that materially interfere with the other's operating rights

Passenger Train Schedules

- Establishes initial passenger schedules to be refined by Performance Management Committee that includes VRE and Amtrak representatives

Construction and Engineering Agreements

Agreements

- Two Engineering Agreements
- Two Construction Agreements

Scope

- Govern design and construction through Phase 2 (VPRA will fund the projects in all cases)
- Agreements provide VPRA oversight and control over design and construction aspects when CSXT undertakes design and construction

Construction and Engineering Agreements

Phases 1
and 2
(\$3.2BN
Program)

Schedule Risk

- Liquidated damages for late completion

Completion Risk

- Performance securities

Cost Controls for VPRA

- Not-to-exceed amounts for each scope
- Contingency
- Remedies for unbudgeted amounts

Defects

- Standard warranties
- Duty to remedy defects
- Professional Liability Insurance

Inspection Right of Entry Agreement

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graph TD; A[Inspection Right of Entry Agreement] --> B[Allows VPRA to inspect Segments 2 and 3 prior to respective closings]; A --> C[Permits VPRA to inspect, examine, survey, study and other necessary inspections];
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Allows VPRA to inspect Segments 2 and 3 prior to respective closings

Permits VPRA to inspect, examine, survey, study and other necessary inspections

THANK YOU

Questions?

