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May 20, 2004
VIA: electronic filing

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

Re: STB Docket No. AB-400 (Sub-No. 4)
Petition of Lee County, Florida for Waiver
Regarding Seminole Gulf Railway, L.P. Adverse
Abandonment in Lee County, Florida

Dear Secretary Williams:

I am writing this letter on behalf of Seminole Gulf Railway, L.P. ("SGLR") to request that the Board, and its Section of Environmental Analysis, reject the Combined Historical and Environmental Report filed by Lee County in this proceeding. For the reasons set forth in this letter, the Report is premature and fails to comply with the Board's regulations.

SGLR notes the following problems with the Report:

1. Copies of the letters to agencies that were to have been included as Attachment 2 were not included in the copy of the Report served on SGLR (or in the copy filed with the Board based on the copy available on the Board's website). SGLR does not know if these are letters consulting with various agencies as required under Section 1105.7, or the transmittal letters required under Section 1105.11.

2. The Report does not include the certifications required in Section 1105.7(c). In particular:

(a) It is clear that Lee County did not consult with the required agencies prior to the preparation of this Report (see page 2 - letters requesting comments were supposed to have been attached; responses are to be forwarded as received; no responses were included.) Lee County is to certify that the agencies were consulted "far enough in advance to afford those agencies a reasonable opportunity to provide meaningful input." Consulting them after the fact does satisfy this requirement.

(b) Lee County has not certified that it published the required notice in a newspaper of general circulation as required under Section 1105.12. (No proof of publication is attached to the Report.)

(c) Since no letters were included in Attachment 2, SGLR cannot tell whether the transmittal letters required under Section 1105.11 have been sent. SGLR notes that while it was served with a copy of the Report, it did not get the required transmittal letter. Further, SGLR notes that CSX Transportation, Inc., from which SGLR leases the right-of-way, is not shown as being served with a copy of the Report.

(d) The certificate of service indicates service on the head of planning for the "head of the County" instead of on the County Commissioners, which SGLR believes is the appropriate party to be notified under the Board's regulations.

3. The maps, and the description of the rail line to be abandoned, are not marked with the appropriate railroad mileposts or engineering stations. Instead, Lee County is using roadway engineering stations without correlation to the corresponding railroad markings. (In footnote 1 of the Report, Lee County gives the proper railroad engineering station for the eastern terminus of the abandonment, but has not shown it on the maps.) Thus, neither SGLR nor the Board will be able to correlate this abandonment to existing railroad records.¹

4. There is no topographical map as required by Section 1105.8(d)(1).

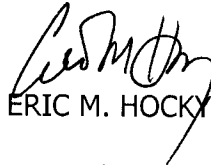
As is clear from the flurry of filings in this proceeding to date, Lee County is anxious to expedite this proceeding. However, its need for speed is largely of its own making (this project has been in planning for over 5 years), and unnecessary (it acknowledges that the abandonment should not be effective until at least January 5, 2005), and certainly doesn't does not justify shortcutting Board's environmental and historic report regulations. If the Report is accepted by the Board and its Section of Environmental Analysis, then SGLR reserves the right to comment on the substance of the Report within the three weeks suggested by the Board's required transmittal letter. 49 C.F.R. 1105.11.

¹ SGLR also notes that Lee County shows a eastern terminus of the line as being disputed. Lee County presumably is referring to a state court action by private developers. There is not dispute about the terminus at the Board. See Seminole Gulf Railway, L.P. - Abandonment Exemption - In Lee County, FL, AB-400 (Sub-No. 2X) (covering the abandonment between engineering station 79+95 and engineering station 267+62 at the end of the line).

Vernon Williams
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This letter is being filed in accordance with the Board's rules for electronic filing. Please provide a copy of this letter to the Section of Environmental Analysis. Please let me know if there are any problems with this filing.

Respectfully,


ERIC M. HOCKY

cc: Robert P. vom Eignen (by email and overnight courier)