



RE: Railroad construction in Lake County , TN
Jennifer Barnett to: Joshua.Wayland@stb.dot.gov
 Cc: Jimmy McNeil, Joseph Garrison

02/12/2015 12:40 PM

History: This message has been replied to.

1 attachment



Cates Landing 2004 MOA.pdf

Josh,

I have reviewed the documents that you sent to me regarding the proposed Cate's Landing rail lines. I wanted to give you a heads-up that I will be requesting an archaeological survey of the proposed routes. The Cates Landing project (formerly known as the "Northwest TN Harbor" project) dates back to 2003. At that time there was an archaeological survey done of the port itself, but not the entire potentially associated development area. We signed a Memorandum of Agreement with the Corps of Engineers and the Northwest TN Port Authority to address the effect of the USACE's construction and permitting of the port on historic properties. The MOA was ratified in 2004 for a period of 5 years. The MOA was not extended, therefore each additional federal undertaking that falls under the auspices of the overall harbor project must be addressed on a project by project basis.

I am attaching a copy of the 2004 MOA for your reference. I am also copying Jimmy McNeil (USACE Memphis District archaeologist) so that he and the Corps are aware that additional port facilities and industrial developments continue and must be addressed on a project by project basis. I suggest that you contact him so that you may coordinate your cultural resources compliance processes.

I will draft a formal survey request letter to you in the next few days.

Let me know if you have any additional questions.

- Jennifer

Jennifer M. Barnett
 Archaeologist Supervisor and Federal Programs Archaeologist
 Tennessee Division of Archaeology
 Cole Building #3, 1216 Foster Avenue
 Nashville, TN 37243
 Office: 615-741-1588, ext. 105
 FAX: 615-741-7329
 Email: Jennifer.Barnett@tn.gov

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-----Original Message-----

From: Joshua.Wayland@stb.dot.gov [mailto:Joshua.Wayland@stb.dot.gov]
 Sent: Tuesday, February 10, 2015 4:04 PM
 To: Jennifer Barnett
 Subject: Railroad construction in Lake County, TN

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Hi Jennifer,

Thank you for taking my call today. As I mentioned on the phone, my office received comments from the Tennessee Historical Commission in August, 2014 requesting additional information about the proposed rail construction project at Cates Landing in Lake County, Tennessee. Specifically, the comments request a copy of a map of the proposed project area and a clear project narrative. I have attached for your reference a copy of a Description of Proposed Action and Alternatives, which my office prepared as part of its ongoing environmental review of the project. This document includes maps of the applicant's proposed alignment and the identified alternatives. I have also attached a cultural resources survey report prepared on behalf of my office by our third party contractor. The original request for comments and the response are also attached. Thank you so much for taking the time to review these documents; please feel free to call me at the number below with any questions or if there is any additional information you need for your review.

(See attached file: Request for Project Related Comments.pdf)(See attached file: Tennessee Historical Commission Response.pdf)(See attached file: Cates Landing DOPPA.pdf)(See attached file: Cates Landing Cultural Resources Survey Report.pdf)

Best regards,

Josh Wayland
Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
Tel: (202) 245-0330



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
MEMPHIS DISTRICT CORPS OF ENGINEERS
167 NORTH MAIN STREET B-202

MEMPHIS TN 38103-1894

April 9, 2004

RECEIVED
APR 13 2004
TN. HISTORICAL
COMMISSION

Planning, Programs, & Project
Management Division
Environmental Branch

Mr. Herbert L. Harper
Deputy State Historic Preservation Officer
Tennessee Historical Commission
Cloverbottom Mansion
2941 Lebanon Road
Nashville, Tennessee 37242-0442

Dear Mr. Harper:

The Corps of Engineers, Memphis District, in partnership with the Northwest Tennessee Port Authority, is studying the feasibility of harbor construction in Lake County in northwest Tennessee. The harbor is located on the left descending bank of the Mississippi River at river mile 900 and adjacent to an abandoned Corps concrete staging field. However, the Lake County Government wants to establish a 1000-acre industrial park just south of the harbor, which is the actual reason for the harbor construction. Project maps, the report "A Cultural Resources Literature and Records Search for the Proposed Northwest Tennessee Harbor in Lake County", and a copy of this draft Memorandum Of Agreement (MOA) was mailed to you on May 2, 2001.

