



October 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 threaten the public safety and current way of life of communities throughout the Treasure Coast.

Financing Update

AAF has stridently portrayed itself as a private enterprise, but in reality, AAF has had an insatiable desire for taxpayer subsidized financing. And as a passenger rail system in the U.S., history indicates it would always require the federal government's assistance in order to remain solvent.

After the U.S. Department of Transportation (DOT) granted AAF a \$1.75 billion private activity bond (PAB) allocation in December 2014, AAF attempted to sell the bonds four times and was unable to do so. In November 2016, AAF was forced to abandon this funding mechanism, following an adverse U.S. District Court ruling in August 2016 that found the PABs were subject to the National Environmental Policy Act (NEPA).

AAF is now pursuing a substitute type of publicly subsidized funding from DOT, in the form of a Railroad Rehabilitation and Improvement Financing (RRIF) loan, reportedly in the same amount of \$1.75 billion, maybe more, maybe less.

This method of funding—if approved by DOT—would put the federal government and taxpayers on the hook in the event AAF cannot repay its loan, which is likely to occur, according to the financial analysis of a former White House economist now at Brown University that CARE FL commissioned as part of its efforts to bring forth the facts about AAF.

In addition, the purpose of the RRIF loan program—based on statutory language and legislative history—is not to construct a new \$1.75 billion rail line as AAF seeks, but rather to rehabilitate existing

rail and to upgrade rail-related facilities, typically in far smaller loan amounts. The average RRIF loan amount is \$77 million—far less than the \$1.75 billion that AAF is reportedly seeking. The RRIF program was never intended to be a crony capitalism program to build an entire passenger railroad.

As we previously reported, CARE FL—along with Martin County and Indian River County—sent two letters to DOT in July 2017, focusing on both the financing concerns related to AAF’s RRIF loan request, as well as the environmental and public safety concerns that warrant additional review from the Department.

The content of these two communications comprise CARE FL’s twofold message:

- **DOT should not issue a RRIF loan for the AAF project.**
- **If DOT does choose to issue a RRIF loan, a supplemental environmental impact statement (SEIS) must be prepared prior to the issuance of a Record of Decision (ROD) under NEPA.**

New Development – State Road 528

Several new aspects of this case have come to light recently. On September 29, the Palm Beach Post posted a [story](#) with the headline “Could minor change in track route delay Brightline to Orlando?” In it, the reporter reveals a shift in the railroad’s planned east-west track to Orlando, demonstrating AAF’s continued lack of transparency and hiding the ball.

As included in the 2015 Final Environmental Impact Statement (FEIS), AAF originally intended to run on a new section of track along east-west State Road 528 that would cross over I-95 in Brevard County. The design included a series of bridges needed to bring the trains over the 528-95 interchange’s ramps.

Later, AAF quietly decided to move its planned route south of the ramps. This route change would require fewer bridges, therefore lessening AAF’s construction costs. The change would also bring the tracks closer to nearby homes.

Local homeowners and citizens will be affected by this nontransparent shift by AAF, and this development is just one more reason that DOT should prepare an SEIS to allow for proper transparency and the opportunity for public comment.

New Development – Derailment of AAF Passenger Train

On May 30, our legal team sent a letter to DOT, relaying information we had learned regarding a derailment that may have occurred when AAF was testing its passenger trains.

It took DOT until August 21 to respond, but when it did, the agency informed us that this derailment did indeed occur on February 11, 2017. The letter directed us to an incident report that had been filed with the Federal Railroad Administration (FRA)—curiously, a report that we could not find when we performed a timely search of the public database earlier this year. This incident report detailed that the derailment occurred within the railroad’s yard facility, causing equipment damage of \$408,000.

AAF made a number of public statements relating to safety in the days and weeks that followed the derailment, but not once was the derailment mentioned. The fact that AAF continued to make claims about public safety without disclosing to the State Legislature that it had derailed a passenger train during testing is just one more instance of AAF not giving Floridians the whole story when it comes to their ill-conceived rail project. For example:

- **On February 22**, during a State of Florida House Workshop on high speed passenger rail, AAF’s General Counsel stated: “Safety is absolutely, inequitably at the top of our list. We think about it every day and every decision we make has a safety component to it because it is just what we have to do as an operating business and as an operating railroad.”
- **On March 12**, before the State of Florida Senate Transportation Committee, AAF’s Vice President stated that it had “...already complied with an unprecedented level of safety standards set by the FRA known as the sealed corridor. This is FRA’s highest safety category which we are implementing fully at the railroad’s cost.”
- **On April 4**, the Executive Director of AAF’s parent company penned an op-ed titled “All Aboard Florida goes extra mile to address rail safety.”

