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TRANSPORTATION ENHANCEMENTS: TEA-21 AND THE RAILS-TO-TRAILS PROGRAM
(Under the Direction of JOHN C. WATERS)

Transportation funds and programs that can be used as a resource for historic preservation, and as such, they act as a vehicle to bolster a community's sense of place and directly affect the quality of life for American citizens. Transportation Enhancement (TE) activities are a major contributing element to a community's revitalization. By their design, TE projects engage citizens, private companies, local non-profits, local governments, and state and federal agencies in order to work towards a common goal of enhancing a community through transportation. Transportation Enhancement projects, such as Rail-to-Trails, have the ability to enhance community character and strengthen a sense of place, undeniably two desirable results.

INDEX WORDS: Rails-to-Trails, Alternative Transportation, Community Planning, Smart Growth, Historic Preservation, ISTEA, TEA-21, Transportation Enhancements

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PROGRAM

by

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CHAPTER 1

INTRODUCTION

Purpose of the Thesis

The complex issue of successfully competing for funds is an important topic, because government funds are a valuable resource to a community when it undertakes a project dealing with preservation. For example, Rails-to-Trails are an expensive rehabilitation project that rely heavily on government support. This thesis advances that Transportation Enhancements (TE) awards, in particular, are available for protection and rehabilitation of historic resources associated with transportation. It is the goal of this thesis to provide the information to properly apply for and receive TE funds. Gaining a better understanding of the history of Transportation Enhancement funding on both a national and state level, as well as recent revisions to the application process, helps those who seek a funding award for a Rails-to-Trails conversion. It is hoped that an Athens case study, along with other examples, interviews, research and historical data, will serve as a manual for award applications that is useful, practical, and educational.

Once a community sees the value of a Rails-to-Trails project, the inevitable question arises: how can the project get funded? The answer lies in the TE programs and the process of applying for such awards. This clarification, created by formulating a written proposal that has the full backing from the community, is often a challenging endeavor.

It should be noted that prior to 1991, a community that had set a goal for itself to use a vacated railroad corridor for jogging, biking, walking, enrichment, or tourism, were

shut out of transportation funding because transportation funding had a more narrow definition. Fortunately, that definition has changed and the TE programs encompass a broad enough scope to be useful today to such communities. Communities that wish to enhance their environment, but lack the necessary funds to do so, should pursue a TE award.¹ The application process is complex; confusing variables exist from state to state, but the program has an impressive, if short, history.²

Transportation funds can be used as a resource for historic preservation, to bolster a community's pride and directly affect residents' quality of life. Transportation Enhancement activities can be a major contributing element to community revitalization. By their design, TE projects engage citizens, private companies, local non-profits, local governments, and state and federal agencies to enhance a community historic fabric through transportation. TE projects enhance community character and strengthen a sense of place, undeniably two desirable results.

Due to the positive effects TE has on American communities, Congress reinstated the Transportation Enhancement section of the Transportation Equity Act for the 21st Century (TEA-21), in June of 1998.³ With Congress's support of Transportation Enhancements, which includes projects that promote historic preservation, a greater national importance has been placed on the development of non-traditional transportation practices, representing a profound change in the way the government funds local projects.

¹ U.S. Department of Transportation/ Federal Highway Administration, *A Quick Guide to Transportation Enhancements: Making Our Communities More Livable*. Washington, D.C.: Government Printing Office, 2000.

² Roberts, Steve Transportation Enhancement Coordinator, interviewed by author, 12 July 2000, Atlanta, phone call.

³ <http://www.enhancements.org>, 4-11-00

The Transportation Equity Act for the 21st Century increased the financial resources for TE activities by over thirty-five percent and also increased the eligibility of project types from 10 to 12.⁴

Between the years of 1992- 2001 state transportation departments across America allocated more than \$3 billion in federal TE funds to communities. Almost 11,000 projects received financial funding during this period of time; 2,300 of them focused on historic preservation. The Federal government justifies the use of transportation funds for Historic Preservation projects as long as there was a connection to transportation. Such as, the restoration of rail road depots, streetscape renovations, and rails-to-trails conversions.



Illustration 1, Example of a restored railroad depot.

⁴Dan Costello & Lisa Schamess eds., *Building On The Past Traveling To The Future*. (Federal Highway Administration & National Trust For Historic Preservation, Strine Printing Company, York, PA, 6)



Illustration 2, Example of a streetscape renovation



Illustration 3, Example of a Rails with Trails pathway.

However, the federal government does not mandate that states spend TE funds on transportation enhancements, but rather requires states to set funds aside and make them available. The end result is that communities must actively participate in the Transportation Enhancement process within their state to derive the benefits of TEA-21.

It is worth noting that the opportunities are vast and the benefits are great, but the process of applying is complicated.⁵

The popularity of transportation enhancement is evidenced by states receiving more applications than they can fund. In 1999, New Jersey received such an overwhelming number of proposals that only ten percent of the projects received funding. Moreover, in 1999, Pennsylvania collected nearly 300 applications, which would have committed more than \$285 million if all projects were funded. Georgia, in the year 2000, accepted over 300 applications that were eligible for funding.⁶

Our land is vast and unrestrained by political and geographical borders allowing us to travel easily from destination to destination. The transportation routes of the United States are vital to the freedom of movement, an essential part of the American experience. As we travel throughout America's cities, towns, waterfronts, rural areas, and industrial regions, "whether for business or pleasure, as a part of a daily commute or as a journey of many miles, the sights and sounds we encounter along the way shape our perception of our communities, our Nation, and ultimately ourselves as citizens participating in this Nations' evolving history. Caring for historic places through transportation enhancements renews interest in the places, and deepens respect for communities that contain them and the citizens who maintain them."⁷ The TEA-21 serves as a catalyst to link transportation enhancements to local communities in an effort to build beneficial new developments based on the nation's historic assets.⁸

⁵ Ibid, 6-7.

⁶ www.dot.state.ga.us/homeoffs/planning.www/planning/tea/index.htm

⁷ Dan Costello & Lisa Schamess eds., *Building On The Past Traveling To The Future*. (Federal Highway Administration & National Trust For Historic Preservation, Strine Printing Company, York, PA, 11)

⁸ Ibid, 9.

Methodology

This thesis presents the Transportation Enhancement program as an educational reference to help any community interested in receiving federal funds for a transportation activity, and specifically the Rails-to-Trails program.

The thesis begins with an analysis of the Transportation Enhancement program, the Rails-to-Trails program, and their impacts on communities, and is enhanced with Rails to Trails case studies and a completed TE application.

In the following chapters, the Transportation Enhancement award program is examined as it relates generally to all states, and then to Georgia. Athens-Clarke County is used as a case specific example to illustrate the TE application process. The thesis concludes with recommendations for applying to the program and the Transportation Enhancement program.

CHAPTER 2

PROGRAMS AND POLICY

Due to the declining railroad industry in 1968 the federal government acknowledged the need to maintain existing rail road right-of-way by preserving, and enlarging the nation's trail system (transportation method that rely on alternative sources of mobility such as walking, jogging, hiking) and therefore, began enacting legislation to achieve that goal. Today, because of this legislation, public trails are found all across the United States. Many of these trails run along significant historic or scenic routes that are deserving of preservation. Some trails existed before the surrounding areas were settled, developed, or privately owned. Currently, the majority of the land throughout the country is titled to an owner, and therefore all trails go through someone's land. In many cases, trails pass through government owned land, but often, particularly with longer trails, the path leads through private property.

