



U.S. Department
of Transportation
**Maritime
Administration**

1200 New Jersey Avenue S.E.
Washington, DC 20590

July 10, 2008

VIA FEDERAL EXPRESS

Mr. Jeffrey S. Nilsson
Executive Director
Historic Naval Ships Association
409 Main Street
Smithfield, Virginia 23430.

Subject: Memorandum of Agreement concerning the ex-USS *Gage*

Dear Jeff:

Enclosed are five copies of the Memorandum of Agreement that have been signed by our Assistant Administrator, the Advisory Council on Historic Preservation, and the Virginia State Historic Preservation Officer concerning the ex-USS *Gage*. Attachments I and II are also enclosed for your review.

If you are in concurrence with the terms of the agreement, I respectfully request that you sign all five documents and return them to the Maritime Administration in the pre-paid Federal Express envelope provided. After all parties have signed the document, an original executed MOA will be provided to your office.

As per Stipulation I (C) of the agreement, I am also enclosing a copy of the Historic American Engineering Record (HAER) documentation of the ex-USS *Gage* for your records. If you have any comments on the report, please respond within 30 days its receipt.

Thank you for your assistance in the drafting of this document. As always, please do not hesitate to contact me if you have any questions.

Sincerely,

Barbara Voulgaris
Program Historian

Enclosure: Five originals of the ex-USS *Gage* MOA
Historic American Engineering Record (HAER) report for ex-USS *Gage*.

RECEIVED

JUN 23 2008

MEMORANDUM OF AGREEMENT
AMONG USDOT/MARITIME ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND
THE VIRGINIA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE DISPOSITION OF THE
OBSOLETE VESSEL EX-USS *GAGE*

Department of Historic Resources

Whereas, the Maritime Administration (“Maritime Administration”), an agency of the U.S. Department of Transportation, maintains the National Defense Reserve Fleet (NDRF) of seagoing, primarily non-combatant vessels for use in national emergencies, to assist the U.S. military in meeting its needs, and for those other purposes described in the Merchant Ship Sales Act of 1946, as amended (50 U.S.C. App. 1735-1745); and

Whereas, the National Maritime Heritage Act, as amended (16 U.S.C. 5405), legally obligates the Maritime Administration to dispose of all non-retention vessels in the NDRF; and

Whereas, the ex-USS *Gage* (“*Gage*”) is a non-retention vessel in the NDRF currently located at the James River Reserve Fleet, Fort Eustis, VA; and

Whereas, the Virginia State Historic Preservation Office (SHPO) advises and assists the Maritime Administration in carrying out its section 106 responsibilities pursuant to the National Historic Preservation Act of 1966 16 U.S.C. §470 (NHPA); and

Whereas, the Maritime Administration has determined that the disposal (either by dismantling, sinking, or reefing) of the *Gage* is an undertaking, as defined in the regulations of the Advisory Council on Historic Preservation (ACHP), “Protection of Historic Properties,” 36 CFR § 800.16(y); and

Whereas, in consultation with the SHPO, the Maritime Administration has determined the area of potential effects (APE) as the *Gage* should the vessel be dismantled. Should a decision be made to deliberately sink the vessel as an artificial reef, the APE shall include that portion of the seabed where the vessel will ultimately rest. In its site preparation work, the Maritime Administration will seek to ensure that the vessel is not placed on top of any property, such as another sunken vessel, that could be eligible for listing on the National Register of Historic Places; and

Whereas, in consultation with the SHPO, the Maritime Administration has determined that the *Gage* is eligible for listing on the National Register of Historic Places (NRHP); and

Whereas, in consultation with the SHPO, the Maritime Administration has determined that this undertaking will have an adverse effect upon those qualities of the *Gage* that qualify it for listing on the NRHP; and

Whereas, the Maritime Administration has consulted with the SHPO pursuant to the Advisory Council on Historic Preservation's (ACHP) regulations (36 CFR § 800) implementing Section 106 of the NHPA to seek ways to reduce, minimize, or mitigate any adverse effects of this undertaking, and

