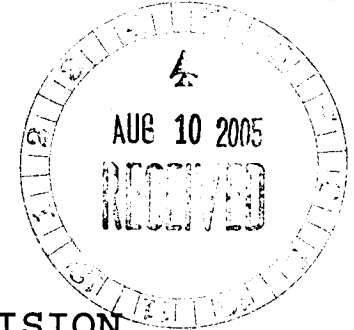


JOHN D. HEFFNER, PLLC
1920 N St., N.W.
SUITE 800
WASHINGTON, D.C. 20036
(202) 263-4180
FAX (202) 296-3939
j.heffner@verizon.net

214520
ORIGINAL



PUBLIC VERISION

August 10, 2005

BY HAND

Hon. Vernon A. Williams
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

**ENTERED
Office of Proceedings**

AUG 10 2005

**Part of
Public Record**

**RE: STB Docket AB-70 (Sub-No. 5X)
Florida East Coast Railway, L.L.C.
Abandonment Exemption in Brevard County, FL**

Offer of Financial Assistance of Hust Brothers, Inc.

Dear Mr. Williams:

On behalf of Hust Brothers, Inc. ("Hust"), I am writing to submit by this letter the offer of financial assistance of Hust Brothers, Inc., for the above-captioned rail line known as the Titusville Branch between MP TB 0.0 at Titusville, FL and MP TB 9.8 at Aurantia, FL. By agreement of the parties and approved by the Board in its decision served July 21, 2005, this offer is due today August 10. Hust offers \$2,997,255 for the subject 9.8 mile line of railroad.

By way of background, Hust Brothers is a California based company engaged in a wide range of business ventures. Among them, Hust desires to acquire and restore service over abandoned or to be abandoned rail lines. In fact, Hust has previously bid on rail lines through the Board's offer of financial assistance process and did in one case acquire a line outside that statutory process. See, Mississippi Tennessee Railroad, LLC-Discontinuance of

Hon. Vernon A. Williams

August 10, 2005

Page 2

Service Exemption-in Union, Pontotoc and Chickasaw Counties, MS, STB Docket No. AB-869X (decision served November 18, 2005).

On many occasions the STB and its predecessor agency, the Interstate Commerce Commission, have ruled that offers need not be detailed. The offeror must merely show that it is financially responsible and that the offer is reasonable. In that regard, the pertinent precedent requires the offeror to explain any disparity between the abandoning carrier's valuation and the amount of the offer. See, e.g., Conrail Abandonments Under NERSA, 365 I.C.C. 472 (1981).

In that regard, Hust submits with the confidential version of this offer as Exhibit A, a copy of its latest financial statement dated November 24, 2004, for the years ending March 31, 2003 and 2004, prepared by the accounting firm of Tenney and Company. The Board has previously found Hust to be a "financially responsible person." Mississippi Tennessee Holdings, LLC-Abandonment Exemption-In Union, Pontotoc and Chickasaw Counties, MS, STB Docket AB 868X (decision served August 9, 2004). As this statement shows, Hust has sufficient assets in the form of its net worth to allow it to acquire the subject rail line, operate it for the requisite two year period, and own it for the requisite five year period.

FEC has provided Hust with a net liquidation value appraisal of the track material for the 9.8 mile segment of the Titusville Branch proposed for abandonment. That appraisal reflects FEC's NLV of \$390,000. However, the appraisal does not reflect the fact that the line has 14 asphalt crossings, nine state crossings, and 9 sets of gates and flashers. Under Florida law, the track and signals will have to be removed at the crossings and the road repaved through the crossings. Hust estimates the cost of restoring the asphalt crossings at \$39,100 (3,910 square feet involved), the cost of restoring the state crossings at \$76,320 (5,088 square feet involved), and the cost of removing the crossing signals at \$10,000. Hust **accepts** FEC's track value of \$390,000 provided adjustments are made for crossing restoration. Accordingly, Hust's adjusted NLV for track materials is \$264,580 (\$390,000 less \$125,420).

