

BOARD OF COUNTY COMMISSIONERS

OFFICE OF COUNTY ATTORNEY



Dylan Reingold, County Attorney
William K. DeBaal, Deputy County Attorney
Kate Pingolt Cotner, Assistant County Attorney

April 19, 2016

Andrew Phillips
Project Manager
U.S Army Corps of Engineers
400 High Point Drive, Suite 600
Cocoa, Florida 32926

RE: Extension of the Comment Period for U. S. Army Corps of Engineers Permit Application No.:
SAJ-2012-01564 (SP-AWP)

Dear Mr. Phillips,

On April 11, 2016, the U.S. Army Corps of Engineers ("ACOE") issued a public notice concerning permit application number SAJ-2012-01564 (SP-AWP). The referenced permit pertains to the construction of an intercity passenger railroad between the Orlando International Airport and the City of West Palm Beach by All Aboard Florida ("AAF"). The public notice states that all comments regarding the ACOE regulatory action on the referenced permit application must be submitted in writing within twenty-one (21) days from the date the notice was issued.

Indian River County ("County") would like to formally request that ACOE extend the public comment period for permit application number SAJ-2012-01564 (SP-AWP) for an additional thirty (30) days. On March 29, 2016, the County submitted a request to ACOE for a complete copy of AAF's most recent application via the Freedom of Information Act. To date, however, the County has not received a copy of the referenced application. Therefore, the County, as well as countless other interested citizens and local governments, are unable to submit substantive comments on the application at issue.

Moreover, the County has not *received* nor reviewed AAF's 90%/100% plans which include both intersection crossing plans and stormwater plans. According to AAF, the referenced plans are complete, but it is waiting on the Federal Railroad Administration to give it permission to release the plans to the County. Both of these plans are essential for the County and ACOE to understand the true nature of the proposed project and its consequences. These plans are also necessary for ACOE to conduct a proper public interest analysis.

For example, the crossing plans will likely illustrate the need to widen one or more roads to allow for the safety improvements to operate the proposed project. This has the potential to increase wetland impacts in areas where wetlands are contiguous to County roadways such as 41st Street in

Letter to Andrew Phillips

April 19, 2016

Page 2

Indian River County or Valkaria Road in Brevard County. Additionally, surface water impacts may increase as stormwater treatment areas are added to address the additional impervious areas at each of the 32 roadway crossings within Indian River County. At this time, additional wetland and surface water impacts are not known as AAF has not provided the County with the above mentioned intersection crossing plans. Finally, it is worth noting here that the County has requested that AAF grant access to the FEC Right-of-Way, and other areas under AAF's control, to ensure that all wetlands have been identified to fully appreciate the potential impact and necessary mitigation measures. (A copy of the County's correspondence is attached). As of the date of this letter, the County has not received a response from AAF.

Thank you in advance for your consideration of the County's request. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dylan Reingold', with a long horizontal flourish extending to the right.

Dylan Reingold
County Attorney

BOARD OF COUNTY COMMISSIONERS
OFFICE OF COUNTY ATTORNEY

Dylan R. Reingold, County Attorney
William K. DeBraal, Deputy County Attorney
Kate Pingolt-Cotner, Assistant County Attorney



April 18, 2016

Myles Tobin, General Counsel
All Aboard Florida
2855 Le Jeune Road, 4th Floor
Coral Gables, FL 33134.

Re: All Aboard Florida United States Army Corps of Engineers Permit Application

Dear Mr. Tobin:

On April 11, 2016, the United States Army Corps of Engineers (the "Corps") posted public notice SAJ-2012-01564 related to an application from All Aboard Florida – Operations, LLC ("AAF") for a Department of the Army permit (the "Application"), pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899, for that portion of the proposed All Aboard Florida project extending from the Orlando International Airport to West Palm Beach (the "Public Notice"). A copy of the Public Notice is attached to this correspondence. Based upon the information posted by the Corps, it is estimated that the North-South ("N-S") component of the proposed project requires the discharge of clean fill material into approximately 2 acres of wetlands and 12 acres of surface waters.

This project extends through Indian River County, from Brevard County to St. Lucie County. Indian River County believes that portions of the project that are not easily accessible from public property contain wetlands that may not be identified or not fully identified in the Application. Therefore, I respectfully request permission for representatives from Indian River County to access the FEC Right-of-Way, and other areas under AAF's control, so that they can walk the identified areas and fully appreciate the potential impact and necessary mitigation measures that may occur within Indian River County. Our representatives would comply with the proper safety protocol and, to the extent you believe it is necessary, provide advance coordination and notice to AAF. I believe that such transparency would be beneficial to both AAF and Indian River County, not to mention the Corps' ability to review a complete application.

Thank you very much for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Dylan Reingold", with a long, sweeping underline that extends to the right.

Dylan Reingold
County Attorney

cc: John Shubin, Esq.
Andrew Phillips, Army Corps of Engineers
John Julianna, St. Johns River Water Management District