Whereas, in accordance with 36 CFR § 800.6(a)(1), the Maritime Administration has notified the ACHP of the adverse effect and requested ACHP participation, and the ACHP has agreed to participate pursuant to 36 CFR § 800.6(a)(1)(iii); and

Whereas, the Merchant Marine Act of 1936 as amended (46 U.S.C. 57103), authorizes the Maritime Administration to afford qualified public and non-profit organizations the opportunity to obtain, via donation, obsolete ships from the NDRF for use as memorials and/or in other non-commercial enterprises; and

Whereas, beginning in September 2005, for a period of 90 days, the Maritime Administration solicited public comments through its website, through electronic mailings to organizations and individuals in the maritime history community and other interested parties, and through newspaper and magazine advertisements, regarding its proposed disposal of *Gage* and the Maritime Administration received no substantive comments; and

Whereas, for approximately three years the Maritime Administration advertised the availability of *Gage* for donation and preservation on its website from June 30, 2005 through April 30, 2008, and did not receive any donation applications; and

Whereas, the Maritime Administration, pursuant to 36 CFR § 800.2(c)(5) has involved the Auxiliary fleet, Personnel complement, Attack Force Historical Preservation Project ("APA Project") as a potential donee for *Gage* as a memorial ship since April 2004, but did not receive a viable application by the August 31, 2007 deadline; and

Whereas, the Maritime Administration has transferred historical artifacts from *Gage* to the preserved memorial ships USS *Slater* and USS *Massachusetts*, and to the Baltimore Maritime Museum for public display and to serve as replacement parts; and

Whereas, artifacts from *Gage*'s sick bay were removed and transferred to the National Museum of Health and Medicine, Armed Forces Institute of Pathology for interpretation and exhibit; and

Whereas, pursuant to 36 CFR § 800.2(c)(5), the Maritime Administration has invited the National Park Service, National Maritime Heritage Program to participate in development of this Agreement, and the National Maritime Heritage Program has agreed to participate and sign the Agreement as a concurring party; and

Whereas, pursuant to 36 CFR § 800.2(c)(5), the Maritime Administration has invited the Historic Naval Ships Association (HNSA) to participate in the development of this

Agreement, and the Historic Naval Ships Association has agreed to participate and sign the Agreement as a concurring party; and

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

STIPULATIONS

The Maritime Administration shall ensure that the following stipulations are implemented:

Stipulation I Mitigation

A. Prior to disposal of the vessel, the Maritime Administration shall ensure that the *Gage* is recorded in accordance with the Interagency Agreement with the United States National Park Service (NPS) (HAER) (Attachment 1) in its present configuration as well as in accordance with Attachment II, *Gage's* Mitigation Plan.

B. The Maritime Administration shall, within twelve (12) months of the date of the last signature on this Agreement, submit the draft documentation to the ACHP, SHPO, the NPS National Maritime Heritage Program (NPS/NMHP), and HNSA for review and comment prior to removing *Gage* from the NDRF.

C. The ACHP, SHPO, and concurring parties shall have thirty (30) days upon receipt of the complete documentation package in which to respond. If the ACHP, SHPO, or either concurring party does not respond within thirty (30) days the Maritime Administration may assume concurrence of the non-responding party and proceed with the undertaking according to the terms of this Agreement.

D. The Maritime Administration shall provide SHPO and the Library of Congress with a complete set of the final documentation package within eighteen (18) months of the date of the last signature on this Agreement.

E. The following items of historical interest have already been removed from *Gage* over the years, and when possible have been or will be donated to a suitable museum or historical vessel: the ship's bell(s); the ship's builders plates; the ship's wheels; the ship's logs; the ship's clock that announce bells of watch; the ship's measurement or documentation certification, if available; the lifesaving buoys with vessel name.

