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May 18, 2004

HAND DELIVERED

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Mercury Building, #711
1925 K Street, N.W.
Washington, DC 20423-0001



Re: Docket No. AB-400 (Sub-No. 4)
Environmental and Historic Report

Dear Secretary Williams:

Enclosed please find for filing the original and ten (10) copies of the above-referenced Environmental and Historic Report.

Please time stamp the extra copy of this letter to indicate receipt, and return it to me via courier or, in the stamped, self-addressed envelope provided for your convenience.

Very truly yours,

Robert P. vom Eigen

Enclosures: Environmental Report

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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

STB Docket No. AB-400 (Sub- No. 4)

SEMINOLE GULF RAILWAY, L.P.
ADVERSE ABANDONMENT
IN LEE COUNTY, FL



COMBINED HISTORICAL AND ENVIRONMENTAL REPORT
OF
LEE COUNTY, FLORIDA

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Dated: May 14 2004

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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

STB Docket No. AB-400 (Sub- No. 4)

SEMINOLE GULF RAILWAY, L.P.
ADVERSE ABANDONMENT
IN LEE COUNTY, FL



COMBINED ENVIRONMENTAL AND HISTORICAL REPORT
OF
LEE COUNTY, FLORIDA

Lee County, Florida ("the County") submits a Combined Environmental and Historic Report pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, with respect to the proposed abandonment of a portion of the Baker Spur line in Lee County, Florida. The portion of line that is the subject of this application is more fully described in the Notice of Adverse Abandonment ("Abandonment Notice"), which was filed at the Surface Transportation Board ("STB") on May 3, 2004.¹ The line is located within United States Postal Service ZIP Codes 33912 and 33913, all in an unincorporated area of Lee County, Florida.

Lee County gave notice in its Abandonment Notice that on or about June 1, 2004 it intends to file with the Surface Transportation Board, Washington, D.C. 20423, an application for adverse abandonment of a portion of the Baker Spur line. A map of the rail line that will be

¹ Refer to 5/11/04 errata notice, which corrected the original notice to accurately reflect the eastern terminus of the line to be abandoned as engineering station 79+95.

the subject of the abandonment is attached as Attachment No. 1. A copy of the County's letters notifying Federal, State, and local government agencies of the proposed abandonment and requested comments from them are attached as Attachment No. 2. Responses will be forwarded to the STB as they are received.

ENVIRONMENTAL REPORT

49 C.F.R. § 1105.7(c)

(1) Proposed action and alternatives.

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Response:

The proposed action involves the abandonment of a portion of the line on which the only shipper is J.J. Taylor Distributors Fort Myers/Naples, Inc. ("J.J. Taylor"), a distributor of beer. J.J. Taylor's lease on its facility ends January 5, 2005 and it is in the process of relocating to a different facility. Once the relocation occurs, they will no longer be in need of rail service on this line. The owner of the leased property and the other adjacent landowners support the abandonment of this line and no longer wish to have rail service to their properties. A map showing the location of the line to be abandoned is attached as Attachment No. 1. The proposed abandonment will allow Alico Road, a heavily traveled road that the spur crosses, to be widened without the County expending close to \$1.5 million on installing and later removing a grade crossing for a line that will, in the near future, have no shippers on it. The County does not wish

to deprive the shipper on the Baker Spur line of service, and so the abandonment application will request that the abandonment authority become effective only after J.J. Taylor has either converted its operations so as to be no longer in need of rail service or has departed its Alico Road facility. Therefore, the proposed abandonment will have no effect on rail service or maintenance on the Baker Spur line since there will be no shippers on the line after J.J. Taylor leaves, regardless of whether the line is abandoned or not.

If the line is not abandoned, the County would be required to spend approximately \$1 million dollars to construct a rail crossing over the new six lanes of Alico Road. However, since the crossing would be for a rail line with no shippers on it, eventually the line would be abandoned and the County would be forced to expend an additional \$500,000 to remove the unnecessary grade crossing, at a total taxpayer cost of close to \$1.5 million dollars.

Therefore, once abandonment is complete, the State of Florida and Lee County will be able to continue with their plans for the widening of Alico Road without the expenses associated with an otherwise unnecessary grade crossing. *See* response to item 3(i), below.

(2) Transportation system.

