

#E1-20402

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March 3, 2014

Ms. Victoria J. Rutson, Chief
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: Finance Docket No. 35756, Hartwell Railroad Company –
Construction and Operation of a Line of Railroad – in Elbert County, GA

Dear Ms. Rutson:

Petitioner Hartwell Railroad Company (hereinafter Hartwell) has filed a petition with the Surface Transportation Board (Board), seeking an exemption from the prior approval requirements of 49 U.S.C. § 10901 for the construction and operation of a rail line, approximately 1,360 feet in length, connecting the lines of Hartwell and CSX Transportation, Inc. in Elbert County, GA in order to effect the direct interchange of traffic between Hartwell and CSX.

This letter is to request a waiver from the requirements of 49 C.F.R. § 1105.6(a). That section provides that “Environmental Impact Statements (EIS) will normally be prepared for rail construction proposals.” Hartwell hereby submits that an Environmental Assessment (EA) is adequate to assess the impact of the proposed rail line construction on the environment. In support of this request, Hartwell submits the following:

As you know, Hartwell’s representatives met with you at your offices on July 30, 2013, during which time you outlined the environmental review that would be necessary for this project, including the need to coordinate with other agencies. Hartwell representatives discussed the proposed route for their proposed new rail line and the results of their preliminary environmental analysis. Thereafter, the Board approved, and Hartwell retained, Skelly and Loy, Inc. Engineering-Environmental Consultants to act as an independent third party consultant for this project. Since being approved, Skelly and Loy has consulted with the Office of Environmental Analysis (OEA) and is working under the direction and supervision of OEA in preparing the environmental document for this project.

On December 13, 2013, OEA sent out agency consultation letters to various Federal, state and local agencies. Responses received to date have identified only one environmental issue associated with the proposed project, the presence of several industrial buildings that have been identified as being eligible for listing on the National Register of Historic Places. Subsequent to

this determination, the Georgia State Historic Preservation Office (SHPO) has assured Hartwell that the project's adverse effect upon these National Register-eligible resources will be effectively mitigated via the preparation of a memorandum of agreement between Hartwell, the SHPO and the Board. Further, the SHPO concurred that no archaeological resources are likely to be impacted by the construction of the proposed rail line.

On December 5, 2013, a site visit was undertaken and the proposed rail line was physically inspected by Skelly and Loy and representatives of Hartwell. The location of the proposed rail line is confined to three industrial parcels in Elbert County. These parcels are located in an urbanized setting centered on Elbert County's intensive granite processing industry. In fact, all of the industrial parcels in and near the proposed rail line are associated in some capacity with the granite processing industry. No occupied residential structures exist within the immediate project vicinity.

Throughout the study of this project, Hartwell has strived to minimize the potential environmental impacts of the proposed construction on the area. Consultation letter responses from the U.S. Fish and Wildlife Service and the Georgia Department of Natural Resources have confirmed that there are no threatened and endangered species issues associated with the proposed project. Further, no jurisdictional wetlands or watercourses have been identified within close proximity of the proposed project.

Only one public road crossing (i.e., West Tate Street Extended) exists within the project study area. Hartwell already maintains an at-grade crossing of this local roadway via its existing railroad line, and implementation of the proposed project will only involve the addition of a second set of tracks at this existing grade crossing. Given the availability of alternate routes around this grade crossing, no significant traffic delay or public safety issues are anticipated.

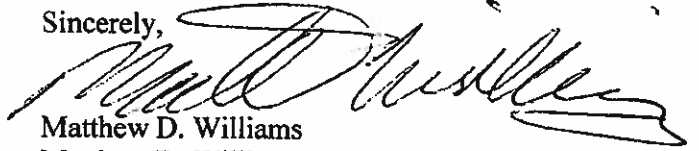
For these reasons, Hartwell believes that an EA, rather than an EIS, is the appropriate level of environmental documentation based upon the limited scope of the proposed project, which entails 1,360 feet of track construction. An EA is sufficient in this proceeding under the standards of § 1105.6 (d) because the proposed construction and operation of the new rail line is unlikely to have significant environmental impacts. Specifically, project information developed to date indicates that there are not likely to be any significant impacts to transportation systems, land use, energy, air quality, noise, safety, biological resources, or surface and ground water resources. Nor is it anticipated that there will be high or disproportionate impacts on minority or low-income populations based upon the review of existing demographic data for the region and site reconnaissance. An EA in this instance would be consistent with OEA's review of other construction cases of limited scope. *See, e.g., Entergy Arkansas – Construction and Operation Exemption – Between White Bluff and Pine Bluff AR*, F.D. No. 33782 (STB served Sept. 28, 2001); *Pemiscot County Port Authority – Construction Exemption – Pemiscot County, MO*, F.D. No. 34117 (STB served Aug. 26, 2003); *Burlington County, CA*, F.D. No. 34305 (STB served Mar. 3, 2004). Furthermore, Hartwell acknowledges that OEA can later require that an EIS be prepared if the EA does not result in a finding that the project will not have significant environmental impacts.

Hartwell will agree to mitigation activities proposed by the Georgia SHPO for the adverse effect to the National Register-eligible buildings located within the project study area, to be documented within a memorandum of agreement.

Based upon the foregoing, Hartwell respectfully submits that there is adequate justification for a waiver of the Board's requirement of an EIS. In lieu thereof, Hartwell requests authorization to proceed with preparation of an EA for the proposed rail project.

If you have any questions regarding this request or need further information, please do not hesitate to call me at (770) 815-9331.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew D. Williams", written over a horizontal line.

Matthew D. Williams

Matthew D. Williams & Associates, LLC

Counsel for the Hartwell Railroad Company

MDW:fha

Cc: Diana Wood, STB/OEA
Kevin Starner, Skelly and Loy