



April 2017 Update

Citizens Against Rail Expansion in Florida (CARE FL) 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.

There has been a lot of recent activity on this subject, indicating the matter is coming to a boil, due to AAF and its backers' absolute fury that the Florida legislature has been considering passing safety regulations, as well as addressing the costs the project would impose on the counties and taxpayers. AAF's PR team has been given an enormous financial boost to buy social media and blitz the press with op-eds denigrating any elected public official with the temerity to seek the facts about AAF's claims. As always, AAF is trying to lead the public to believe that these are positive steps, and that the construction and operation of Phase II—West Palm Beach to Orlando, which has not begun, and may never be built—is inevitable.

Let's unpack these recent news items one at a time and examine the facts, not opinions.

1. What does the sale of the Florida East Coast Railway (FEC) to a Mexican company reveal?

We always knew Fortress, the investment bank in New York City, intended to “flip” the railroad it bought, the FEC, and eventually the AAF project. The first stage of this sale is now occurring. Unfortunately, there is no reason to believe the new owner of the FEC—Grupo Mexico—will be any better of a partner than the already poor partner of the FEC when it was owned by Fortress. Here are the facts:

Mr. German Larrea Mota Velasco is CEO of Grupo Mexico, which is the largest mining corporation in Mexico and the third largest copper producer in the world. Larrea is Mexico's second richest man and is also one of its most reclusive, according to Forbes.

A September 2014 Forbes article noted that few people outside of Mr. Larrea's family even know what he looks like, but that this was about to change, as Forbes Mexico had just published a photo of him with the Mexican President. This came at an unfortunate time—it coincided with a time during which

Grupo Mexico's reputation had taken a huge hit, due to a toxic spill of 10 million gallons at one of its copper mines. The Mexican press called it the "worst ecological disaster" in Mexican history and it left thousands with no clean water. Apparently, not only did Mr. Larrea not apologize, but Grupo Mexico also resisted requests from Mexican authorities to invest in the cleanup. (They eventually agreed to put aside \$150 million to pay for environmental and human damages.)

You may also remember the 2015 protests by farmers in Peru, over the impacts that a proposed copper mine would have on their irrigation water. That mine, Tia Maria, is owned by Southern Copper, a subsidiary of Grupo Mexico. The project has been delayed.

The sale of the FEC further illustrates that AAF is insisting on an improper bootstrap. FEC has had long-term rights to run in the corridor, and AAF is insisting that the Counties and communities along the FEC line grant the new passenger rail business the same historical rights as FEC, which are inequitable and unfair. The right in question is for the railroad to offload the costs of maintaining the rail safety equipment to the local taxpayers. AAF claims it is interference with property rights for the Counties not to agree to AAF the same rights as the now Mexican-owned FEC. This is unfair, and it further demonstrates AAF's insatiable desire to shift the costs of its project onto the backs of local taxpayers. And when local Counties—like Martin and Indian River—question these proposed arrangements, those communities are threatened with the withholding of safety precautions that would be absolutely necessary to ensure public safety if Phase II of AAF were to come barreling through our communities. This leads us to the next question:

2. What does recent activity in Tallahassee mean?

On March 28, the Florida House of Representatives Transportation and Infrastructure Subcommittee postponed consideration of House Bill 269 by Representatives MaryLynn Magar and Erin Grall, which would establish the Florida High Speed Passenger Rail Safety Act. This bill sought to protect citizens from subsidizing high speed rail projects that pose risks to public safety. The Florida Senate had successfully moved its version of the bill forward, which shocked and infuriated AAF.

While AAF may be touting the delay of HB 269 as a victory, let's be clear about what that means. They are celebrating the delay of a piece of common sense legislation that aims to improve the safety of our Treasure Coast communities. They are against public safety, at a time when more attention must be paid to this issue, not less. Indeed, on March 29, Martin County released a report from a national rail safety expert, George Gavalla, that includes numerous concerning facts about the significant safety challenges and cost burdens facing our communities as a result of AAF.