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Response:

There will be no significant effect on the regional or local transportation system caused by this abandonment. The sole shipper on the line will relocate and intends to rely more on heavy trucks instead of rail for the transportation of their goods. While this relocation will have

some impact on the use of motor carriers, the relocation is not a result of the abandonment and will occur regardless of any action by taken by the County or the STB.

(3) Land use.

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

(iii) If the action effects land or water used within a designated costal zone, include the costal zone information required by § 1105.9.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. §10906 and explain why.

Response:

(i) The abandonment will not affect local and existing land use plans. Since Alico Road will be widened and eventually the applicable rail line will be abandoned, this application will effects only the costs associated with the ongoing project to widen Alico Road. The portion of the line in question is the end of the Baker Spur, and the County is seeking the abandonment of the portion that begins just to the South and West of Alico Road, crosses Alico Road, and then runs parallel to Alico Road for approximately 4,200 feet, ending at the terminus of the line. Alico Road is a heavily traveled thoroughfare between Interstate 75 and U.S. 41 that services industrial, commercial, and residential traffic. It is presently a congested two-lane road that handles approximately 20,000 vehicles per day on average. Lee County is in the process widening Alico Road to six lanes, at which point it will be capable of handling more than 65,000

vehicles a day. Currently, the expansion of Alico Road to six lanes will require a new grade crossing to be built where the affected railroad lines cross Alico Road. The cost of installing this required grade crossing equipment would be approximately \$1 million dollars. Additionally, it is inevitable that the applicable line will eventually be abandoned since, in the future, there will be no shippers on the spur, therefore it is likely that the new grade crossing will eventually have to be removed at an additional cost of \$500,000 to Lee County taxpayers. Lee County seeks this abandonment in an effort to save \$1.5 million dollars of taxpayer money while widening a badly congested and heavily used thoroughfare.

(ii) There are no effects on prime farmland.

(iii) The location of the line is not located within a designated costal zone.

(iv) This land is not suitable for other public purposes. It is not suitable for trail use because the trail would be in an industrial area, under a mile, and cross three roads, including a six-lane highway. Additionally, the Alico Road widening project includes bike and pedestrian facilities, so an additional bike path paralleling Alico Road is unnecessary.

(4) Energy.

(i) Describe the effect of the proposed action on transportation of energy resources.

(ii) Describe the effect of the proposed action on recyclable commodities.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year; or

(B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

Response:

(i) The proposed action is not expected to affect the transportation of energy resources. Certain power generators are delivered to FP&L at a trans-loading location on the Baker Spur adjacent to the segment of line subject to this abandonment application. This rail service will not be affected by the abandonment.

(ii) The proposed action is not expected to affect transportation of recyclable commodities.

(iii) The proposed action will not result in an increase or decrease in overall energy efficiency because the sole shipper on the line, J.J. Taylor, is relocating and relying more heavily on motor carriers regardless of this abandonment. *See* the response to 1, above.

(iv) (A)(B) There should be no diversion from rail to motor carrier as a result of this abandonment since J.J. Taylor is relocating their facility and adjusting their operations independently of this abandonment proceeding, and no adjacent land owner wishes to continue access to rail service on the subject line.

(5) Air.

(i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100% (measure in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal; or

(B) an increase in rail yard activity of at least 100% (measured by carload activity); or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. § 10901 (or § 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight-train-a-day-provision in (5)(i)(A) will apply.

(ii) If the proposed action affects a class 1 or non-attainment area under the Clean Air Act, and will result in either:

(A) an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line); or

(B) an increase in rail yard activity of at least 20% (measured by carload activity); or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 40 U.S.C. § 10901 (or 49 U.S.C. § 10505), or a case involving the reinstitution of service over a previously abandoned line, only the three-train-a-day-threshold in this item shall apply.

(iii) If transportation of ozone depleting materials (such as nitrogen oxide and Freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with

accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Response:

(i) The proposed action is not expected to result in increased rail or truck traffic activity that meets or surpasses thresholds cited in (i)(A)(B) or (C). After J.J. Taylor, the sole shipper on the line, relocates its facility, there will be no traffic on the subject line. Therefore the abandonment will not result in an increase in rail or truck traffic activity.

(ii) The line subject to this abandonment is not located in a class 2 or non-attainment area under the Clean Air Act.

(iii) There will be no transportation of ozone depleting materials.

(6) Noise.

