



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

September 29, 2014

Charlene Dwin Vaughn, AICP
Assistant Director, Office of Federal Agency Programs
Federal Permitting, Licensing and Assistance Section
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, D.C. 20001-2637

Re: STB Docket No. FD 35756—Hartwell Railroad Company—Notice of
Exemption to Construct—In Elbert County, GA; **Memorandum of Agreement**

Dear Ms. Vaughn:

On May 27, 2014, the Hartwell Railroad Company (Hartwell) filed a verified notice of exemption with the Surface Transportation Board (STB or Board) seeking the Board's authority to construct approximately 1,360 feet of rail line (the Proposed Action) that would connect the existing Hartwell rail lines with a rail line owned and operated by CSX Transportation, Inc. (CSXT) in Elberton, Elbert County, Georgia. The Proposed Action would occur on land within existing rail right-of-way owned by Hartwell. The Board's approval of this proposed construction is considered an undertaking under Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) (NHPA) and is thus covered under its provisions. The Board's Office of Environmental Analysis (OEA) is responsible for ensuring the agency's compliance with the National Environmental Policy Act and NHPA.

I am writing to notify you that OEA has executed a Memorandum of Agreement (MOA) with the Georgia State Historic Preservation Office (SHPO) and Hartwell to resolve any adverse effects to historic properties for the proposed undertaking, pursuant to 36 C.F.R. § 800.6(b)(i)(iv). The signed and executed document is included for your files. The filing of this document with the Advisory Council on Historic Preservation completes our compliance responsibilities under section 106 of the NHPA.

If you have any questions, require additional information regarding this proceeding, or have any concerns, please do not hesitate to contact Diana Wood of my staff at 202-245-0302.

Sincerely,

A handwritten signature in blue ink, appearing to read "Victoria Rutson".

Victoria Rutson
Director
Office of Environmental Analysis

Attachment

cc: Najah Duvall-Gabriel, ACHP
Jennifer Dixon, Georgia SHPO (HP-131217-002)
Matthew Williams, Attorney for Hartwell Railroad
Kevin Starner, Skelly and Loy, Inc.

MEMORANDUM OF AGREEMENT

Among

**THE SURFACE TRANSPORTATION BOARD,
THE HARTWELL RAILROAD COMPANY, AND
THE GEORGIA STATE HISTORIC PRESERVATION OFFICER**

Regarding

**STB DOCKET NO. FD 35756
HARTWELL RAILROAD COMPANY –
NOTICE OF EXEMPTION TO CONSTRUCT–
IN ELBERT COUNTY, GEORGIA
(HP-131217-002)**

WHEREAS, on May 27, 2014, Hartwell Railroad Company (Hartwell) filed a verified notice of exemption with the Surface Transportation Board (STB), from the prior approval requirements of 49 U.S.C. § 10901 and pursuant to the class exemption at 49 C.F.R. § 1150.36 to construct approximately 1,360 feet of rail line (the proposed action) that would connect the existing active lines of Hartwell with CSX Transportation, Inc. (CSXT) in Elberton, Elbert County, Georgia; and,

WHEREAS, the proposed action would occur on land within existing rail right-of-way owned either by Hartwell or CSXT; and,

WHEREAS, the STB is the federal agency responsible for compliance with Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. Part 470f and its implementing regulations at 36 C.F.R. Part 800; and,

WHEREAS, the STB's potential approval of the proposed action is an undertaking as defined at 36 C.F.R. § 800.16(y); and,

WHEREAS, pursuant to 36 C.F.R. Part 800, and in consultation with the Georgia State Historic Preservation Officer (SHPO), the STB's Office of Environmental Analysis (OEA) determined that the buildings at the former Century Granite Company site and within the existing rail right-of-way are eligible for listing in the National Register of Historic Places (NRHP); and,

WHEREAS, the rail line construction would result in the demolition of NRHP-eligible buildings at the former Century Granite Company and in consultation with Georgia SHPO was determined an adverse effect, pursuant to 36 C.F.R. § 800.5(a)(1); and,

WHEREAS, the STB determined, in consultation with the Georgia SHPO, that no archaeological resources that are eligible for or listed in the National Register would be affected

by the proposed undertaking due to prior disturbances; and,

WHEREAS, OEA issued a Draft Environmental Assessment (EA) for review on July 1, 2014 that notified the public of the adverse effect. The comment period ended July 31, 2014 and no comments were received regarding the adverse effect; and,

WHEREAS, the U.S. Department of Interior's National Park Service web site at <http://grants.cr.nps.gov/nacd/index.cfm> indicates that there are no federally recognized tribes in Elbert County, Georgia; and,

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the STB has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and,

NOW, THEREFORE, the STB, the SHPO, and Hartwell agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the proposed undertaking on historic properties.

