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May 11, 2004

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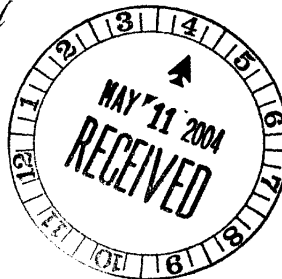
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CLIENT/MATTER NUMBER
037724-0101

HAND DELIVERED

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

210854



Re: 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:

It has come to our attention that the Notice and the Petition for Waiver filed in the above identified proceeding on May 3, 2004, did not accurately list the eastern terminus of the line to be abandoned. The documents, as filed, stated on page 2 of the Petition and page 1 of the Notice that the eastern terminus of the line to be abandoned is at engineering station 79+55, when both documents should have designated engineering station 79+95 as the eastern terminus of the line to be abandoned. We have included an original and ten (10) copies of the Petition and Notice, which have been revised to accurately reflect the correct eastern terminus, and a copy of the corrected notice has been served on all parties designated in 49 C.F.R. 1152.20. Also, please find enclosed a diskette which reflects these changes.

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

Very truly yours,

Robert P. vom Eigen

Enclosures: Notice of Intent, Petition for Waiver, diskette

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ORLANDO
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SAN DIEGO/DEL MAR
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SILICON VALLEY
TALLAHASSEE

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TOKYO
WASHINGTON, D.C.
WEST PALM BEACH

002.1197678.1

210854

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



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NOTICE OF ADVERSE ABANDONMENT
OF
LEE COUNTY, FLORIDA

Lee County, Florida ("Lee County") gives notice that on or about June 1, 2004, it intends to file with the Surface Transportation Board ("the Board"), Washington, D.C. 20423, an application seeking the adverse abandonment of approximately 4,600 ft. of Seminole Gulf Railway L.P.'s (hereinafter "Seminole Gulf") Baker Spur line in an unincorporated area of Lee County, Florida. The applicable line of railroad to be abandoned begins at engineering station 33+35+/-, which is which is approximately 400 feet to the west and south of where the line crosses Alico Road, approximately .9 of a mile east of U.S. 41, and parallel to Alico Road station 76+00, continuing across Alico Road and then running parallel to and north of Alico Road for approximately 4,260 ft. to the eastern terminus of the line at engineering station 79+95, which is parallel to Alico Road station 122+60. The affected railroad line is situated in U.S. Postal Service Zip Codes 33912 and 33913, it traverses no other U.S. Postal Zip Codes and the line includes no stations. The public record of the Board does not contain a system diagram map for

Seminole Gulf, and therefore it is not possible for Lee County to determine whether this line of railroad appears on a system diagram map. Based on information in the possession of the County, the line does not contain federally granted rights-of-way. Any documentation relating to this abandonment in the County's possession will be made available promptly to those requesting it.

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 and Lee County is in the process of widening Alico Road to six lanes. The cost of installing the required grade crossing equipment as part of widening Alico Road will cost approximately \$1 million dollars. The only shipper on the applicable portion of this line is J.J. Taylor Distributors Ft. Myers/Naples, Inc. ("J.J. Taylor"). J.J. Taylor's lease on its facility ends January 5, 2005. It is in the process of relocating to a different facility, and no longer will be in need of rail service on this line. The owner of the leased property supports the abandonment of this line, and no longer wishes to have rail service to its property. This abandonment is necessary to save the County the \$1 million in costs to build the grade crossing. Additionally, should this abandonment not be granted, since the only shipper on the applicable line is relocating, service on this line will cease and eventually the line will be abandoned, forcing the County to spend an additional \$500,000 to remove the grade crossing.

The interests of Seminole Gulf Railway's employees will be protected in accordance with the conditions of Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

The application, when filed, can be viewed following its filing on the Board's webpage, www.stb.dot.gov, or a copy can be secured from Lee County's counsel, whose name and address appear below. The application will include Lee County's entire case for abandonment.