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more; or

(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

Response:

(i) and (ii) The proposed action is not expected to meet or surpass the thresholds identified in (5)(i) since there will be no service on the subject line. Therefore, no incremental increases in noise levels are expected.

(7) Safety.

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Response:

(i) There are no anticipated adverse effects on public health and safety, and the abandonment, by removing a grade crossing over a six lane road, should improve public health and safety by removing the delay and dangers associated with such grade crossing.

(ii) To the best of our knowledge, this line has not been used for the transportation of hazardous materials and since, in the future, there will be no service on this line, no adverse effects are expected from the transportation of hazardous materials. Additionally, this is an adverse application for abandonment and therefore we do not know Seminole Gulf's safety record or their contingency plans for dealing with accidental spills.

(iii) We are not aware of any hazardous waste sites in the vicinity or hazardous materials spills on the right-of-way.

(8) Biological resources.

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

Response:

(i) There are no adverse effects on endangered or threatened species, or areas designated as critical habitat anticipated by this action.

(ii) There are no adverse effects on wildlife sanctuaries or national or state parks or forests anticipated by this action.

(9) Water.

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

Response:

(i) There are no anticipated adverse effects on water quality.

(ii) and (iii) No permits under section 402 or 404 of the Clean Water Act are required by the abandonment action, nor will any designated wetlands be affected. In the future, before taking action with respect to the applicable railroad line and the underlying land, the necessary permits required by the Corps of Engineers and federal and state environmental protection agencies will be pursued.

The applicable line is not located in a 100-year flood plain.

(10) Proposed Mitigation.

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Response:

Not applicable.

HISTORIC REPORT

49 C.F.R. § 1105.8(d)

(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;

Response:

Attachment No. 1 is a map and aerial photograph of the applicable line, but since the line was constructed subsequent to 1954, there are no railroad structures 50 years old or older.

(2) A written description of the right-of-way (including approximate widths to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;

Response:

It is a 50-ft wide easement, the length of which is approximately 4,600 foot in total length. The western portion begins on the south side of Alico Road approximately 400 feet from where the line crosses Alico Road, approximately .9 of a mile east of U.S. 41, continuing across Alico Road and then running parallel to and north of Alico Road, crossing Gator Road and Haitian Drive before reaching the eastern terminus of the line. The applicable line is in a developing industrial area; both Haitian Drive and Gator Road serve existing industrial facilities, including a Florida Power and Light facility and a rock quarry.

(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.

Response:

There are no railroad structures older than 50 years on the applicable railroad line.

(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations to the extent, such information is known;

Response:

The County believes that the line was constructed in the early 1970s, and the only alterations it is aware of is a renovation to the road crossing in 1988.

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action;

Response:

The line was originally built to service the Florida Rock quarry and in approximately 1987 the line began to service the J.J. Taylor facility. The County is not aware of any other significant and regular carrier service on this line.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic;

Response:

Not applicable.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archeological

resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

Response:

There is no reason for Lee County to believe that the applicable railroad line meets the criteria for the National Register of Historic Places and we know of no historical or archeological structures in the immediate vicinity of the line to be abandoned.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

Response:

Lee County knows of no condition of the applicable railroad line's subsurface that would affect the archeological recovery of resources.

(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified nonrailroad owned properties or groups of properties immediately adjacent to the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (*i.e.*, prehistoric or native American).

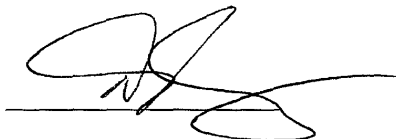
Response:

Not applicable.

VERIFICATION

I, Donald DeBerry, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing Combined Environmental and Historic Report and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of Lee County, Florida. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$20,000 or imprisonment up to five years for each offense.