STIPULATIONS

The STB shall ensure that the following measures are carried out by a Secretary of the Interior's Qualified professional:

I. ARCHIVAL PHOTOGRAPHS RECORDATION

- a. Prior to demolition, photographic documentation of the exterior of Century Granite Company, as well as photographs showing the overall complex and its setting will be taken.
- b. The photographer shall comply with the minimum level standards necessary for document retention at SHPO pursuant to the Guidelines for Establishing a Photographic Permanent Archival Record (Appendix A). A draft copy of the photographic record will be provided to SHPO for review and acceptance. The photographic documentation provided in Appendix D of the Draft EA will suffice. Upon approval, a second copy will be provided to the Elbert County Public Library.

II. HISTORIC NARRATIVE

- a. Hartwell will make arrangements for the research and writing of a one-to-two page historic narrative regarding the granite industry and Century Granite Company in Elberton, Georgia.
- b. STB will submit a draft copy of the developmental history report to the SHPO for review and approval. Upon approval of the draft copy of the development's history

report by the SHPO, final copies of the report will be submitted to the SHPO in hardcopy and digital format. The write-up provided in Appendix D of the Draft EA will suffice. One additional copy will be submitted to the Elbert County Public Library.

III. DURATION and TERMINATION

The MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, STB may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation V.

Unless terminated, this MOA will be in effect until the STB, in consultation with the other signatory parties, determines that all of its terms have been satisfactorily fulfilled. Upon a determination by the STB that all terms of this MOA have been satisfactorily fulfilled, this MOA will terminate and have no further force or effect. The STB will promptly provide the other signatory parties with written notice of its determination and of termination of the MOA. If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation V. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, STB must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. STB shall notify the signatories as to the course of action it will pursue.

IV. DISPUTE RESOLUTION

Should any signatory party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the STB shall consult with such party to resolve the objection. If the STB determines that such objection cannot be resolved, the STB will:

A. Forward all documentation relevant to the dispute, including the STB's proposed resolution, to the ACHP. The ACHP shall provide the STB with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the STB shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The STB will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the STB may make a final decision on the dispute and proceed

accordingly. Prior to reaching such a final decision, the STB shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. The STB's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

V. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

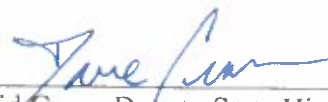
Execution of this MOA and implementation of its terms evidence that the STB has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORY PARTIES

SURFACE TRANSPORTATION BOARD

By:  Date: Sept. 26, 2014
Victoria Rutson, Director
Office of Environmental Analysis

GEORGIA STATE HISTORIC PRESERVATION OFFICE

By:  Date: 25 SEPT. 2014
David Crass, Deputy State Historic Preservation Officer
Georgia Department of Natural Resources

HARTWELL RAILROAD COMPANY

By: Bennie Ray Anderson
Bennie Ray Anderson, President
Hartwell Railroad Company

Date: 9/19/14



HISTORIC PRESERVATION DIVISION

MARK WILLIAMS
COMMISSIONER

DR. DAVID CRASS
DIVISION DIRECTOR

September 25, 2014

Diana F. Wood
Office of Environmental Analysis
Surface Transportation Board
395 E Street, SW, Room 1110
Washington, DC 20423

**Re: Final Memorandum of Agreement
STB 35756: Hartwell Railroad Company Construction and Operation Exemption
Elbert County, Georgia
HP-131217-002**

Dear Ms. Wood:

The Historic Preservation Division (HPD) has received the documentation for the above-referenced project. Our comments are offered to assist the Surface Transportation Board in complying with the provisions of Section 106 of the National Historic Preservation Act, as amended.

HPD has reviewed the final Memorandum of Agreement (MOA) for the proposed project, which our office received September 22, 2014. HPD agrees that the stipulations proposed in the MOA are appropriate to address the adverse effects associated with this undertaking. HPD is forwarding the signed agreement to your office for review and further processing.

Please refer to project number **HP-131217-002** in any future correspondence regarding this undertaking. If we may be of further assistance, please feel free to contact Jennifer Dixon, Environmental Review Program Manager, at (404) 651-6546 or jennifer.dixon@dnr.state.ga.us.

V/r,

Dr. David Crass
Division Director and
Deputy State Historic Preservation Officer

DC:jad

cc: Burke Walker, Northeast Georgia Regional Commission
MOA file