Hon. Vernon A. Williams

August 10, 2005

Page 3

As to the real estate value, FEC has provided Hust with two appraisals for the Titusville Branch. The first appraisal is a document dated April 30, 2003, prepared by Gillis & Associates, Inc. ("Gillis"). The second is a "Supplemental Appraisal Report" also prepared by Gillis and dated September 1, 2004. The original appraisal describes the subject right of way as "a 35.25 mile long rail corridor commencing in Titusville, in Brevard County, extending north and west through Brevard County in Volusia County, and terminating in the Enterprise area of southwest Volusia County." The subject right of way comprises 454.34 acres. FEC values this right of way at \$9,262,000 on an "across the fence" ("ATF") basis and at \$13,893,000 on a "corridor" basis. See, transmittal letter from Gillis to Robert F. MacSwain dated January 14, 2004, attached here as Exhibit B. The 2004 supplement examined the property between Southeastern Terminus North and Roberts Street and reflects an ATF value of \$5,272,000 and a corridor value of \$7,908,000. See, transmittal letter dated September 23, 2004, from Gillis to Mr. MacSwain attached as Exhibit C. While FEC claims the 9.8 mile right of way between Titusville and Aurantia has an ATF value of \$6,395,352, that figure appears to be unsupported. Moreover, FEC urges that this right of way has a corridor value of \$9,593,028 (using an "enhancement factor" of 1.5) in an appraisal document marked Exhibit D.

FEC's claim that this property should be valued as a "corridor" has no basis in either law or fact. Early on, the STB's predecessor agency, the ICC, held that a right of way may not be valued as an assembled corridor absent evidence in the record that there is a market for this parcel as a nonrail corridor. Chicago And North Western Transp. Co.-Abandonment, 363 I.C.C. 956, 959 (1981). While FEC's appraisal documents assert that the right of way has value as a corridor due to the paucity of land for use as corridors for communications, pipeline, highway, and mass transit purposes, it provides no specific evidence of any contracts or firm offers to use this right of way for such purposes here. Accordingly, Hust values this property on an ATF basis.

As part of its valuation analysis, Hust employed appraiser Douglas Golden of Main Line Management Services, Inc., to inspect the right of way during his trip to the FEC's offices to review the deeds and other relevant

valuation documents. He found a rail corridor that traverses an extremely blighted area in and around Titusville. Mr. Golden's analysis assumes that adjacent owners would acquire the right of way for either commercial, industrial, or residential purposes. While he found that FEC generally held the property in fee, he also discovered that three parcels were restricted as to use ("for depot purposes only") with the result that the right of way's property value should be discounted by 5%. Then, he determined that FEC's right of way appraisal does not reflect any costs of sale such as advertising costs or real estate commissions for which he would make an 8% adjustment to the sale price. Finally, he discovered that FEC's appraisal makes no assumptions as to how quickly it could dispose of the property. Based upon Mr. Golden's many years of experience appraising rail lines, he determined that the property would likely take three years to sell and 10% would never be saleable. Accordingly, he applied a 7.5% discount factor over a three year period. These adjustments are consistent with STB and ICC precedent. Pennsylvania R. Co., -- Merger - New York central R. Co., 331 I.C.C. 643, 662-4 (1967).

On that basis, Hust offers to pay \$2,7432,675 for the subject 9.8 miles of right of way, which it calculates as follows. First, Hust notes that FEC's asserted \$6,395,352 value for the subject line nowhere appears in either of Gillis' appraisals. So to arrive at a value for the subject 9.8 miles of right of way, Hust has taken an average of the values in the 2003 and 2004 appraisals. Second, Hust accepted Gillis' 2003 ATF value for the entire 35.25 mile segment of \$9,262,000. Third, Hust prorated this figure for the subject 9.8 miles (9.8 miles represents 27.8% of 35.25 miles times \$9,262,000) resulting in a value of \$2,574,000. Then Hust took the 2004 figure of \$5,272,000 and averaged the two for a resulting valuation of \$3,923,000. Finally, Hust adjusted that figure by 5% for the three "for depot purposes only" parcels, then by 8% for sales expenses, and then for a three year sell off period. The resulting real estate value is \$2,732,675.