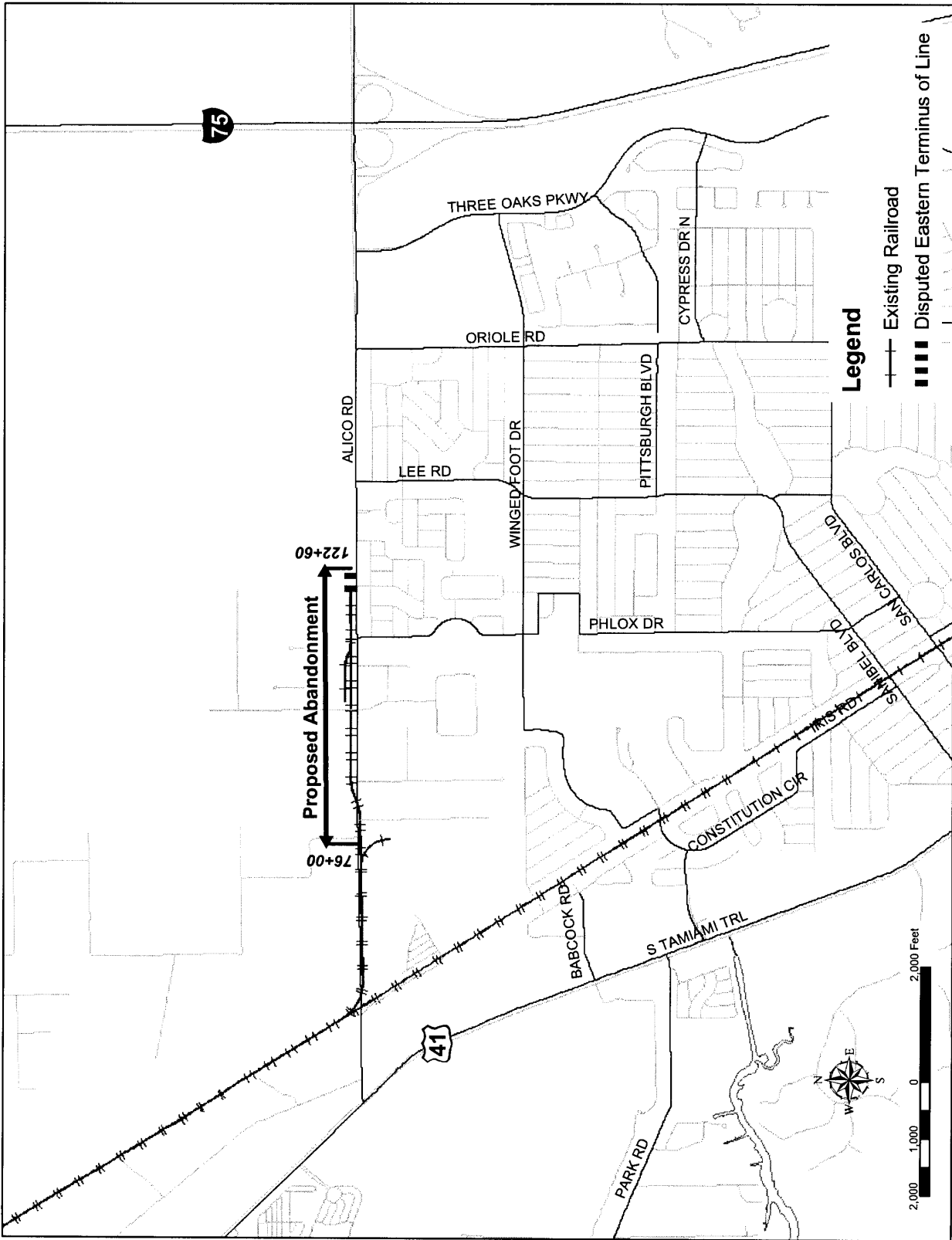
Dated in Fort Myers, Florida, this 14th day of May, 2004.