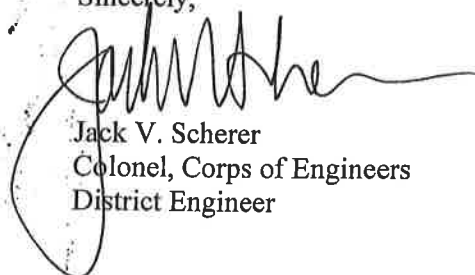
The MOA proposes to allow historic preservation surveys to be conducted as each industrial customer decides to locate in the industrial park area. I have enclosed a copy of the MOA for your review and signature.

On January 14, 2004, the draft MOA was sent to: the Chickasaw Nation of Oklahoma, the Quapaw Tribe of Oklahoma, the Choctaw Nation of Oklahoma, and the Mississippi Band of Choctaw Indians for review and comment. None of the Native American parties have responded thus far.

After you have signed the MOA, please return it to this office. We are sending this certified/overnight mail to assure its prompt arrival. Please return the signed original in the same manner.

Should you have questions about the proposed project or the MOA, contact the District Archeologist, Mr. Jimmy McNeil, at 901-544-0710 or jimmy.d.mcneil@mvm02.usace.army.mil.

Sincerely,


Jack V. Scherer
Colonel, Corps of Engineers
District Engineer

Enclosure

MEMORANDUM OF AGREEMENT
AMONG
THE UNITED STATES ARMY CORPS OF ENGINEERS,
MEMPHIS DISTRICT,
THE TENNESSEE STATE HISTORIC PRESERVATION OFFICER
AND THE NORTHWEST TENNESSEE PORT AUTHORITY
PURSUANT TO 36 CFR PART 800

WHEREAS, the United States Army Corps of Engineers (CE), Memphis District, has determined that the Northwest Tennessee Harbor (NTPA) project may affect National Register eligible site 40LK54, the Cremaillere Line Fortification located in Lake County, and other as yet undetermined historic properties included in or eligible for inclusion in the National Register of Historic Places, and has consulted with the Tennessee State Historic Preservation Officer (SHPO) pursuant to Section 800 of the regulations (36CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16U.S.C.470f); and

WHEREAS, the NTPA participated in the consultation and has been invited to concur in this Memorandum of Agreement; and

WHEREAS, CE invited the Quapaw Tribe of Oklahoma, the Chickasaw Nation, the Choctaw Nation of Oklahoma, the Mississippi Band of Choctaw Indians, and the;

WHEREAS, Plans and maps for the proposed development are made a part of this document as "Appendix A"

NOW, THEREFORE, CE, Memphis District and the Tennessee SHPO agree that the undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

STIPULATIONS

CE, Memphis District will ensure that the following measures are carried out:

1. Native American consultation (36CFR Part 800.15) will be conducted on a development by development basis.
2. All historic properties studies-survey, testing, or mitigation-will follow applicable current Federal (36CFR Part 800.3 through .14) and SHPO guidelines. All historic properties studies shall follow written scopes of work provided to or approved by the CE and approved by the SHPO.

3. Upon commencement of dredging for the harbor associated with this project any land area (associated with the harbor) affected by: construction, equipment usage, borrow, or placement of dredged materials shall be surveyed for historic properties eligible for listing in the National Register of Historic Places unless it has been previously surveyed or determined by the CE and SHPO that a survey is unnecessary. Such areas shall be represented on a US Geological Survey 7.5 minute topographic map and provided to the CE District Archeologist for review. Any areas to be surveyed will be determined by the CE District Archeologist in consultation with the SHPO.
4. In the "industrial development area", represented as such on Appendix "A" individual historic properties surveys shall be conducted prior to commencement of any ground disturbing activities associated with the establishment of each industry as it moves in it's assigned area.
5. The developer is responsible for having the Area of Potential Effect (ADE) of each industrial development surveyed for historic properties (including roads into the site and to the harbor) before any construction begins. The survey will be completed by a professional meeting the Secretary of the Interior's Professional Standards (48 FR44738-9). A description of the proposed development with the APE represented on a 7.5 minute US Geologic Survey quadrant map must be submitted to the CE District Archeologist and the SHPO before any historic property survey begins.
7. Should historic properties, determined to be eligible for listing in the National Register of Historic Places by the CE in consultation with the SHPO, be identified within the Area of Potential Effect of any development associated with this undertaking these resources shall be tested, avoided or mitigated before any ground-disturbance commences. The CE, Memphis District, Archeologist and the SHPO must review and approve any avoidance, testing, minimization, or mitigation plan submitted by the developer or the specific area of potential effect before any actual development associated work begins.
8. Should the area of potential effect of any industrial project area change after the original survey is completed, reviewed and approved, all new areas added to the area of potential effect shall be surveyed for historic properties before the start of ground-disturbance activities.
9. Should additional historic properties, determined to be eligible for listing in the National Register of Historic Places by the CE in consultation with the SHPO, be identified within the Area of Potential Effect of any development associated with this undertaking, these resources shall be avoided if possible by all ground disturbing activities. The avoidance plan must be submitted to the CE, Memphis District and the SHPO for review and approval.
10. When historic properties will be adversely affected by unavoidable physical destruction or damage and all avenues of avoidance and minimization have been exhausted, data recovery will be implemented before any ground-disturbance commences. The data recovery plan must be submitted to the CE, Memphis District,