New Development – LNG

On May 5, Martin County submitted a Freedom of Information Act (FOIA) request to DOT, asking for communications between Department officials and AAF and/or Florida East Coast Railway (FECR) pertaining to liquefied natural gas (LNG) and/or the transport of LNG on rail cars as a commodity, or as a fuel for FECR locomotives.

On September 7 and 28, FRA began producing small amounts documents, and the County is awaiting further productions. Though the number of documents produced thus far has been small, the material—in particular, a four-page letter from FRA to FECR dated March 3, 2016—has been telling.

In short, FRA has been in ongoing discussions with FECR regarding LNG since September 2014, and FECR has provided a number of documents to FRA during this time. In addition, in the March 2016 letter, FRA explicitly expressed safety concerns with LNG that CARE FL could not have written better itself.

When referencing the Alaska Railroad (ARR) request to transport LNG, FRA stated: “...FRA recently approved ARR’s request to transport LNG later in 2016. The FRA views ARR’s approval as different from

a potential FEC approval, due to the significant differences between the two states and the areas through which they would be transporting the product. For example, if ARR transports LNG it will be doing so at 40 mph through mostly unpopulated areas with few highway-rail grade crossings, whereas under FEC's proposal, trains transporting LNG will pass through highly populated areas, with more frequent crossings, while sharing tracks with passenger trains traveling at 110 mph."

Despite having worked with FECR since September 2014 on the issue of LNG, not once was LNG referenced in the August 2015 FEIS. This glaring safety-related omission is compounded by the March 2016 letter from FRA to FECR, and is yet another reason DOT should prepare an SEIS to allow for proper transparency and the opportunity for public comment.

New Development – Sen. Mayfield files Legislation

A shout out to our Champion Senator Debbie Mayfield for filing [Senate Bill 572](#).

The High-speed Passenger Rail bill summary states the following:

"Designates 'Florida High-Speed Passenger Rail Safety Act'; providing powers and duties of the Florida Department of Transportation; requiring the Florida Division of Emergency Management to offer, under certain circumstances, the local communities and local emergency services located along the rail corridor training specifically designed to help them respond to an accident involving rail passengers or hazardous materials; requiring a railroad company operating a high-speed passenger rail system to be solely responsible for certain maintenance, improvement, and upgrade costs, etc." The bill will surely be discussed and debated during the upcoming 60 day 2018 Legislative Session set to commence on January 9, 2018.

What Does All of This Mean?

AAF is continually trying to convince the public that the success of Phase II is inevitable, but in reality, all evidence points to the contrary. We began this fight in 2014 and now, nearly three and a half years later, AAF is no closer to running its trains from West Palm Beach to Orlando.

It is the final quarter of 2017, and instead of the sounds of construction, that noise you are hearing is the spin machine of AAF, constantly making noise to try to convince the public that this project is a foregone conclusion, and covering up the inconvenient facts—including the 528 issues, the recent derailment and the federal government's LNG concerns—that get in their way.

Derailment Coverage (10/16/17)

In Case You Missed It:

Florida Politics, [Brightline February train car derailment comes to light; critics call it 'disturbing'](#)

Politico, [February derailment has Brightline officials, opponents sparring](#)

TC Palm, [Brightline derails, causing extensive damage; 'definitive' cause in question](#)

Palm Beach Post, [EXCLUSIVE: Brightline train derailed in Feb., causing \\$408K in damage](#)

The Capitolist, [Brightline Derailment Exposes Safety and Transparency Failures](#)

LNG Coverage (10/23/17)

Sunshine State News, [FEC Concealed Plans to Move Deadly Liquefied Natural Gas Next to 110-mph Passenger Trains](#)

TC Palm, [LNG, Brightline to share Florida East Coast Railway, could endanger public, CARE FL says](#)

Filing of Mayfield's Bill (10/20/17)

News Service of Florida, [PASSENGER RAIL PROPOSAL EMERGES AGAIN IN SENATE](#)

WINK News, [Florida passenger rail proposal emerges again in Senate](#)

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](#).

WE NEED YOUR HELP NOW MORE THAN EVER

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 we've made it easy –just [click here!](#)

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