Combining the adjusted track and adjusted real estate values results in an offer of \$2,997,255, well with Hust's financial capability.

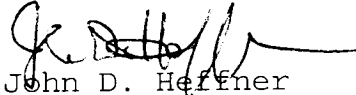
Hon. Vernon A. Williams

August 10, 2005

Page 5

Please date stamp and return one copy of this letter
and attachments.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a stylized flourish extending to the right.

John D. Heffner
Counsel for Hust Brothers, Inc.

Attachments

cc: Terry M. Hynes, Esq.
Marlene Hammock, Esq.
Fritz R. Kahn, Esq.

EXHIBIT A
“OMITTED”

EXHIBIT B

GILLIS & ASSOCIATES

SUMMARY APPRAISAL REPORT

**FLORIDA EAST COAST RAILWAY
TITUSVILLE BRANCH
Brevard and Volusia Counties, Florida**

For

Florida East Coast Industries, Inc.
One Malaga Street
St. Augustine, Florida 32084

Attention

Robert F. MacSwain
Executive Vice President - Special Projects

Type of Appraisal: Complete Corridor Analysis -- Summary Report Format

Effective Date of the Appraisal (Date of Inspection): April 30, 2003

Date of the Report: January 14, 2004

By

GILLIS & ASSOCIATES, INC.
601 North Ashley Drive -- 8th Floor
Tampa, Florida 33602
(813) 221-8112

GILLIS & ASSOCIATES

Principal:

Roderick J.P. Gillis, MAI
State-certified general appraiser 0000493

601 North Ashley Drive
8th Floor
Tampa, FL 33602-4304
(813) 221-8112

January 14, 2004

Florida East Coast Industries, Inc.
One Malaga Street
St. Augustine, Florida 32084

Attention: Robert F. MacSwain
Executive Vice President - Special Projects

Re: FLORIDA EAST COAST RAILWAY
TITUSVILLE BRANCH
Brevard and Volusia Counties, Florida
Gillis & Associates, Inc. File No.: 2003-012

Dear Mr. MacSwain:

In accordance with your request, we have performed a complete corridor appraisal analysis, on the above-captioned property for the purpose of developing the current market value of the fee simple interest in the subject railroad corridor (see Special Assumptions and Conditions). The analysis is detailed in a summary format for presentation purposes. All other supporting documentation, information, and data have been retained in our files, all of which are incorporated herein by specific reference.

The subject property is a 35.25-mile (MOL) rail corridor commencing in Titusville, in Brevard County, extending north and west through Brevard County into Volusia County, and terminating in the Enterprise area of southwest Volusia County, Florida. The subject rail corridor comprises approximately 454.34 acres (MOL), with widths primarily ranging from 50 feet to 200 feet (MOL). There are two segments of the property 30 feet wide and one segment 295 feet wide in Farmton at Mile Post 23.5. The southern terminus of the rail corridor is situated in downtown Titusville, in northeastern Brevard County. The western terminus of the rail corridor is situated in the Enterprise area of southwest Volusia County. Florida East Coast Industries, Inc., (hereinafter FEC) is the owner of the subject rail line corridor, which is currently inactive. The existing surface improvements include typical railway improvements, steel rail tracks, bridges, I-95 underpass, crossings, etc. The tracks have been removed for the portion of the corridor just to the east of Interstate Highway 95 (I-95) to the western terminus of the corridor. The highest

2003-012

ii

GILLIS & ASSOCIATES

best use of the subject is as a single corridor, which could serve a variety of unique purposes/uses, which are discussed in the body of this report.

