

SERVICE DATE – OCTOBER 24, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35756

HARTWELL RAILROAD COMPANY—CONSTRUCTION OF CONNECTING TRACK
EXEMPTION—IN ELBERT COUNTY, GA.

Digest:¹ Hartwell Railroad Company is authorized to build approximately 1,360 feet of connecting track in Elbert County, Ga., subject to the environmental mitigation measures set forth in Appendices A and B to this decision.

Decided: October 22, 2014

On May 27, 2014, Hartwell Railroad Company (Hartwell), a Class III railroad, filed a verified notice of exemption under 49 C.F.R. § 1150.36 to construct approximately 1,360 feet of connecting track in Elbert County, Ga., on land within existing railroad rights-of-way owned by Hartwell and by CSX Transportation, Inc. (CSXT). Hartwell is the proposed operator. Notice of the filing was served and published in the Federal Register on June 16, 2014 (79 Fed. Reg. 34,393).² The notice stated that upon completion of the environmental review process, the Board would issue a decision addressing the environmental impacts of the proposal and, if appropriate, making the decision effective at that time.

Hartwell explains that in 1995, when it acquired an approximately 48.3-mile Norfolk Southern Railway (NSR) rail line between Toccoa, Ga., milepost 0.5, and Elberton, Ga., milepost 48.80, it was able to interchange traffic with CSXT to the east at Elberton via a 1.9-mile NSR line. Hartwell states that it lost the CSXT interchange when NSR subsequently abandoned its line, forcing Hartwell to interchange traffic solely with NSR at Toccoa to the west and greatly increasing the distance for access to CSXT. Hartwell seeks here to reestablish its interchange with CSXT to the east by constructing this new connecting track, which Hartwell states would result in more efficient and effective service to its shippers.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² Hartwell indicates that it would be operating one train per day in each direction over the new connection with CSXT.

Hartwell invoked the class exemption for the construction of connecting track. The Board has received no petitions to reject or revoke the notice, nor any opposition to the proposed construction.

By decision served August 21, 2014, the Board stayed the effectiveness of the exemption until October 24, 2014, to allow time for: (1) the execution of a memorandum of agreement (MOA) addressing the mitigation of adverse effects on historic resources from the proposed line construction; and (2) the Board's Office of Environmental Analysis (OEA) to issue its Final Environmental Assessment (EA) prior to the Board issuing a final decision in the matter. This action was necessary because OEA, the Georgia Department of Natural Resources' Historic Preservation Division (SHPO), and Hartwell had not executed a MOA, and OEA could not complete its environmental review process prior to the effective date of the exemption.

A Draft EA prepared by OEA had been served on July 1, 2014. The Draft EA preliminarily concluded that the proposed action would adversely affect historic resources—specifically, the former Century Granite Company site. OEA stated that the SHPO had identified the site, which included several buildings, as eligible for listing on the National Register of Historic Places (National Register). OEA further stated that, in consultation with the SHPO and Hartwell, OEA was developing a MOA to satisfy the Board's Section 106 responsibilities under the National Historic Preservation Act. OEA added that, based on project information developed to date, there would be no significant impacts to any environmental resources, including transportation systems, land use, energy, air quality, noise, safety, biological resources, surface or groundwater resources, and minority or low-income populations. The Draft EA presented the voluntary mitigation measures developed by Hartwell as well as mitigation measures developed by OEA to minimize potential environmental impacts.

In the Final EA, issued on October 3, 2014, OEA states that the SHPO, Hartwell, and OEA have developed a MOA to mitigate the adverse effects of the proposal on historic resources and that the MOA has been fully executed by the parties and submitted to the Advisory Council on Historic Preservation. In addition, OEA notes that the U.S. Environmental Protection Agency, Region 4 (EPA) supports the recommended best management water quality protection mitigation measures in the Draft EA (VM 1, reproduced in Appendix A), because such measures would ensure that: (1) erosion control devices are installed and maintained during construction; (2) disturbed areas are adequately vegetated in a timely manner; and (3) site grading is minimized to the greatest extent possible to prevent storm water and associated pollutants from draining directly into local water sources.