Likewise, the federal government has also recognized the need to preserve railroad rights-of-way. The United States has faced a steady loss of railroad corridors since the railway system's peak in 1920 at 272,000 miles of track. By 1990, only 141,000 miles were still in use and estimates predicted that the United States would lose another 3,000 miles a year through the end of the century.⁹ The majority of railroad rights-of-way are held as easements across the property of private landowners.¹⁰ Therefore, under many state property laws, when the railroad discontinues use of a given

⁹ Thomas A. Jones "Rails to Trails: Converting America's Abandoned Railroads into Nature Trails" 22 Akron L. Rev. 645, 1988-1989 (citing: Chicago Business, June 20, 1988, at 27).

¹⁰ Sheila K. Bryant, "The Constitutionality of Rails-To-Trails Conversions Under The National Trails Systems Act Amendments of 1983: *Preseault v. ICC*" 26 Tulsa L.J. 295, 1990.

right-of-way, all rights associated with the property revert to the landowner. Because this practice fragments the former corridor, it makes the future re-establishment of rail service difficult and extremely costly.

Congress recognized that a program could be created to serve both the need for recreational trails and the need to preserve railroad rights-of-way. Through the passage of several legislative acts¹¹, the ‘Rails-to-Trails’ program was born. Public sentiment has varied regarding the program, but it has withstood Constitutional challenges ranging from takings concerns, to commerce (see *Preseault v. Interstate Commerce Commission*), contracts clause issues, and to basic Fifth Amendment issues.¹²

Evolution of The Federal Program

In the last decade, the development of Rails-to-Trails projects has received mainstream recognition and implementation through the federal government’s support of alternative transportation networks. In 1991, President George Bush signed into law the Intermodal Surface Transportation Enhancement Act (ISTEA)¹³. The United States Department of Transportation, with the help of the Surface Transportation Policy Project (STPP), created the Intermodal Surface Transportation Enhancement program, to help promote alternative forms of transportation. The program did more than simply encourage a more modally balanced transportation system; the program identified America’s need to plan for the future, which for the first time considered cultural,

¹¹ The National Trails System Act (Trails Act), 16 USC 1241 (1968)

¹² Ibid.

¹³ <http://www.bts.gov/lawlib/docs/istea1.htm> 1/10/00

environmental, economical, and social conditions. The U.S. Department of Transportation's goal was to "leave a place better than [they] found it".¹⁴

On June 9, 1998, President Clinton continued the ISTEA program by signing into law the Transportation Equity Act for the 21st Century, (TEA-21).¹⁵ The legislation updated Titles 23 and 49 of the United States Code (U.S.C.) and added positive changes to the original Intermodal Surface Efficiency Transportation Act of 1991. The Senate appropriated \$214 billion in transportation authorizations over the next six years, which was a thirty-eight percent increase over the original ISTEA. Moreover, the annual funds allotted for TE programs increased from \$420 million a year to \$640 million under TEA-21. Over the next six years, the TEA-21 programs will receive an estimated \$3.9 billion. This financial structure keeps the TE activities at ten percent of the Surface Transportation Program, but allows for fifty percent of TE funds, which exceed \$450 million annually, to be transferable to highway programs at a state's discretion.¹⁶ Therefore TEA-21 has increased the maximum possible funding, in comparison with ISTEA. However, if states do not use the allocated ten percent on TE then the states can transfer fifty percent of the allotted ten percent to highway programs resulting in less funding for TE.

The Senate's bill further altered ISTEA by implementing three changes to the program in order to create a more customer-friendly application process. First, the TEA-21 program no longer requires an Advance Payment Option. Second, the Alternative Share Provision is permanent, and this is the most financially lucrative alteration of TEA-

¹⁴ www.fhwa.dotgov/environment/te_final.htm 1/22/01

¹⁵ <http://ntl.bts.gov/DOCS/istea.html>, 1/6/01

¹⁶ www.fhwa.dotgov/environment/te_final.htm, 1/22/01

21 since it allows the required local match of twenty percent to be totally financed by federal funds. The revised Alternative Share provision offers project sponsors more options for adhering to the general requirements for their twenty percent co-payment.¹⁷ Third, the Scenic and Historic Highway Programs were revamped, making them clear and concise.

The TEA-21 programs specifically fund community projects that focus on alternative sources of transportation. The twelve different forms of transportation enhancement programs for which communities are encouraged to apply are:

(1) Pedestrian and Bicycle Facilities; (2) Pedestrian and Bicycle Safety and Educational Activities; (3) Acquisition of Scenic or Historic Easements and Sites; (4) Scenic or Historic Highway Programs, Including Tourist and Welcome Centers; (5) Landscaping and Scenic Beautification; (6) Historic Preservation, (7) Rehabilitation and Operation of Historic Transportation Buildings, Structures, or Facilities; (8) Preservation of Abandoned Railway Corridors; (9) Control and Removal of Outdoor Advertising; (10) Archaeological Planning and Research; (11) Mitigation of Highway Runoff and Provision of Wildlife Connectivity; and (12) Establishment of Transportation Museums. All TE projects must conform to one of the twelve categories. The purpose of these twelve programs is to provide alternatives to the traditional automobile transportation experience. The outcome of such far-reaching and strategic thinking is to change the way the public views its choices, including life style choices. After all, prior to the improved TE programs, concepts such as “wildlife connectivity” or “preservation of railway corridors” were not in the Department of Transportation’s lexicon; nor was there any

¹⁷ Connections: *The Newsletter of the National Transportation Enhancements Clearinghouse*, “TEA –21 Program” Vol. 1, Issue 5 March 1998 p2

appreciation of them in legislative halls or on local planning boards. As reflected by this act, the emphasis has shifted, and our communities now have a good chance to save what is unique and integral to their past in regards to transportation.¹⁸

Another factor that contributed to this improved atmosphere is revision to the ISTEA program of 1991; it originally stated the necessity of a direct link between the proposed activity and surface transportation. However, the TEA-21 altered the intent of the original statement to declare that only a relationship, not a direct link, is required. With a less stringent standard, more activities are now eligible to solicit funds. Examples range from a proposed project to lessen the pollution in a water source that is adjacent to a highway, to the restoration of historic resources. For instance, railroad depots, shipping facilities, transportation museums, and buildings that served as postal facilities are now eligible to receive TE funds. It is fortunate that we as a society have moved away from the day when transportation enhancement meant better conveyance, and little more.¹⁹

Rails-to-Trails, greenway trails, and other types of multi-use trails, are the most popular enhancement presently funded through the ISTEA and TEA-21 programs. The statistics tell the story: the TE spending for pedestrian, bicycle and trail projects in January 1998 increased to \$1.2 billion according to ISTEA Transportation Enhancement Summary of Nationwide Spending, and thirty-five percent of all TE funds were designated for rail projects under the initial ISTEA program.²⁰ One might ask if the money follows that which is popular, or does money create that which becomes popular. It can be debated that the number of people who commute via bicycle has increased to seven million, double that which it was ten years ago, as a direct result of TE funding.