Archeologist and the SHPO for review and approval prior to commencement of data recovery procedures and before any actual development associated work begins.

11. A draft and final report for all investigations undertaken to fulfill the stipulations of this agreement document that meets the Secretary of The Interior's Standards and Guidelines for Archaeology and Historic preservation and the SHPO reporting standards must be provided by the Developer and approved by the CE, Memphis District, Archeologist and the SHPO before the start of any ground-disturbance.
12. The SHPO and the CE, Memphis District shall be afforded 30 days to review and comment on all project documentation submitted for review or approval.
13. The SHPO and all other consulting parties may monitor activities carried out pursuant to this MOA, and the Advisory Council on Historic Preservation shall review such activities if it so requests. The CE, Memphis District shall cooperate with the SHPO in carrying out their monitoring and reviewing responsibilities.

Any signatory to this Memorandum of Agreement (MOA) may terminate it by providing thirty days notice to the other signatories. All the signatories to this agreement document shall consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the CE, Memphis District will comply with 36 CFR Part 800.4 through 800.6 with regard to individual undertakings covered by the MOA.

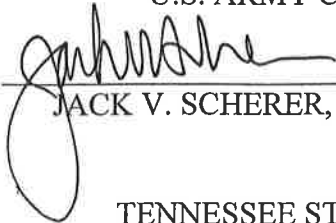
In event the CE, Memphis District does not carry out the terms of the MOA within a period of five calendar years following the ratification of this agreement document, the CE, Memphis District will comply with 36CFR Part 800.4 through 800.6 with regard to individual undertakings covered by this MOA.

This MOA will continue in full force and effect until five years from date of the ratification of this agreement document. At any time in the six-month period before this date, the NTPA may submit a written request to the SHPO and the CE for review of the NTPS' program and consideration of an extension or modification of the MOA. No extension or modification shall be effective unless all signatories to the MOA have agreed to the extension in writing.

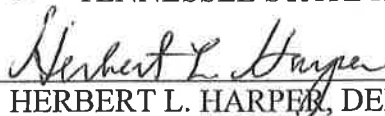
Execution of the MOA by CE, Memphis District and the Tennessee SHPO, and implementation of its terms, evidence that the CE, Memphis District has afforded the Council an opportunity to comment on the Northwest Tennessee Harbors Project and its effects on historic properties, and the CE, Memphis District has taken into account the effects of the undertaking on historic properties.

SIGNATORIES

U.S. ARMY CORPS OF ENGINEERS, MEMPHIS DISTRICT

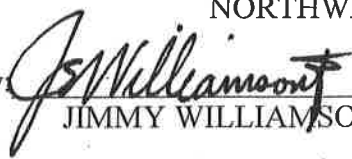
By:  Date: 8 Apr 04
JACK V. SCHERER, COLONEL, DISTRICT ENGINEER

TENNESSEE STATE HISTORIC PRESERVATION OFFICER

By:  Date: 5/4/04
HERBERT L. HARPER, DEPUTY SHPO

CONCURRENCE BY OTHERS

NORTHWEST TENNESSEE PORT AUTHORITY

By:  Date: 3/30/2004
JIMMY WILLIAMSON, CHAIRMAN

QUAPAW TRIBE OF OKLAHOMA

By: _____ Date: _____
JOHN BERREY, BUSINESS COMMITTEE CHAIRMAN

MISSISSIPPI BAND OF CHOCTAW INDIANS

By: _____ Date: _____
PHILLIP MARTIN, CHIEF

CHOCTAW NATION OF OKLAHOMA

By: _____ Date: _____
GREGORY E. PYLE, CHIEF

THE CHICKASAW NATION OF OKLAHOMA

By: _____ Date: _____
BILL ANOATUBBY, GOVERNOR