Any interested person, after the application is filed on or about June 1, 2004, may file with the Surface Transportation Board its protest of, or written comments concerning, the proposed abandonment identifying them by the proceedings' docket numbers. These filings are due 45 days from the date of filing of the application. Persons who may oppose the abandonment, but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses containing detailed evidence, should file comments. Persons opposing the proposed abandonment that do wish to participate actively and fully in the process should file a protest. Protests must contain that party's entire case in opposition including the following: (1) the protestant's name, address and business, (2) the protestant's interest in the proceeding, including their use of the line or the public interest represented, (3) the protestant's reasons for protesting or commenting on the proposed abandonment, including their reliance on the involved service, and (4) any rebuttal of material submitted in the application.

Protests or comments need to be notarized or verified, and an unbound original and ten copies are required to be filed with the Secretary of the Board, at 1925 K Street, N.W., Washington, D.C. 20423-0001, together with a certificate of service attesting that copies of the comments or protests have been served on Lee County's counsel in this matter, Robert P. vom Eigen, Foley & Lardner, LLP, Suite 500, 3000 K Street, N.W., Washington, D.C. 20007. Except

as otherwise set forth in 49 C.F.R. 1152, each document filed with the Board must be served on all parties to the abandonment proceeding. Protests and comments will be considered by the Board in determining what disposition to make of the application. A commenting party or protestant may participate in the proceeding as its interests may appear.

If an oral hearing is desired, the requester must make a request for an oral hearing and provide reasons why an oral hearing is necessary. Oral hearing requests must be filed with the Board no later than 10 days after the application is filed.

Those parties filing protests to the proposed abandonment should be prepared to participate actively either in an oral hearing or through the submission of their entire opposition case in the form of verified statements and arguments at the time they file a protest. Parties seeking information concerning the filing of protests should refer to 49 C.F.R. 1152.25.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Service at (202) 565-1592 or refer to the text of the abandonment regulations at 49 C.F.R. 1152.1, et seq., which can be viewed at www.gpo.gov/nara.cfr.

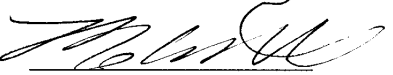
An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made

available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

CERTIFICATE OF SERVICE

I certify that I this day have served copies of the foregoing Notice of Adverse Abandonment and its attachments by mailing copies thereof by prepaid first-class mail addressed to Seminole Gulf Railway and J.J. Taylor.

Dated at Washington, D.C., this 11th day of May, 2004.


Melissa A. Burt

**CERTIFICATE OF SERVICE
ADDRESS LIST**

Lee County Cooperative Extension Service
3406 Palm Beach Blvd.
Fort Myers, FL 33913-3719

Executive Office of the Governor
400 S. Monroe Street
The Capital
Tallahassee, FL 32399-0001
(sent Certified Mail, Return Receipt Requested)

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

National Park Service
National Center For Recreation and Conservation
M.S. 3622
1849 C Street, N.W.
Washington, DC 20240-0001

National Park Services
Land Resources Division
M.S. 3622
1849 C Street, N.W.
Washington, D.C. 20240-0001

USDA Natural Resources Conservation Services
P. O. Box 14510
Gainesville FL 32614

Federal Railroad Administration
1120 Vermont Avenue, N.W.
Washington, D.C. 20590

United States Department of Defense
Transportation Engineering Agency/
Military Traffic Management Command
Railroad For Nation Defense Program
720 Thimble Shoals Blvd., Ste. 130
Newport News, VA 23606-4537

U. S. Railroad Retirement Board
R.L. Timberlake Federal Building
500 E. Zack Street, Suite 300
Tampa, FL 33602

Office of Chief of Forest Service
U.S. Department of Agriculture
Auditor's Building
201 14th Street, S.W., and Independence Ave., S.W.
Washington, DC 20250

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16911 Gator Road
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Fort Myers, FL 33906