¹⁸ Transportation Enhancements Clearinghouse, <http://www.enhancements.org>, 7-06-00

¹⁹ www.fhwa.dotgov/environment/te_final.htm, 1/22/01

²⁰ Gluskin, *Trails*. Bicycle Retailer & Industry, December 7, 1997

Will the increased number of bicyclists pressure communities to create even more such trails? It appears that responsive civic planning is conducive to fostering a transportation mode that is an improvement over high volume car traffic. With safer and more plentiful bike facilities, the number of people commuting by bicycle is estimated to increase.²¹

Since the introduction of ISTEA, many states have participated in the program. The Federal Highway Administration has published a list of 19 rails that were converted to trails across the United States to be used as a reference for sponsors that are seeking a paradigm for their community. (Appendix, I.)

State Programs

It is up to each state to design its application and selection process. Though the federal statute provides eligibility categories for the Transportation Enhancement Program, with interpretive guidance from the Federal Highway Administration (FHWA), the majority of the responsibility falls upon the state transportation agency. While each TE program differs, the discrepancies are usually nothing more than a slight deviation on a central theme. For the majority of the states, this central theme consists of six traits: (1) eligibility, (2) selection criteria, (3) selection cycle, (4) advisory committees, (5) project implementation, and (6) innovative financing.²²

Several TE program features are consistent from state to state. For example, every state has a unique funding level for Enhancements through 2003 based upon the formula set in TEA-21 (ten percent of the federally allocated highway funds per state). Also, each state must furnish a transportation coordinator who is responsible for

²¹ *ibid.*

²² Shriver, Katherine ed., *A Guide to Transportation Enhancements* (Washington, D.C.: National Transportation Clearinghouse, 2000), 5.

administering the program, although the FHWA still has overall authority. The majority of state transportation agencies require a public entity with taxing authority to sponsor or endorse an applicant's project (usually municipalities or city governments are utilized). Furthermore, state programs that utilize TE funds must adhere to all state and federal requirements for developing and contracting transportation projects. Beyond these consistent aspects, each state has the ability to design TE programs to meet its specific needs; this flexibility is intended to make TEA -21 a successful program.

Since not all states consider every Transportation Enhancement activity to be eligible, the first step for any applicant should be determining if his or her project would meet the specific state's eligibility requirements. Often states condense the 12 federally stated categories into larger subgroups such as non-motorized transportation, scenic beautification, historic preservation, and environmental mitigation. Also, some states have added provisions that disqualify certain types of projects.

The majority of states evaluate applicants based upon their selection criteria. The criteria ranges from state to state, but often states screen for minimum or maximum award amounts; for instance, certain states will select projects that offer a larger match than the twenty percent required match. Other states provide the twenty percent match that is required and use the additional local funds as an auxiliary resource (the Great Road Historic District in Lincoln, Rhode Island, is an excellent example of this method). To ensure that projects will be successful, many states have created a scoring system to help predict the outcome of proposed projects. States also have differing selection

cycles. Some are constantly evaluating all TE applications, while others review and select projects quarterly, annually, or biennially.²³

Obviously, the more explicit the information (regarding the methods used by the state advisory committee to determine the necessary elements a proposed project must possess to be funded) obtained from a specific state advisory committee, the better. The majority of states utilize committees, but their roles vary. Other states have their governors or state transportation agencies appoint advisors. These advisors either represent a quasi-governmental agency or a variety of state agencies that have a voice in determining the outcome of TEA-21 program initiatives.

Advisory committees or agencies have diverse duties, from reviewing and evaluating project applications to determining policy and even selecting and providing the financial approval for given projects. Often states utilize personnel from county planning offices, city planning offices, and area planning organizations for assistance during the selection process. Moreover, a handful of states have created a regional advisory committee to make final selections in order to reduce the risk of a copycat scenario.²⁴

All states use some form of monitoring for proposed projects, in order to protect human and natural resources. The Federal Highway Administration offers a set of criteria that often can help streamline projects. In Georgia, for example, each applicant must complete an Environmental Review worksheet as part of the TEA-21 application to determine the environmental impacts the proposed project will have on the environment. However, other states have a more environmentally stringent policy that requires

²³ Ibid

²⁴ Ibid

environmental agencies or companies to account for the environmental impacts that a proposed project will have on the environment.

Project implementation, including costs of the project, and phase reimbursement, are items that differ among states. Some states will only fund certain stages of TEA-21 projects, such as construction, while others help finance the preliminary design, and administrative costs. Program features such as innovative financing, which allow federal monies to completely fund TEA-21 projects, also vary among states. It is not unusual for states to allow other agencies to contribute toward the local match and even go as far as to allow in-kind donations, as seen with the Mineral Wells to Weatherford Rail-Trail Project in Texas.²⁵

The Mineral Wells to Weatherford Rail-Trail Example

In 1988, Union Pacific announced its intent to abandon the 22-mile Weatherford, Mineral Wells, and Northwestern Railroad, constructed in the 1890s. For the next four years the city of Mineral Wells, Texas, unsuccessfully attempted to maintain freight service; by 1992 the short line could not economically sustain itself. Therefore, the city utilized the Rails-to-Trails conversion as a means of preserving the transportation corridor. The city formed a citizens advisory committee, along with the Texas Park and Wildlife Department (TPWD), to develop a proposal for the conversion. The trail line would connect the Mineral Wells and Weatherford communities while simultaneously preserving the rail corridor. Both communities heavily supported the proposal.²⁶

²⁵ Ibid, 6.

²⁶ Ibid

The communities used the TPWD as their sponsor and mutually agreed to divide TPWDs twenty percent match of \$1.6 million in transportation enhancements cost. In 1994, the Texas Department of Transportation provided the transportation enhancement award. Then, in 1995, a portion of the funds were used to acquire the railroad right-of-way preserving it for public use. The remainder of the award funded trail development, including the rehabilitation of 15 railroad bridges for leisure activities and construction of four trailheads, including parking and restroom facilities.²⁷

The two communities and TPWD utilized innovative financing to fund their twenty percent match, required for all transportation enhancement projects. The Texas Parks and Wildlife Department negotiated a deal which paid Union Pacific for half of the rail line corridor while Union Pacific donated the other half. Thus, the donated portion was then credited to the local match as an in-kind donation.

The rail-trail offers a unique experience for the rail-trail participant as it runs through remote agricultural and ranch lands eventually terminating in a historic downtown. The rolling hills, filled with wildlife, combined with the splendid colors of vegetation create a dramatic landscape for the trail way.

Beginning northwest of Weatherford, the trail travels 20 miles westward into downtown Mineral Wells. The first two miles are paved while the rest of the trail's 18 miles is composed of finely crushed limestone. Each of the four trailheads have parking, drinking water, restrooms, and trail information. The 16 bridges, originally designed for trains, have been rehabilitated for trail use; they have been re-decked and modified for safety. For instance, the 500-foot signature bridge that displays 104 Lone Stars, which

²⁷ www.bts.gov/trans-enh/txb.01.html, 04-01

now adheres to the American Disabilities Act, and allows trail users to safely pass over US Highway 180.



Illustration 4, Mineral Wells-Weatherford Rail-Trail. A rail bridge that has been re-decked for trail use.



Illustration 5, Mineral Wells-Weatherford Rail-Trail . The 500-foot signature bridge that passes over US Highway 180.