In his report, Mr. Gavalla—using data from the Federal Railroad Administration (FRA), as well as AAF's own data—sets forth a number of concerning points, including:

- that the FEC rail line is among the deadliest in the nation;

- that the FEC grade crossing accident rate is more than double the national average, with a fatality rate that is 4.0 times the national rate
- that risk of deadly accidents will increase greatly if AAF becomes operational;
- that there is an increased risk of catastrophic accidents and deadly derailments on crowded passenger and freight train rail lines due to “secondary” collisions.

The bottom line is that AAF will continue to oppose any state attempts to regulate safety, and from a financial standpoint, AAF remains determined to offload the costs of safety on the communities. HB 269 threatened to rebalance the AAF project in a manner that would treat the local communities fairly. This common sense effort should be a no brainer for a company that wants to run a safe railroad, particularly given the multiple, unique safety concerns along the proposed route that are set forth in Mr. Gavalla’s recent report. Members of the Legislature may revive the bill over AAF’s objections.

But the facts don't matter to AAF and its supporters, and it will become crystal clear soon that AAF cannot be trusted to make required federal safety reports, which may be the most serious betrayal of all the public officials AAF has conned into believing its safety claims.

3. Doesn't the Florida Development Finance Corporation (FDFC) need to approve AAF's "new" bonds for Phase I?

State lawmakers are also seeking answers to this important question, but have yet to receive an adequate response back from the FDFC.

On February 24, powerful State Senator Anitere Flores—President Pro Tempore of the Florida Senate—sent a letter to the FDFC’s Executive Director, asking a series of questions regarding AAF’s “new” \$600 million private activity bond (PAB) allocation and seeking to better understand what the FDFC believes its role is in AAF’s new PAB application.

There are valid concerns that the FDFC, which had been AAF’s lapdog, has informally agreed FDFC can simply transfer its previous actions and approvals from AAF’s prior—and now vacated—\$1.75 billion PAB allocation to the new \$600 million application, without any further consideration of the economic and social impacts of the project it would help fund. We don't expect FDFC to change from being AAF’s lapdog—but how can a set of bonds authorized in November 2016 be authorized by a proceeding concluded in August 2015?

State Senator Debbie Mayfield also sent a similar letter to the FDFC on March 30 after the FDFC had failed to provide a timely response to Senator Flores’ questions. FDFC’s outside general counsel finally provided a non-response to Senator Flores’ office on April 6 and to Senator Mayfield’s office on April 14, essentially dismissing their concerns and refusing to provide further information.

The arrogance of AAF is only exceeded by the chutzpah of its business partner, the FDFC, who was paid for authorizing the earlier bonds in 2015. The FDFC's failure to appropriately respond to two State Senators raises substantial questions about its integrity as an instrumentality.

Copies of both letters are attached to this communication.

4. What does the recent St. Johns River Water Management District (SJRWMD) decision mean?

On March 30, an Administrative Law Judge backed SJRWMD's decision to issue a permit to AAF.

AAF has trumpeted this decision as another tool in conveying to the public that Phase II of AAF is inevitable. Headlines of the important permit decision have been issued by the AAF press machine. This, too, is not true. The SJRWMD permit is just one of many permits that AAF will need in order to build Phase II of its project. To the south of the SJRWMD, St. Lucie and Martin Counties are engaged in an ongoing challenge to the permitting process in the South Florida Water Management District (SFWMD). The railroad will also need permits from other entities, including the U.S. Army Corps of Engineers and the Coast Guard.

We thank our County officials for their continued work in questioning and challenging these permits, on the grounds of multiple environmental, safety, historical and economical concerns.

In Closing

When CARE FL was established in May of 2014, AAF's public statements lead many to believe that the rail project was a foregone conclusion. AAF's loan applications all said the same thing: that Phase II would be operational in the first quarter of 2017. At the end of the first quarter of 2017, AAF publically acknowledged that Phase II would be delayed by more than two years, blaming the delay on the need for additional permits and not having adequate financing in place.