The property was inspected for this appraisal on April 30, 2003, and several other dates in 2003. The date of value or the effective date of this analysis is April 30, 2003. Further identification of the subject property, and a discussion of pertinent valuation influences, may be found in the body of the following report.

It is assumed the property is free and clear of all encumbrances, per our discussions with FEC representatives. We have estimated the current market value of the subsurface, surface, and air rights associated with the subject corridor. We have inspected the property and the surrounding market areas. All data gathered in our investigation are from sources deemed reliable. In addition to general assumptions and limiting conditions, our appraisal analysis, including all value conclusions, are **"SUBJECT TO"** a number of special limiting conditions and/or assumptions.

Mr. John D. Cordova, an Associate Appraiser, provided professional assistance in the completion of this appraisal analysis. Mr. Cordova's qualifications are included as part of the Addendum in this report.

After considering the various market factors and forces that influence the property under appraisal, we have concluded to the following market value. The effective date of appraisal (date of inspection) was April 30, 2003, and the date of report was September 22, 2003. It is our opinion, after careful consideration of the various factors entering into this independent appraisal, and based on our professional judgment, **that the Market Value of the subject property, relating to the Titusville Branch of the Florida East Coast Railroad Corridor Right-of-Way, as specifically defined and limited within the context of this report, as of April 30, 2003, was as follows.**

MARKET VALUE SUMMARY AND CONCLUSION	
Titusville Branch	
	Total
ATF (Across-the-Fence) VALUE:	\$9,262,000
CORRIDOR ENHANCEMENT FACTOR	x 1.50
CORRIDOR MARKET VALUE (SUBSURFACE, SURFACE, AND AIR RIGHTS)	\$13,893,000

GILLIS & ASSOCIATES

The attached appraisal is subject to and contingent upon certain special and general assumptions and limiting conditions, that are outlined in the Special and General Assumptions and Limiting Conditions section within the following report.

The attached appraisal was prepared in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation and the Standards of Professional Appraisal Practice of the Appraisal Institute, with respect to summary reports. Additional data and information are found in our subject property file, which is incorporated by this specific reference.

Our analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with (and the use of this report is subject to) the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

The following report sets forth our reasoning, methodology, various assumptions and limiting conditions, and conclusions. Should you have any questions regarding the following document, please contact Mr. Gillis.

Respectfully submitted,

GILLIS & ASSOCIATES, INC.



Roderick J. P. Gillis, MAI, MSA
Principal

State Certified General Appraiser 0000493



Eric C. Hoening
Senior Associate Appraiser
State Certified General Appraiser #0002406

RJG:nt

EXHIBIT C

GILLIS & ASSOCIATES

SUPPLEMENTAL APPRAISAL REPORT

FLORIDA EAST COAST RAILWAY TITUSVILLE AND EDGEWATER BRANCHES BREVARD AND VOLUSIA COUNTIES, FLORIDA

For

Florida East Coast Industries, Inc.
One Malaga Street
St. Augustine, Florida 32084

Attention

Robert F. MacSwain
Executive Vice President - Special Projects

Type of Appraisal: Complete Supplemental Corridor Analysis -
Summary Report Format - (Abbreviated Parent Parcel)

Effective Date of the Original Appraisal (Date of Inspection): April 30, 2003

Effective Date of This Supplemental
(Abbreviated Parent Parcel) Appraisal: September 1, 2004
(Date of Report): September 23, 2004

By

GILLIS & ASSOCIATES, INC.
Gold Bank Plaza
601 North Ashley Drive - 8th Floor
Tampa, Florida 33602
(813) 221-8112

2003-012A

FEC-C-00002

GILLIS & ASSOCIATES

SUPPLEMENTAL APPRAISAL REPORT

**FLORIDA EAST COAST RAILWAY
TITUSVILLE AND EDGEWATER BRANCHES
BREVARD AND VOLUSIA COUNTIES, FLORIDA**

To Mike Bagley

Prepared For

Robert F. MacSwain
Executive Vice President - Special Projects
Florida East Coast Industries, Inc.
One Malaga Street
St. Augustine, Florida 32084