Strong public support and flexible financing were the key factors that contributed to the creation of the Mineral Wells to Weatherford Rail-Trail. The Trail primarily attracts mountain bikers and bird watchers. The revenue provided to these two communities by these tourists help to alleviate the economic void, which was created by the closing of the freight service and the rail road dependant industry. The day trip tourist spends money on gas, food, and beverages. Compared with the overnight guests who also needs lodging accommodations.

As the Mineral Wells to Weatherford Rail-Trail example illustrates, it is vital to fully understand the policies that govern the application process to take complete advantage of all a trail can offer. Each state has developed its own system for awarding TE funds in an attempt to serve and protect the state's interests, insuring autonomy, individuality, and flexibility. Despite having federal origins, each state has the authority. After all, local and state agencies make better decisions then federal decision making bodies, for all concerned.

Georgia State Policy, How It Works

In order to receive Transportation Enhancement funding from the Georgia Department of Transportation (GDOT) all proposed projects need to demonstrate a clear relationship to the intermodal transportation system. GDOT defines the word “intermodal” as “the various ways different modes of transportation interconnect.”²⁸ GDOT views intermodal as those methods that do not rely upon automotive sources (such as short trips by foot and bicycle) or transportation methods that coordinate more than one mode, for example, driving to a point where a train or bus system could be used and then walking to the final destination.²⁹

GDOT has combined the 12 allowable Federal Transportation Enhancement activities into four general categories, which are as follows:

- ❑ Multi-use Facilities; bicycle and pedestrian facilities, other non-motorized uses and preservation of abandoned railway corridors.
- ❑ Historic Resources; the acquisition of historic sites, historic preservation, rehabilitation of historic structures, and archaeological planning and research.
- ❑ Transportation Aesthetics; landscaping and other scenic beautification and mitigation of water pollution due to highway runoff.
- ❑ Scenic Preservation; the acquisition of scenic easements and scenic byway programs.

Successful applicants can receive funds for planning, engineering, architectural design, right-of-way acquisition, and construction activities. In past years the majority of the funds that have been allocated have gone towards the construction phase.

²⁸ Georgia Department of Transportation, *GDOT Transportation Enhancements For FY2002 and FY2003: Instructions For Applicants and Sponsors*. Georgia, Atlanta: Government Printing Office, 1999), 3.

²⁹ Britt, Rhonda Transportation Enhancement Special Program Coordinator, interviewed by author, 15 September 2001, Atlanta, electronic mail.

GDOT reviews applications every two years. During the review, GDOT utilizes a multi-stage process, along with multiple selection committees, to allocate funding.

Within GDOT various technical committees such as design engineers, environmental specialists, and construction managers consider each application. Also, representatives from the Department of Natural Resources (DNR), which includes the Historic Preservation Division, review each application for potential impact to natural and cultural resources. In the state of Georgia, the transportation advisory panel is comprised of interested citizens who represent a wide range of professions such as bicyclists, local government officials, professional associations of designers. Rhonda Britt, the Program Coordinator, oversees the entire program.³⁰

Georgia's Transportation Review Board (all the people throughout each stage that are responsible for reviewing applications) consider the following criteria while reviewing projects:

- ❑ The project must be environmentally sound and comply with all state and federal laws and regulations.
- ❑ The project should be creative.
- ❑ The project should have community support and be included in local or regional plans.
- ❑ The project should be realistic and be implemented in a timely manner.
- ❑ The number of historic and pre-historic resources that are part of the project.
- ❑ A project should combine many enhancement activities.

³⁰ Still, Joy. Special Project Branch Chief, interviewed by author, 12 August 2001, Atlanta, electronic mail.

- ❑ Has the sponsor received TE funding in the past? If so, what kind of project(s), where is the project in development, what stage of development is the project in, finished, etc? Has it even been started?
- ❑ How does the project merge into the preexisting transportation modes to further serve the transportation needs?³¹

After GDOT has reviewed and ranked project requests according to types of projects (from projects that require little time and money – to projects that require full funding and multiple phases), and their criteria, a state transportation board member makes the selections for those sponsors in his or her congressional district. A sponsor must be a government employee within the community that is applying for the grant. Usually, the sponsor holds the position of city manager, planner, or mayor. Sponsors assure the state government that both project implementation and reimbursement will take place. He or she may or may not agree with the ranking order of the transportation advisory panel's recommendations; however, each panel member carefully looks at the sponsor's past history of project award(s) and the present stage (on schedule, behind, incomplete) of previously funded projects. They also determine which areas of their congressional district have not received funding in previous years. All of these factors contribute to Georgia's scoring system for TEA-21 awards.³²

Within each of Georgia's four categories of Transportation Enhancements, certain restrictions apply as evidenced in the following examples: (1) the Multi-use Facilities category specifies that no funds can be utilized for sewer improvements, (2) historic preservation of structures lacking a transportation relationship are ineligible to receive

³¹ Ibid.

³² Georgia Department of Transportation, *GDOT Transportation Enhancements For FY2002 and FY2003: Instructions For Applicants and Sponsors*. Georgia, Atlanta: government Printing Office, 1999), 5.

funding, (3) for a historic structure to be eligible for funding it needs to be on or eligible for the National Register of Historic Places, (4) all restoration work must adhere to the Secretary of the Interior's Standards (Appendix, II), (5) projects that focus on transportation aesthetics, such as landscaping and other scenic endeavors, which must strictly adhere to the principles of roadside landscaping and safety specification in GDOT's *Standard Specifications for Road and Bridge Construction*, (6) wildflower plantings must be native to Georgia, (7) mitigation of water pollution due to highway runoff will only receive funding if the water quality problem can be directly related to highway runoff. In other words, an applicant can conclude that his or her success is determined as a result of attention to these details.³³

Innovative financing in the state of Georgia allows for the sponsor to fund the costs of the design stage, certify the expenditure, and then apply the amount toward the sponsor's local twenty percent match. In order to receive clearance by the state for innovative financing, the sponsor must coordinate with GDOT prior to the hiring of a consultant or the initiation of design work. It is worth noting that Georgia considers in-kind donations, funds from other state agencies, and non-transportation based federal funds, to also be innovative financing.

Georgia Project Examples:

Currently the Georgia Department of Transportation states that Georgia has a total of five rails-to-trails conversions that were funded by ISTEA or the TEA-21 program (Appendix II). The most famous and the largest of the trails in Georgia is named the

³³ Ibid, 7.

Silver Comet Trail, located northwest of Atlanta. This trail is for non-motorized recreational use such as walking, jogging, hiking, bicycling, roller skating, horseback riding, etc. When completed, the Silver Comet Trail will start in Smyrna, Georgia and end at the Alabama state line. At the state line, the Silver Comet will connect to the 33-mile Chief Ladiga Trail that ends in Anniston, Alabama, creating a continuous trail across 55 miles.



Illustration 6, A trail head and heritage marker along the Silver Comet Trail



Illustration 7, Silver Comet Trail



Illustration 8, A converted rail road trestle allows trail users to safely cross over a four lane road on the Silver Comet Trail.