As CARE FL approaches its third anniversary, it has made notable progress on a number of fronts. Most importantly, the facts on public safety are far better understood. In the coming weeks and months, CARE FL will continue to work with County officials and other concerned citizens in pursuing selected legal, political and public communication channels to stop this rail project that puts at risk the public safety and current way of life of communities throughout the Treasure Coast.

FDFC silent after lawmakers question All Aboard Florida bonding process by Peter Schorsch, *Florida Politics*

<http://floridapolitics.com/archives/236011-fdfc-silent-lawmakers-question-aboard-florida-bonding-process>

State financing agency facing senators' scrutiny over bonds for Brightline by Lisa Broadt, *TC Palm*
<http://www.tcpalm.com/story/news/local/shaping-our-future/all-aboard-florida/2017/04/13/state-financing-agency-facing-senators-scrutiny-over-bonds-brightline/100413972/>

Guest column: AAF scrambles to save rail project by Brent Hanlon, *TC Palm*
<http://www.tcpalm.com/story/opinion/contributors/2017/03/27/guest-column-aaf-scrambles-save-rail-project/99587800/>

High-speed rail legislation ensures public safety over profits by Debbie Mayfield, *Sun-Sentinel*
<http://www.sun-sentinel.com/opinion/commentary/fl-dmoped-passenger-rail-safety-act-20170322-story.html>

Florida Passenger Train Project Faces New Headwinds by Shelly Sigo, *Bond Buyer*
<https://www.bondbuyer.com/news/florida-passenger-train-project-faces-new-headwinds>

Brightline would cause dramatic rise in deadly crashes, rail expert says by Lisa Broadt, *TC Palm*
<http://www.tcpalm.com/story/news/local/shaping-our-future/all-aboard-florida/2017/03/29/brightline-would-cause-dramatic-rise-deadly-crashes-rail-expert-says/99754192/>

Sheriffs still say high-speed train could jeopardize lives by Elliott Jones, *TC Palm*
<http://www.tcpalm.com/story/news/local/shaping-our-future/all-aboard-florida/2017/03/27/sheriffs-say-high-speed-train-could-jeopardize-lives-video/99680744/>

Keep the High-Speed Rail Safety Bills Moving Forward by Nancy Smith, *Sunshine State News*
http://www.sunshinestatenews.com/story/lets-keep-high-speed-rail-safety-bills-moving-forward?utm_source=Constant%20Contact&utm_medium=email&utm_content=Morning%20Lead&utm_source=March+28%2C+2017&utm_campaign=Morning+Lead+3%2F10%2F2017&utm_medium=email

Proposed Bills Have All Aboard Florida on the Rails by Maureen Saltzer, *The Capitolist*
<http://thecapitolist.com/proposed-bills-have-all-aboard-florida-on-the-rails/>

Brightline installs new CEO, reveals 2.5-year delay on Orlando leg by Debora Lima, *South Florida Business Journal*
<http://www.bizjournals.com/southflorida/news/2017/03/08/brightline-installs-new-ceo-reveals-2-5-year-delay.html>

Letter: A whole web of conflicts in machinations behind All Aboard Florida by Nick Schaus, *TC Palm*
<http://www.tcpalm.com/story/opinion/readers/2017/03/05/letter-whole-web-conflicts-machinations-behind-all-aboard-florida/98625086/>

Orlando airport's new train station will wait years for trains by Kevin Spear, *Orlando Sentinel*
<http://www.orlandosentinel.com/news/os-airport-train-station-uncertain-20170423-story.html>

Interested in Helping?

Winning this fight continues to be up to us! CARE and the residents of the Treasure Coast have the most to lose from this project, and we hope you will continue to oppose AAF by standing with CARE.

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](#).

Our opposition is positioning themselves to jeopardize our safety and quality of life. We need your donations to protect our citizen's safety and quality of life for the future and our children's future.

We would love to hear from you and if you care to **make a contribution**.

Please continue to share these updates with your family, neighbors and friends. There will be additional developments to report on in the coming weeks, 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