GILLIS & ASSOCIATES

Principal:

Roderick J.P. Gillis, MAI
State-certified general appraiser 0000493

601 North Ashley Drive
8th Floor
Tampa, FL 33602-4304
(813) 221-8112

September 23, 2004

Florida East Coast Industries, Inc.
One Malaga Street
St. Augustine, Florida 32084

Attention: Robert F. MacSwain
Executive Vice President - Special Projects

Re: FLORIDA EAST COAST RAILWAY
TITUSVILLE BRANCH
Brevard and Volusia Counties, Florida
Gillis & Associates, Inc. File No.: 2003-012

Dear Mr. MacSwain:

In accordance with your request, we have performed a supplemental updated corridor appraisal analysis, on the section of the Titusville Branch of the larger FEC subject corridor, running from the southeast terminus of the corridor at the FEC mainline in downtown Titusville, north to Roberts Street to the Mims area of Brevard County, as an abbreviated parent parcel. The purpose of our supplemental analysis is to develop the current market value of the fee simple interest in the abbreviated subject railroad corridor area (we specifically reference the Special Assumptions and Conditions in the original report of April 30, 2003). The analysis is detailed in a summary format for presentation purposes. All other supporting documentation, information, and data have been retained in our files, all of which are incorporated herein by specific reference.

The entire Titusville Branch is a 35.25-mile (MOL) rail corridor commencing in downtown Titusville, in Brevard County, extending north and west through Brevard County into Volusia County, and terminating in the Enterprise area of southwest Volusia County, Florida. The entire subject rail corridor comprises approximately 454.34 acres (MOL), with widths primarily ranging from 50 feet to 200 feet (MOL). There are two segments of the property 30 feet wide and one segment 295 feet wide in the Farmton area at Mile Post 23.5. The southern terminus of the rail corridor is situated in downtown Titusville, in northeastern Brevard County. The western terminus of the rail corridor is situated in the Enterprise area of southwest Volusia County. Florida East Coast Industries, Inc., (hereinafter FEC) is the owner of the subject rail line corridor, which is currently inactive. The existing surface improvements include typical railway improvements, steel rail tracks, I-95 underpass, crossings, etc. The tracks have been removed for the portion of the corridor just to the east of Interstate Highway 95 (I-95) to the western terminus of the Titusville Branch corridor in

2003-012A

FEC-C-00004

GILLIS & ASSOCIATES

Enterprise. The highest and best use of the subject is as a single corridor, which could serve a variety of unique purposes/uses, which are discussed in the body of the original report, and further expanded in this supplemental appraisal analysis. It is specifically noted, that we have not updated or conducted a supplemental analysis of any of the other segments of the Titusville Branch, nor any of the segments of our separate appraisal of the Edgewater Branch. Based on our research, and discussions with brokers, buyers, and sellers, during this supplemental analysis, along with the strong to dramatic increases in property values that we have noted while appraising a wide variety of properties throughout northeastern, central, and southern Florida over the last four to five years, it is reasonable to assume that other sections of the Titusville Branch and segments of the Edgewater Branch are also likely to have increased in value in the last four to five years, as a number of the sales used in the two 2003 appraisals were several years old. If FEC desires to update any or all of the other segments of these two corridors, please contact Mr. Gillis.

The abbreviated property was inspected for this appraisal on September 1, 2004, and several other dates in 2004. The date of value or the effective date of this supplemental analysis is September 1, 2004. Further identification of the subject property, and a discussion of pertinent valuation influences, may be found in the body of the original 4/30/03 report.