The Moultrie Rail Trail is another example of a successful Rails-to-Trails conversion in Georgia. The city of Moultrie converted 5.2 miles of the former CSX rail bed into an asphalt path with a parallel gravel-walking path in early 1999. The first phase

of the bike path connected Lower Meigs Road to the East Bypass of Highway 319. The second phase of the project extended the path from the bypass to the municipal airport. In addition to paving a path, a trestle has been built over a storm ditch. The pilings from the old train track are still there, so it was only necessary to put in the planking (this is an example that is relative to Athens) .³⁴ Phase III links Lower Meigs Road to the Colquitt County Health Department on West Central Avenue, extending more than 2.5 miles and passing by the city recreation department, the football stadium, the cemetery and the Woodman of the World Park on the way to downtown. Once all three phases are linked together, the trail will be 7.25 miles from downtown to the airport one way, which makes a nice little jaunt for bicyclists, pedestrians, roller bladders, runners, and joggers.³⁵

³⁴ www.angelfin.com/ga2/silvercomet.

³⁵ s.gaonline.com/display/:nn_special/ss01/story01.txt.

CHAPTER 3

ECONOMICS OF TRANSPORTATION ENHANCEMENT PROGRAMS AND IMPACTS ON COMMUNITIES

In October of 1999, the National Transportation Enhancements Clearinghouse documented approximately 10,758 funding awards after an eight-year history. To date, the TE program has administered over \$3.27 billion to projects across the nation. On average, 95 percent of TE's allotted funds were awarded to explicit plans, but only 65.5 percent of the allotted funds have been distributed. These statistics signify the need for the federal and state governments to work as partners. However, thanks to the user-friendly changes from 1998, the improved TEA-21 now provides a dramatic increase in funding.³⁶

Overall, 53 percent of the total allotment of transportation enhancement funds are currently being spent on bicycle and pedestrian trail projects, (Figure 1). This number has increased four percent since 1994 and is expected to increase further.³⁷

³⁶ Patten, Robert, ed., *Transportation Enhancements: Summary of Nationwide Spending & Policies as of FY 1999* (Washington, D.C.: National Transportation Enhancement Clearinghouse, 2000), 1

³⁷ Ibid, 2.

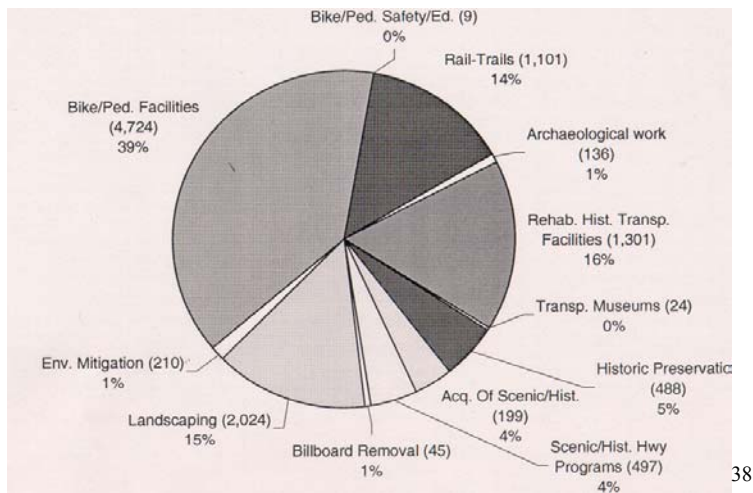


Figure 1:
The percentage of
Federal Funds by TEA
as of September 1999:
\$3,275,268,288.00.

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Figure 2 shows that bike and pedestrian projects, specifically Rails-to-Trails projects, receive the second largest allotment of funds. This fact focuses attention on an opportunity of which local communities can and should take full advantage.

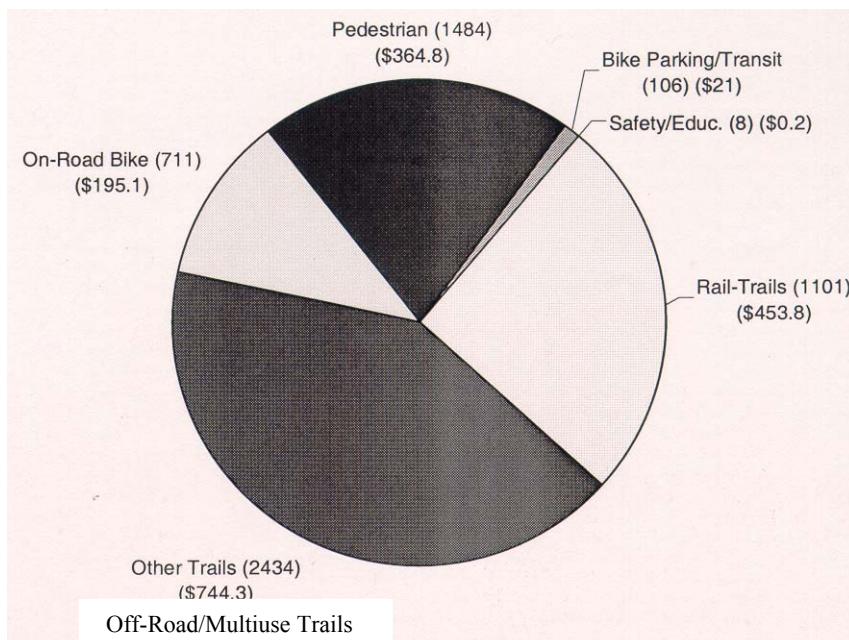


Figure 2:
Distribution of
Funds Across
Bike and
Pedestrian
Projects

39

Activities (Number of Projects) (Federal Funds in Millions)

³⁸ Ibid, 21.

³⁹ Ibid, 22.

Table three illustrates that the average federal award per project was \$304, 450. Over the course of the original ISTEA program, the average award was a little less than \$ 300,000. The increase is due to a change in state policy from supporting smaller projects to funding larger activities. The smallest awards tend to be for landscaping and tree planting projects, while the largest are for pedestrian and bicycle trails.

Table three also shows that the national average match was 27.4 percent, which is higher than the 20 percent minimum match. Indicating that many states reward funds to projects that have a larger local match.

Figure 3:
Financing TE Projects: Average Federal Awards & Match Rates
Information compiled from 1991-1999

State Count	Project Funding	Federal Awards	Average Federal Award	Matching Funds	Match Rate
Virginia	379	\$84,178,665	\$222,107	\$126,135,385	60.0%
Maryland	135	\$62,013,516	\$459,359	\$88,163,830	58.7%
Washington	363	\$68,795,568	\$189,519	\$56,777,016	45.2%
Delaware	95	\$20,002,233	\$210,550	\$14,039,185	41.2%
California	422	\$213,786,400	\$506,603	\$118,394,002	35.6%
Iowa	259	\$42,518,273	\$164,163	\$21,774,838	33.9%
Michigan	784	\$118,698,872	\$151,402	\$58,124,895	32.9%
Pennsylvania	142	\$61,110,506	\$430,356	\$28,830,627	32.1%
South Carolina	166	\$23,508,156	\$141,615	\$10,143,504	30.1%
New York	276	\$134,071,399	\$485,766	\$56,263,993	29.6%
Texas	242	\$179,272,519	\$740,796	\$72,513,397	28.8%
Missouri	266	\$51,742,376	\$194,520	\$20,343,896	28.2%
Minnesota	213	\$51,858,691	\$243,468	\$20,316,031	28.1%
Puerto Rico	16	\$14,847,118	\$927,945	\$5,786,529	28.0%
South Dakota	135	\$23,168,804	\$171,621	\$8,074,562	25.8%