Stipulation II Monitoring and Reporting

Each year following the execution of this Agreement until it expires or is terminated, the Maritime Administration shall provide all parties to this Agreement a summary report

detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Maritime Administration's efforts to carry out the terms of this Agreement.

Stipulation III
Post-Review Discoveries

In the event that previously unidentified resources are discovered, the Maritime Administration shall comply with the provisions of 36 CFR § 800.13.

Stipulation IV
MOA Amendments, Disputes, and Termination

A. Amendments. Any signatory to this Agreement may propose to the other signatories that it be amended, whereupon the signatories will consult in accordance with 36 CFR § 800.6(c)(7) to consider such an amendment.

B. Disputes. Should any signatory to this Agreement object to any action carried out or proposed by the Maritime Administration with respect to the implementation of this Agreement, the Maritime Administration shall consult with that signatory party to resolve the objection. If the Maritime Administration after initiating such consultation determines that the objection cannot be resolved the Maritime Administration shall forward documentation relevant to the objection to the ACHP, including the Maritime Administration's proposed response to the objection. Within forty-five (45) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:

1. Advise the Maritime Administration that the ACHP concurs in the Maritime Administration's proposed final decision, whereupon the Maritime Administration shall respond accordingly;
2. Provide the Maritime Administration with recommendations, which the Maritime Administration shall take into account in reaching a final decision regarding its response to the objection; or
3. Notify the Maritime Administration that the objection will be referred to the ACHP membership for formal comment and proceed to refer the objection and comment within forty-five (45) days. The resulting comment shall be taken into account by the Maritime Administration in accordance with 36 CFR § 800.7(c)(4).
4. Should the ACHP not exercise one of the above options within forty-five (45) days after receipt of all pertinent documentation, the Maritime Administration may assume the ACHP's concurrence in its proposed response to its objections.
5. The Maritime Administration shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with

reference only to the subject of the objection; the Maritime Administration's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

C. Termination of MOA. Any signatory to this Agreement may terminate it by providing sixty (60) days notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that will avoid termination. In the event of termination of this Agreement by the SHPO, the Maritime Administration shall comply with the provisions of 36 CFR § 800.6(c)(8).

Stipulation V

Termination of Consultation

If, after consulting to resolve adverse effects pursuant to Stipulation IV of this Agreement, the Maritime Administration, ACHP, or SHPO determines that further consultation will not be productive, then any signatory may terminate consultation in accordance with the notification requirements and process prescribed by 36 CFR § 800.7(a).

Stipulation VI

Duration

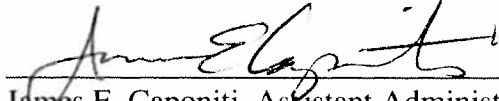
This Agreement shall be null and void if its terms are not carried out within five (5) years from the date of the last signature on this Agreement. Prior to such time, the Maritime Administration may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation IV. A.

EXECUTION of this MEMORANDUM OF AGREEMENT

Execution of this Memorandum of Agreement by the Maritime Administration, the ACHP, and the SHPO and implementation of its terms evidences that the Maritime Administration has taken into account the effects of the project on historic properties and afforded the ACHP an opportunity to comment. The Agreement shall become effective on the date of the last signatory to sign this Agreement.


In Witness whereof, the parties hereto have caused their respective names to be signed by their duly authorized officers:

SIGNATORIES:



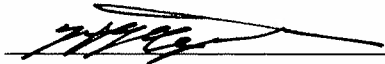
James E. Caponiti, Assistant Administrator
USDOT/Maritime Administration

Date 6/10/08

(for) 

John A. Fowler
Executive Director
Advisory Council on Historic Preservation

Date 6/17/08



Kathleen S. Kilpatrick, Director
State Historic Preservation Officer
Virginia Department of Historic Preservation

Date 7/8/08

CONCURRING PARTIES

Kevin J. Foster, Chief
National Maritime Heritage Program,
National Park Service

Date _____

Jeffrey S. Nilsson, Executive Director
Historic Naval Ships Association

Date _____