It is assumed the property is free and clear of all encumbrances, per our discussions with FEC representatives. We have estimated the current market value of the subsurface, surface, and air rights associated with the abbreviated subject corridor. We have inspected the abbreviated corridor property and the surrounding market area. All data gathered in our investigation are from sources deemed reliable. In addition to general assumptions and limiting conditions, **our appraisal analysis, including all value conclusions, are "SUBJECT TO" a number of special limiting conditions and/or assumptions.** The reader is directed to our original 4/30/03 report.

After considering the various market factors and forces that influence the abbreviated Titusville portion of the Titusville Branch under appraisement, we have concluded to the following market value. The effective date of appraisal (date of inspection) was September 1, 2004, and the date of report is September 23, 2004. **It is our opinion, after careful consideration of the various factors entering into this independent appraisal, and based on our professional judgment, that the Market Value of the abbreviated commercial and industrial/commercial portion of the FEC corridor, from Roberts Street north of Mims to the southeastern terminus in downtown Titusville, relating to the Titusville Branch of the Florida East Coast Railroad Corridor Right-of-Way, as specifically defined and limited within the context of this report, as of September 1, 2004, was as follows.**

GILLIS & ASSOCIATES

MARKET VALUE SUMMARY AND CONCLUSION	
Titusville Branch	
Southeastern Terminus North to Roberts Street	
	Total
ATF (Across-the-Fence) VALUE:	\$5,272,000
CORRIDOR ENHANCEMENT FACTOR	x 1.50
CORRIDOR MARKET VALUE - ABBREVIATED PARCEL (SUBSURFACE, SURFACE, AND AIR RIGHTS)	\$7,908,000

The attached appraisal is subject to and contingent upon certain special and general assumptions and limiting conditions, that are outlined in the Special and General Assumptions and Limiting Conditions section within the original appraisal report of 4/30/03.

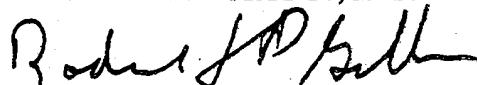
The attached appraisal was prepared in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation and the Standards of Professional Appraisal Practice of the Appraisal Institute, with respect to summary reports. Additional data and information are found in our subject property file, which is incorporated by this specific reference.

Our analyses, opinions, and conclusions were developed, and this supplemental report, and the two original reports have been prepared in conformity with (and the use of this report is subject to) the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute. The use of these reports is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

The following supplemental appraisal report sets forth our reasoning, methodology, and analysis, relating to the defined abbreviated portion of the Titusville Branch. The various assumptions and limiting conditions, and other segment value analysis and conclusions are detailed in our original 4/30/03 Titusville Branch appraisal. Should you have any questions regarding the following document, please contact Mr. Gillis.

Respectfully submitted,

GILLIS & ASSOCIATES, INC.



Roderick J.P. Gillis, MAI, MSA

St. Cert. Gen. REA 0000493

RJG:/mm

2003-012A

FEC-C-00006

EXHIBIT D

Titusville Branch
MP TB 0.0 – MP TB 9.8

Values from appraisal of April 30, 2003 and supplemental appraisal of September 1, 2004:

<u>Segment</u>	<u>Area</u>	<u>4/30/03</u>	<u>9/1/04</u>
Industrial	46.11	\$4,017,000	\$4,328,000
Commercial	3.9	1,114,000	944,000
Low/Medium Residential	55.76	1,004,000	1,004,000
Rural Residential*	11.94	<u>119,352</u>	<u>119,352</u>
		\$6,254,352	\$6,395,352
enhancement factor		<u>1.5</u>	<u>1.5</u>
		\$9,381,528	\$9,593,028

*approximately 2600 feet north of I-95 at width of 200 feet = 11.94 acres at \$9,996/acre = \$119,352.

AUG 10 2005

CERTIFICATE OF SERVICE

I, John D. Heffner, hereby certify that I did serve by first class mail for out of town parties and by messenger service on local parties a copy of the foregoing Offer of Financial Assistance of Hust Brothers, Inc., on all parties to this proceeding this 10th day of August 2005.


John D. Heffner