Mississippi	85	\$66,242,808	\$779,327	\$22,908,063	25.7%
Idaho	131	\$42,540,980	\$324,740	\$14,458,006	25.4%
Oregon	137	\$47,685,743	\$348,071	\$16,049,524	25.2%
New Mexico	134	\$34,568,000	\$257,970	\$11,519,000	25.0%
North Dakota	136	\$39,049,412	\$287,128	\$12,896,787	24.8%
West Virginia	121	\$22,872,226	\$189,027	\$7,486,726	24.7%
Wisconsin	298	\$47,677,923	\$159,993	\$15,251,368	24.2%
Georgia	342	\$167,475,295	\$489,694	\$52,439,000	23.8%
New Hampshire	138	\$31,158,233	\$225,784	\$9,547,234	23.5%
Indiana	178	\$65,192,478	\$366,250	\$19,618,781	23.1%
Utah	72	\$26,316,559	\$365,508	\$7,916,280	23.1%
Colorado	252	\$43,968,379	\$174,478	\$13,054,845	22.9%
Kansas	139	\$45,931,478	\$330,442	\$13,611,041	22.9%
Kentucky	231	\$58,447,122	\$253,018	\$17,287,076	22.8%
Nevada	82	\$38,981,358	\$475,382	\$11,396,411	22.6%
Nebraska	319	\$30,148,714	\$94,510	\$8,628,957	22.3%
North Carolina	197	\$70,947,695	\$360,141	\$19,737,625	21.8%
Oklahoma	103	\$39,448,185	\$382,992	\$10,823,867	21.5%
Ohio	183	\$96,933,491	\$529,691	\$26,557,782	21.5%
Alabama	206	\$44,229,541	\$214,707	\$12,040,589	21.4%
Arkansas	142	\$17,645,696	\$124,265	\$4,678,042	21.0%
Massachusetts	148	\$34,931,771	\$236,025	\$9,256,681	20.9%
Arizona	111	\$36,627,247	\$329,975	\$9,527,649	20.6%
Maine	91	\$17,692,168	\$194,419	\$4,599,835	20.6%
Illinois	348	\$186,916,452	\$537,116	\$48,074,354	20.5%
Hawaii	34	\$35,186,841	\$1,034,907	\$8,796,713	20.0%
Tennessee	245	\$64,601,464	\$263,679	\$16,150,365	20.0%
Connecticut	137	\$81,518,961	\$595,029	\$20,379,726	20.0%
Louisiana	194	\$42,144,447	\$217,239	\$10,484,383	19.9%
Vermont	142	\$28,613,946	\$201,507	\$6,969,206	19.6%
Montana	361	\$28,656,096	\$79,380	\$6,776,412	19.1%
Alaska	152	\$55,197,922	\$363,144	\$11,088,496	16.7%
Rhode Island	121	\$26,717,426	\$220,805	\$4,892,783	15.5%
Wyoming	212	\$31,935,433	\$150,639	\$5,622,944	15.0%
Dist. of Columbia	46	\$32,012,566	\$695,925	\$4,194,655	11.6%
New Jersey	168	\$72,811,393	\$433,401	\$9,241,642	11.3%
Florida	729	\$272,669,743	\$374,033	\$23,875,692	8.1%
Totals:	10,758	\$3,275,268,288	\$304,450	\$1,233,520,230	27.4%

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Figure 3, Continued:
Financing TE Projects: Average Federal Awards & Match Rates

⁴⁰ Ibid, 25-26.

The Impact of Rails-to-Trails

The United States railroad network at its peak covered 272,000 miles. Since its peak, more than half of this enormous national resource has become obsolete.

Furthermore, in the latter part of the 20th century more than 2,000 miles of track per year were abandoned or left unused by railroad companies. Since the late 1960s, the federal government has recognized the need to preserve our nation's industrial past while simultaneously enlarging the nation's trail system. While the past is maintained, and the trail system is enlarged, the government still is able to maintain the right-of-way as a precautionary step that secures the ability to reinstall rail lines in the future.

The net result is the Rails-to-Trails Program which presently is composed of more than 10,000 miles of converted rail line. In every state except Hawaii, people are bicycling, walking, jogging, in-line and roller skating, snow-mobiling, cross country skiing, and horse-back riding on more than 950 rails-to-trails, and there are plans for an additional 1,200 rails-to-trails covering more than 18,000 miles. ⁴¹

Moreover, throughout America, pedestrian and bicycle routes have proven to be a smart economic investment for their surrounding communities. Studies show that trails are a valuable way to invigorate local economies through attracting bicyclists, hikers, cross-country skiers, bird watchers, and other nature enthusiasts to the community and the surrounding area. Due to the influx of tourists, the local economies once again begin to flourish. Businesses are revitalized, new jobs are created, and buildings are restored and rehabilitated; these actions increase public revenue. For

⁴¹ Tammy Tracy & Hugh Morris, "Rail – Trails and Safe Communities: The Experience on 372 Trails," Rails to Trails Conservancy in cooperation with National Park Service, (January 1998) : 7.

example, the National Park Service (1992 study)⁴² discovered that the average participant on Heritage Trail in Iowa spent \$9.21 per day in the community. The figure was even higher for Florida's Tallahassee-St Marks Trail at \$11.02 per day. This revenue directly impacts the surrounding communities.⁴³

Also, trails have a positive effect on property value, both residential and commercial. Among 39 features that were noted as desirable for a viable community, walking and bicycling paths ranked third in a study by American Lives, a research firm. In Seattle, for example, the Burke-Gilman Trail increases the resale value of homes within close proximity to the trail by six percent, according to the city of Seattle's engineering department in 1987. Overall, trails have the ability to become a powerful force of economic renewal for communities all across the country.⁴⁴

Throughout the 1990s, many tourists have become "eco-friendly," spawning a new tourist industry which caters to clients who desire natural surroundings, such as greenways, trails, and wetlands. Such destinations offer safe, scenic recreation and enjoyment for the entire family. According to the Rails-to-Trails Conservancy, 85 million people used rails-trails in 1994 alone. These numbers support the theory that communities offering trail facilities are able to profit by responding to the needs of trail users. For instance, the Minuteman Trail located outside Boston has increased revenue for the local bike shop: for example, it served over 1,800 people in a single summer

⁴² Moore, R. ed., *The Impact of Rails-Trails: A Study of the Users and Property Owners from Three Trails* (National Park Service and Penn. State University Press, 1991), 7.

⁴³ Rails to trails Conservancy, <http://k12s.phast.umass.edu/~spac/cons.html>, 5-05-01.

⁴⁴ Moore, R. ed., *The Impact of Rails-Trails: A Study of the Users and Property Owners from Three Trails* (National Park Service and Penn. State University Press, 1991), 7.

day. Also, nearby Steve's Ice Cream shop now serves 200 more people a week, on average.⁴⁵

A variety of industries credit their prosperity to trails. It is common for restaurants, bicycle stores, convenience stores, bed and breakfasts, motels, and campgrounds to locate near trails in order to capitalize on the economic success that can be made by responding to the needs of trail users. Downtown Dunedin, Florida suffered a thirty-five percent vacancy rate in the beginning of the 1990s. Since then, however, Dunedin's downtown has been completely revitalized. It now boasts a 100 percent occupancy rate. The major factor in the 180-degree economic recovery was the creation of the Pinellas Trail, which leads into town.⁴⁶

The annual economic revenue that trails generate for communities has just recently begun to be recognized. With the Heritage Trail in Iowa, Lafayette-Moraga Trail in California, and St. Marks Trail in Florida (each producing more than \$1.2 million annually), there is a growing trend toward trail-related industry. These trails are viewed as a viable tourist destination, helping to bolster local economies while simultaneously providing a community with an identity.⁴⁷

The Heritage Trail Example

When Hurricane Agnes devastated the east coast in 1972, many of the Northern Central's rail bridges between York, Pennsylvania and Baltimore, Maryland were ruined. The financially ailing Penn Central Railroad Company could not economically

⁴⁵ Rails to Trails Conservancy, <http://k12s.phast.umass.edu/~spac/cons.html>, 5-05-01.