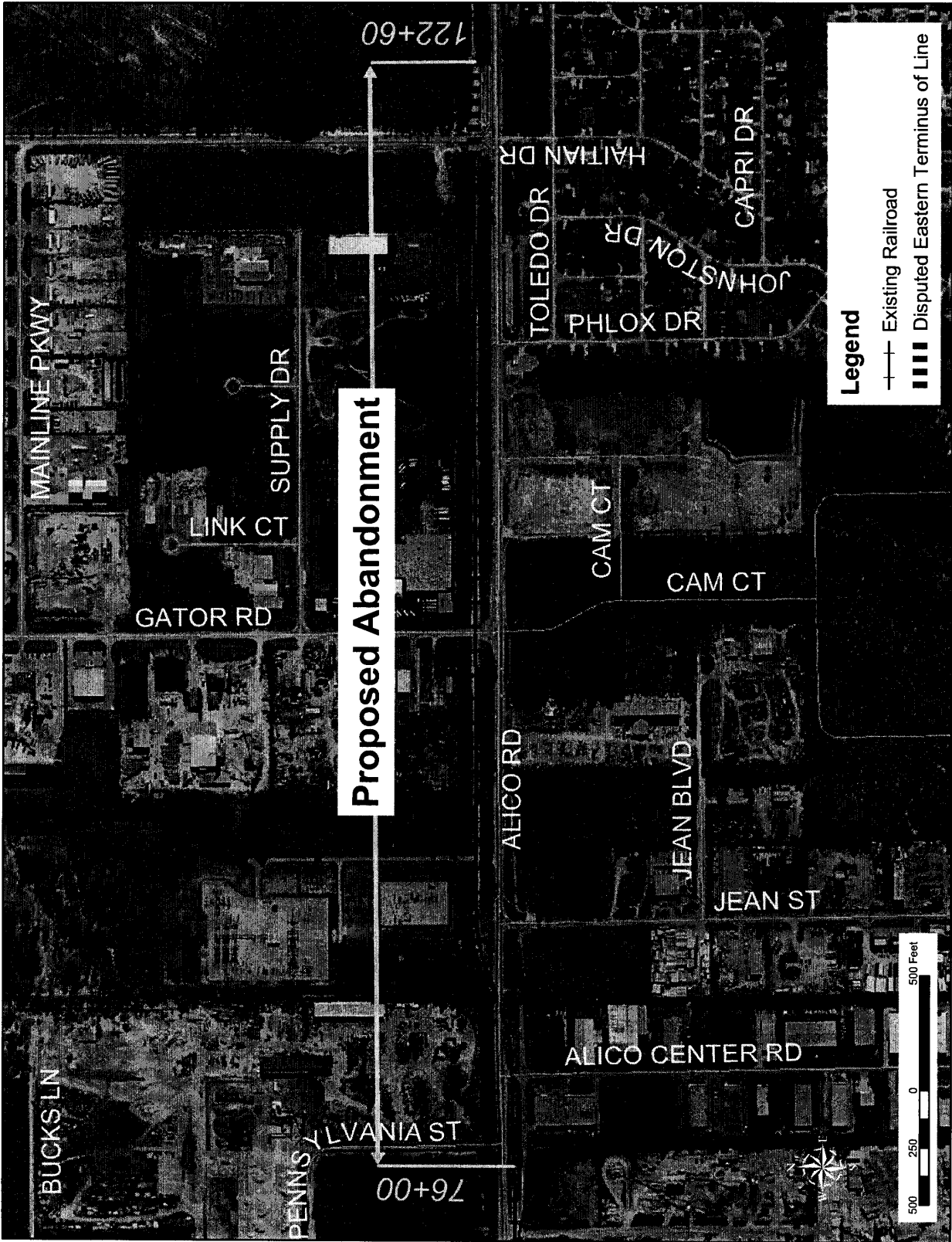
A handwritten signature in black ink, appearing to read 'Donald DeBerry', is written over a horizontal line.

