



September 2016 Update

Citizens Against Rail Expansion in Florida (CARE) continues to actively pursue all appropriate legal, political and public communication channels to stop the ill-conceived All Aboard Florida (AAF)/Brightline rail project that threatens the public safety and current way of life of communities throughout the Treasure Coast.

Federal Lawsuit. August and September have been important months with respect to the federal lawsuit filed by Martin County and Indian River County—and including two individual CARE members—that is focused on violations of federal environmental law and the illegality of using private activity bonds (PABs) for AAF.

On August 16, U.S. District Court Judge Christopher Cooper issued a significant victory to the Plaintiffs when he ruled that the Counties have standing with respect to their claim of National Environmental Policy Act (NEPA) violations. This means that Judge Cooper denied the Department of Transportation (DOT) and AAF motions to dismiss the case and that the Counties’ original lawsuit—filed a year and a half ago!—can move forward.

To that end, on September 20 DOT finally released its Administrative Record on the decision to award \$1.75 billion in PABs, and DOT and AAF filed their responses to the Counties’ original complaint. The Counties’ legal teams are reviewing this information and a Status Conference will likely soon be scheduled with Judge Cooper to determine next steps in the case.

Please stay tuned for additional updates on this important issue as the federal case (finally!) moves forward.

AAF Finances. Importantly, the August 16 ruling confirms what CARE has been saying throughout this entire process—that AAF will not be completed without significant public funding. Judge Cooper’s decision established that the cost of the bonds to taxpayers would be up to \$600 million. CARE has always maintained that AAF’s portrayal that it is a private sector venture is just not true, and Judge Cooper affirmed this position, stating: “Not only does this fact call into question the plausibility of AAF’s assertion that it could substitute PAB financing (in

part) with private equity, but it also raises another question: How can AAF be so sure that equity investors are waiting in the wings...?”

Judge Cooper also stated: “The Court thus finds that removing PABs from the equation would significantly increase the likelihood that AAF would be unable or unwilling to proceed with Phase II, thereby averting Plaintiffs’ claimed injury.”

CARE is pleased that the federal case has brought new information to light with respect to AAF’s finances, as we have always understood that AAF depends upon federal taxpayer dollars. Further, the AAF project would also require all residents of the Treasure Coast and North Palm Beach communities—the areas through which Phase II would run—to bear additional financial burdens and safety risks. Please see attached for a public copy of Judge Cooper’s decision.

Permitting and Rulemaking. In coordination with the Counties, CARE continues to monitor and will involve itself, when appropriate, in the permitting and rulemaking actions of other federal and state agencies—including the U.S. Coast Guard, the U.S. Army Corps of Engineers (ACOE, or the Corps) and two Florida Water Management Districts.

The South Florida Water Management District (SFWMD, or the District) issued its AAF permit on August 19, which set the 21-day clock ticking within which administrative review could be requested. Together with St. Lucie County, Martin County filed a petition—the formal document required to request administrative review—with the District on September 14.

Now that this petition has been filed, CARE is considering whether it would be well suited to intervene in this process, by providing citizen input and support for the filing of the two counties. CARE has retained the Shubin & Bass law firm for this purpose.

To the north, Indian River County is leading efforts related to the St. Johns River Water Management District (SJRWMD, or the District). The District issued its AAF permit on August 24. Indian River County filed its own petition to the SJRWMD on September 16, within the 21-day window. CARE is considering a similar intervention strategy with the SJRWMD as well. Stay tuned for additional updates on these issues in the coming weeks.

With respect to the ACOE permitting process, CARE thanks Indian River County for its work in challenging AAF’s permit application. On September 2, the County submitted a letter to ACOE addressing AAF’s June 10 response to ACOE’s request for additional information. In its letter, Indian River County pointed out the “glaring deficiencies” in AAF’s response, requested that ACOE re-review the flawed AAF permit application and reiterated its request for a public hearing.

The County pointed out that the Final Environmental Impact Statement (FEIS) was “grossly inadequate” and that AAF’s June 10 response to ACOE does not make up for those shortcomings, which include a failure to adequately address the safety and welfare of the people,

a failure to identify the project's socioeconomic impacts, a failure to provide accurate wetlands delineations, and a failure to properly consider and analyze the inland CSX route—to name a few.

In the absence of a ROD finalizing the FEIS, these are the types of permit-by-permit issues that are being addressed by CARE and the Counties.

Public Relations Update. As we have mentioned previously, CARE received a great response to its [candidate questionnaire](#). The committee completed the grading process and released the report card ahead of the August primary election to highlight champions of our cause. The press was quite interested in our report card and as a result of this positive, impactful coverage, additional candidates came forward to complete the survey and be included on the report card. CARE made sure the report card was available on social media to inform voters as they prepared to cast their ballots.

This month, we also compiled and published a comprehensive list of CARE's achievements since our inception over two and a half years ago. This document clearly shows just how much we have accomplished thanks to your continued support.

In Case You Missed It

Why a Judge Allowed a Challenge to a Private Activity Bond Allocation by Shelly Sigo - <http://www.bondbuyer.com/news/regionalnews/why-a-judge-allowed-a-challenge-to-a-private-activity-bond-allocation-1111234-1.html>

Counties score a 'big win,' can proceed with federal All Aboard Florida lawsuit by Lisa Broadt - <http://www.tcpalm.com/news/shaping-our-future/all-aboard-florida/counties-score-a-big-win-can-proceed-with-federal-all-aboard-florida-lawsuit-3a381a19-0623-6265-e053-390378411.html>

Lawsuit challenging All Aboard Florida's bonds to continue by Jennifer Sorentrue - http://www.mypalmbeachpost.com/news/business/lawsuit-challenging-all-aboard-floridas-bonds-to-c/nsHN2/?icmp=pbp_internallink_referralbox_free-to-premium-referral

All Aboard Florida's plan for passenger train service from Miami to Orlando in jeopardy by Ann Henson Feltgen - <http://www.floridabulldog.org/2016/09/all-aboard-floridas-plans-for-passenger-train-service-from-miami-to-orlando-in-jeopardy/>

Martin County: All Aboard Florida ignored viable western corridor – by Lisa Broadt <http://www.tcpalm.com/story/news/local/shaping-our-future/all-aboard-florida/2016/09/16/aaf-ignored-viable-western-corridor-martin-county-says/90485046/>

SAVE THE DATE – CARE’S Annual Public Informational Meetings

CARE will be hosting their annual public informational meetings. Due to the growing number of supporters for CARE we will be holding two evening meetings this year; which will be open to the public. CARE will provide you with the latest news and updates on our fight to stop the AAF project. So be sure to save the following dates....

Tuesday, November 15th - 7:00 p.m.

The Lyric Theater in Stuart

&

Wednesday, November 16th – 7:00 p.m.

Jupiter Community Center in Jupiter

We will be sending out reminders and additional information as we get closer to these events. So put these dates on your calendar and be sure to tell your friends to attend.

Interested in Helping?

Winning this fight is up to us! CARE and the residents of the Treasure Coast have the most to lose from this project, and we ask that you continue to stand with CARE and oppose AAF!

To get the latest or to sign up for our monthly updates, please visit our website www.saveourfl.com or you can like our [Facebook page](#). You can also follow us on [Twitter](#).

We would love to hear from you and if you care to make a contribution we've made it easy – just [click here](#).

Please continue to share our updates with your family, neighbors and friends. There will continue to be new developments to report on in the near future, so please keep an eye out for our monthly updates and possible calls to action.

Thank you for your continued support. Together We Can Make A Difference.

Brent P. Hanlon
Chairman, CARE FL