⁴⁶ Ibid

⁴⁷ Moore, R. ed., *The Impact of Trail-Tracks: A Study of the Users and Property Owners from Three Trails* (National Park Service and Penn. State University Press, 1991), 7.

validate the expense of rebuilding the rail line for only nominal traffic. The Pennsylvania Department of Transportation purchased and restored the rail line, in order to provide freight service. In 1992, the line was turned over to York County, and a plan to create a Rail-to-Trail was created.⁴⁸

Today, the citizens of York County, Pennsylvania reap the rewards of its community-based efforts to connect the 21-mile historic rail to an adjacent, newly created trail. The project, known as the Heritage Trail along with the bordering rail service, traverses 11 municipalities, several bridges, and through Howard Tunnel, the oldest continuously operational tunnel in the United States. The trail is ten feet wide and made of compacted stone, designed for hiking, biking, running, horseback riding, and in the winter cross-country skiing.⁴⁹ The Heritage Trail has received a total of \$1,056,800 in TE funding. The TE award is a considerable contribution, but more than five times that amount is needed to complete the trail.

The Heritage Trail is connected with the 20-mile long Maryland Northern Central Rail Trail (NCR), totaling 41-miles of trail and provides space for communities and community groups to hold events such as the March of Dimes “Walk-a-thons,” American Lung Association and York Cancer Center “Bike-a-thons,” and American Volkssport Association “March for Parks”.⁵⁰ These events promote health oriented, educational messages as well as popularize the trails.

⁴⁸ www.york-county.org/gov/AUTH/RailTrail.htm, 2-20-02

⁴⁹ www.members.fortunecity.com/yorkftd/trail.htm, 4-22-01

⁵⁰ Russell, Megan B. ed. *Communities Benefit: The Social and Economic Benefits of Transportation* (Washington, D.C.: National Transportation Enhancement Clearinghouse, 1999), 10.



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Illustration 9, The Heritage Trail
A view from the Heritage Trail as you enter New Freedom.



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Illustration 10, The Heritage Trail
The trail runs through the town of New Freedom, alongside an rail yard that houses an old Pennsylvania Railroad caboose.

⁵¹ www.dcnr.state.pa.us/rails/photos/yorkchrt.html, 2-20-02

This trail has also improved the local economy, according to a survey conducted in 1999. Of the 480 trail users surveyed, more than sixty percent stated that use of the trail encouraged a purchase related to trail use within the previous year. The average purchase totaled \$337.14, the majority of which were bicycles or bicycle supplies. Moreover, sixty percent of people polled said that they purchased food when on a trail outing (averaging \$6.74). This information, when considered in conjunction with 365,720 annual users of the trail, indicates a substantial economic impact that the trail has on the surrounding area.⁵³

Since the founding of the Heritage Trail, new businesses have opened along the trail, including two bed-and-breakfasts, two bicycle shops, a delicatessen, and a gift shop. Existing shops along the trail have also increased sales, hours, and personnel to meet the higher demand. Thus, opportunity and prosperity accompany the development of the trail.

Since the opening of the first section of Heritage Trail in 1996, a greater feeling of place has taken hold in York County. The trail enables York County to further develop its sense-of-community by creating an area that fosters contact among its citizens. Simultaneously, the trail has had a positive economic impact on the surrounding area.⁵⁴

⁵² Ibid, 2-20-02

⁵³ Russell, Megan B. ed. *Communities Benefit: The Social and Economic Benefits of Transportation* (Washington, D.C.: National Transportation Enhancement Clearinghouse, 1999), 10.

⁵⁴ North Central & York Country Heritage Trail, <http://bikewashington.org/trails/ncr/ncr.htm>, 5-06-01.

CHAPTER 4

ATHENS-MURMUR CASE STUDY

Introduction

Athens-Clarke County was selected for use as a case study and model project. Athens-Clarke County has the need and meets the criteria (alternative transportation method, the linking of many transportation resources, serving the community, decreasing traffic and congestion, the re-use of historic fabric, recreational uses, and securing right-of-way) to receive a TEA-21 award and it expresses a familiar circumstance, an opportunity that could be lost if not acted upon. Therefore, Athens-Clarke County will be used as a reference source for future TEA-21 projects that use Rails-to-Trails in Georgia. This chapter contains the history of the rail line and the trestle, a section that should be used to verify its historic integrity and to help persuade the public to keep it. Also, an explanation is offered on how the Rails-to-Trails conversion would provide relief and recreation to the east side of Athens. Moreover, a completed TEA-21 application acts as a paradigm for future applicants.

History

“Although today's Athens depends on the University of Georgia as its engine for growth, earlier circumstances were quite the opposite. Indeed, for the first one hundred years, the University of Georgia was small and impoverished, while Athens, as a community, was growing in size and affluence.

Although the location of the new state college was an attraction, Athens' early growth was based on its favorable climate, soils, and its industrial potential. Unlike much of the agrarian south, Athens was advantageously situated with sufficient waterpower to support a manufacturing base. In fact, all Athens lacked was the direct, coastal access of Charleston or Savannah to the lucrative Northeastern and European fiber markets. That is, until the railroad provided Athens the access that canals provided for interior cities in the Northeast. The Georgia Railroad brought accelerated prosperity to Athens by providing cheap and dependable transportation to Augusta and Charleston and for 33 years provided Athens' its only essential link to the manufacturing, political, and cultural centers of the Northeast and Europe.

The Georgia Railroad was the state's first railroad. It was formed and chartered in 1833 by the same Athenians (William Dearing, Asbury Hull, William Williams, and James Camak) who built the Princeton Mill on the Middle Oconee River. Businessmen from Augusta joined them in 1835 to form the Georgia Railroad Banking Company. Track construction began in 1837 in Augusta and reached Athens in 1841.

For more than thirty years the Georgia Railroad was Athens' vital link east to the coast and later west to Montgomery. The railroad's original terminus at the Chatahoochee River gave birth to Atlanta (1846), named by the railroad's chief engineer/surveyor whose decision it was to end the rail line there. The railroad accommodated the first locomotive in Georgia, brought up the Savannah River to its Augusta railhead.

Not surprisingly, the Georgia Railroad Company suffered economically during and after the Civil War. Continuing dissatisfaction with the quality of service convinced investors, in 1874, to build a rail line northward to Lula, Georgia to connect with the new Atlanta-Greenville line (GA Air Line). Then, in September 1883, investors completed trestles over Trail Creek and the North Oconee River, to liberate the railroad from its Carr's Hill terminus, and to bring it into downtown Athens to connect with the Lula line. The granite stones in the Oconee River piers were hauled by rail from Stone Mountain; and the original 1883 steel span section over Trail Creek ('Murmur Trestle') remains, albeit precariously, in place today. In the 1940s, the trestles were raised considerably to provide a more level grade, which can be seen today in the concrete portions atop the North Oconee's granite piers.