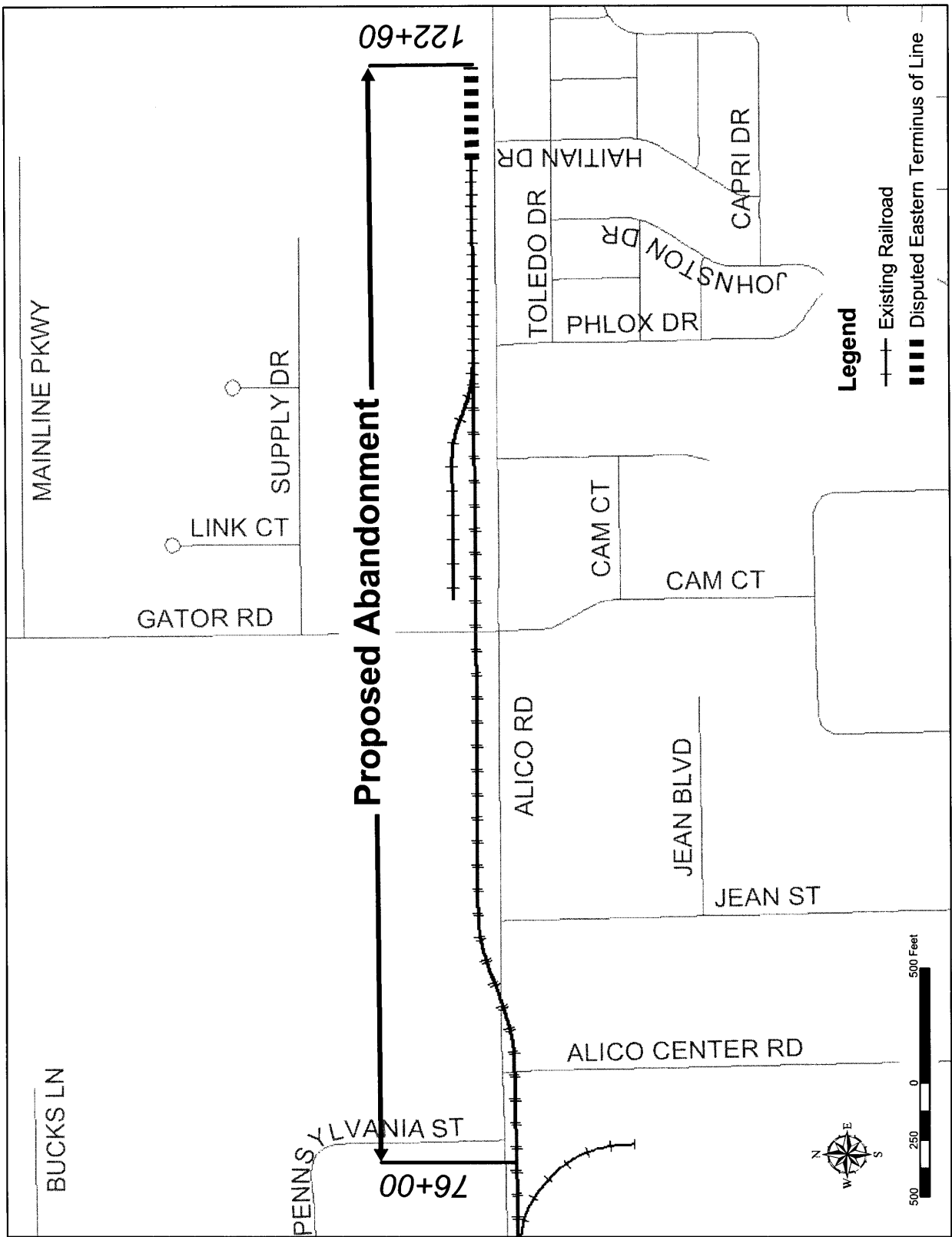
Donald DeBerry

**ATTACHMENT
No. 1**

[Photo & Map]







ATTACHMENT

No. 2

[Letter to Agencies]

CERTIFICATE OF SERVICE
OF THE
COMBINED ENVIRONMENTAL AND HISTORIC REPORT

The undersigned hereby certifies that a copy of the COMBINED HISTORICAL AND ENVIRONMENTAL REPORT OF LEE COUNTY, FLORIDA, in Docket No. AB-400 (Sub. No. 4) was served by first class mail, postage pre-paid on the 14th day of May 2004, on the following:

State Clearinghouse:

Florida State Clearinghouse
The Department of Community Affairs
Executive Office of the Governor – OPB
2555 Shumard Oak Boulevard
Tallahassee, FL 32399

State Environmental Protection Agency :

Department of Environmental Protection, M.S. 49
3900 Commonwealth Boulevard
Tallahassee, FL 32399

State Coastal Zone Management Agency:

Florida Coastal Management Program
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

Head of County (Planning):

Paul O'Connor
1500 Monroe St.
Fort Myers, FL 33901 or

Environmental Protection Agency (regional office):
Region 4

United States Environmental Protection Agency
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-3104

U.S. Fish and Wildlife:
Region 4

U.S. Fish and Wildlife Service
Century Center
1875 Century Boulevard
Atlanta, GA 30345

U.S. Army Corps of Engineers:

U.S. Army Corps of Engineers
Jacksonville District
Prudential Building
701 San Marco Blvd.
Jacksonville, FL 32207

National Park Service:

U.S. National Park Service
100 Alabama Street, S.W.
Atlanta, GA 30303

U.S. Natural Resources Conservation Service:

State National Resource Conservation Service
USDA Natural Resource Conservation Service
P. O. Box 14510
Gainesville, FL 32614

National Geodetic Survey:

National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East-West Highway
Silver Spring, MD 20910-3292

State Historical Preservation Office:

State Historical Preservation Office
Division of Historical Resources
500 South Bronough Street, Room 305
Tallahassee, FL 32399



Melissa A. Burt