After reviewing the environmental record, we agree with OEA's conclusions that the environmental analysis in the Draft EA and the Final EA is adequate and preparation of a full Environmental Impact Statement is not required and the construction of the proposed connecting track would have no significant environmental effects with the final recommended mitigation measures. Accordingly, we will adopt the final recommended environmental mitigation

measures as set forth in Appendices A and B to this decision, and impose them as conditions to this exemption.³

As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The mitigation measures set forth in Appendices A and B to this decision are adopted and imposed as conditions to the exemption being granted in this proceeding.

2. The exemption conditionally approved in the June 16, 2014 notice is granted, subject to the environmental mitigation measures contained in Appendices A and B.

3. This decision is effective on October 24, 2014.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

³ The conditions set forth in the Draft EA and Final EA are identical except that Board mitigation measure MM3 was longer in the Draft EA because it included details about how the now-executed MOA should be developed and what should be included. Condition VM1 addresses EPA's concerns.

APPENDIX A

VOLUNTARY ENVIRONMENTAL MITIGATION MEASURES

VM 1. Hartwell shall implement the following best management practices to minimize potential erosion and sedimentation impacts during project construction:

Minimize earth-clearing activities to the greatest extent practicable by disturbing only the area needed to physically construct the proposed rail line, required infrastructure, and staging area.

Prior to initiating site clearing, install erosion and sediment control measures such as silt fencing, silt socks, mulch blankets, or a similar erosion-control measure along the limit of disturbance and at the inlet of any storm drain structures within the construction zone.

Immediately stabilize any disturbed areas outside the rail corridor (i.e., temporary staging/equipment storage/material stockpiling areas) with an appropriate permanent vegetative cover after the completion of construction activities.

VM 2. Hartwell shall ensure that any herbicides used during peak maintenance are registered with the U.S. Environmental Protection Agency and applied by licensed individuals with experience in using best practices to minimize any environmental and safety risks to the extent necessary for rail operations.

VM 3. Hartwell shall coordinate the construction of the second set of tracks at the West Tate Street Extended grade crossing, including the temporary maintenance and protection of traffic measures to be implemented at this grade crossing (i.e., detour/temporary lane restriction), with the Elbert County Road Department and the appropriate local emergency response service providers (i.e., police, fire, and ambulance).

VM 4. During the construction of the second set of tracks at the West Tate Street Extended grade crossing, Hartwell shall provide appropriate advance warning signs for the detour/temporary lane restriction in accordance with Georgia Department of Transportation standards.

VM 5. For the West Tate Street Extended grade crossing, Hartwell shall provide and maintain a permanent sign prominently displaying both a toll-free telephone number and a unique grade-crossing identification number in compliance with the Department of Transportation Federal Highway Administration's (FHWA) regulations at 23 C.F.R. Part 655.

- VM 6. Hartwell shall limit the speed of trains operating over the proposed rail line to 10 miles per hour.
- VM 7. Hartwell shall comply with all applicable Federal Railroad Administration rail operations safety requirements at 49 C.F.R. Parts 200-299.
- VM 8. Hartwell shall erect new railroad crossbucks at the West Tate Street Extended grade crossing in accordance with FHWA's Manual on Uniform Traffic Control Devices.

APPENDIX B

BOARD-DEVELOPED ENVIRONMENTAL MITIGATION MEASURES

- MM 1. Hartwell shall comply with all voluntary mitigation measures.
- MM 2. During operations, Hartwell shall comply with all hazardous materials regulations of the U.S. Department of Transportation (including the Federal Railroad Administration and the U.S. Pipeline and Hazardous Materials Safety Administration), the Department of Homeland Security (including the Transportation Security Administration), the U.S. Environmental Protection Agency, and the Occupational Safety and Health Administration. During construction, Hartwell shall dispose of all materials that cannot be reused in accordance with applicable law.
- MM 3. Hartwell shall comply with the terms of the Memorandum of Agreement, developed pursuant to 36 C.F.R. § 800.6(c), which has been executed by all required parties.