The 19th century prosperity of Athens was tied to that of the Georgia Railroad. For over 100 years, the Trail Creek and Oconee River trestles were what connected the Georgia Railroad to the network of rails upon which Athens' continuing prosperity was to be based. The 1874 line to Lula, which then connected with Greenville, provided continuous rail access to Washington, D.C. and New York City. In 1894, the Seaboard Line was completed running from Atlanta through Athens and on to Elberton, GA and South Carolina. The Central line of Georgia, south from Athens to Madison, opened in 1885; and the line through Jefferson to Gainesville was completed in 1911.”⁵⁵

⁵⁵ Jordan, Carl. "Athens' Railroad History." Athens, GA: Athens-Clarke Co. Commission, 2000. photocopied.

The railroad continued to serve and play a major role in the development of Athens. Many cast-iron storefronts that were shipped during the early twentieth century by rail from the North still exist today in Athens' commercial downtown center. However, by the mid Twentieth century, the proliferation of the automobile and the decrease in textile production began to negatively affect Athens' railroad industry. Evidence of this decline was the closing of passenger and freight stations in Athens.

In the early 1980s the railroad line became associated with then a small local rock group named R.E.M. because their first album cover (*Murmur*) featured the historic wood-beam railroad trestle. This local band has evolved into one of the most famous music groups of all time. Because of their international status the Athens-Murmur Trestle (prototype name conceived by author) has become a landmark for both its historical content and its place in rock and roll history.

The CSX line eventually stopped running in the late 1990s and has been sitting dormant and unused ever since. In order for CSX to abandon a rail line the company must comply with federal government regulations (Appendix C). In the summer of 2000, the Athens-Clarke County Unified Government purchased a \$25,000 demolition contract on the last remaining trestle, saving it from destruction. Presently, Athens-Clarke County owns the trestle; however, little has been decided about the fate of Murmur Trestle since it was rescued. Presently, the Mayor and Commission have appointed a committee comprised of two commissioners, one Athens-Clarke Heritage Foundation representative, and five citizens from Athens-Clarke County. The committee is pursuing a preliminary study to determine the

feasibility of a Rails-to-Trails conversion versus simply using the trestle as a heritage marker.

Illustration 11. Map of the Proposed Athens-Murmur Trail

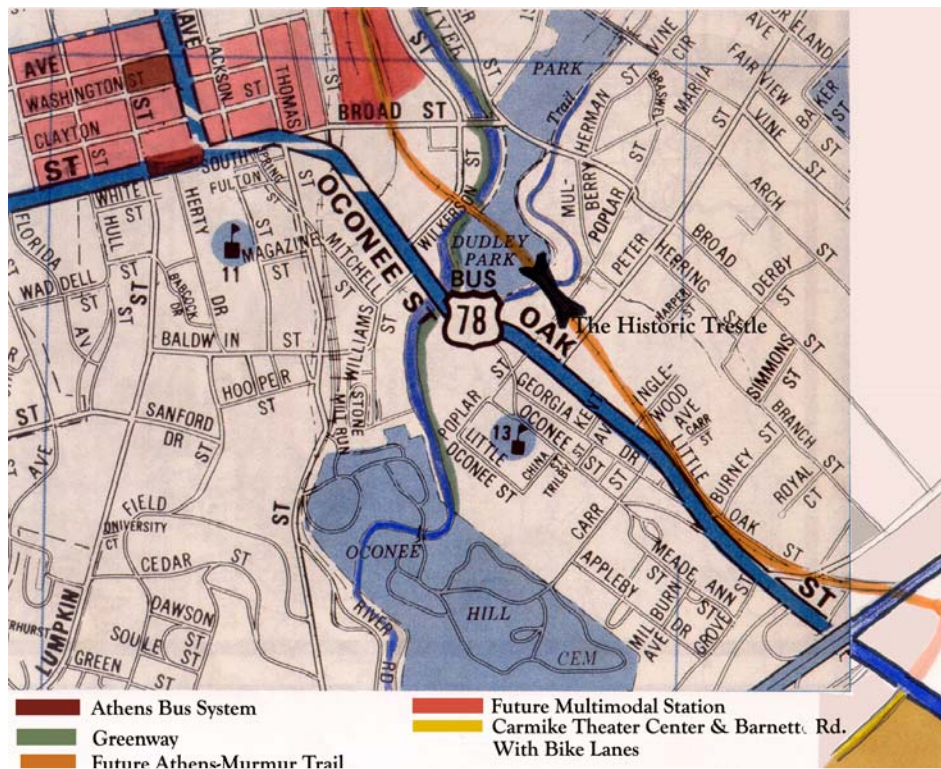


Illustration 11, Map of the Proposed Athens-Murmur Trail

The map illustrates the path the trail will take from Athens' downtown historic district to the east side of Athens terminating at the corner of Barnett Shoals Road and Lexington Highway.

Potential Economic Impact of a Rails-to-Trails Project

The Ghost Town Trail economic study will be used in the absence of an economic impact study for the Athens-Murmur Rails-to-Trail. The economic impact study of the Ghost Town Trail was completed in the summer of 1996. The Ghost Town Trail is located in Dilltown, Pennsylvania. Dilltown is an approximately 45-minute drive outside of Pittsburgh and has a population of 90,000. The Trail is 19 miles long and was primarily designed for recreational use, but is also used by commuters. The Ghost Town Trail's economic impact analysis

can be used to estimate the potential impact of a Rails-to-Trails conversion in the Athens-Clarke County community.⁵⁶

- Annual Use

The Ghost Town Trail attracts 66,253 annual users. The busiest three seasons are the spring with 13,642 users, the summer with 24,887 users, and the fall with 11,161 users. Over seventy-seven percent of the annual users where from Dilltown or the neighboring counties.⁵⁷

- Advertising

The majority of the Dilltown residents that used the trail learned about it through “word of mouth”. Compared to non-residents that discovered the trail through newspapers, TV, or other print media.

- Trail Use

Fifty percent of resident users used the trail on a multiple-day basis per week. Forty percent of the non-resident users that live in the surrounding counties use the trail on a multiple-day basis per week and twenty-seven percent still used the trail on a multi-month basis.⁵⁸

- Trail Activity

Bicycling was the dominant form of activity representing eight-six percent of users. Hiking and jogging was second with twenty percent of users.

⁵⁶ Charles H. Stauss & Bruce E. Lord, *Economic Impact of Ghost Town Trail in the Indiana and Cambria Counties Region* (Pennsylvania, University Park: The Pennsylvania State University, 1996):2

⁵⁷ Ibid 4.

⁵⁸ Ibid 5.

- Age

There was a fairly close distribution of users ages. Sixty percent of all users were between the ages of 20-40. The over fifty was the second largest group representing twenty percent. The gender split was very close to fifty percent.⁵⁹

- Total Expenditures

The annual expenditures for resident users totaled \$221,000 and \$140,000 for non-residents. This represent a total of \$362,000 for the two counties the trail runs through. The total daily expenditures for both resident and nonresident users average five dollars per day. The trail is responsible for creating five jobs within Dilltown.⁶⁰

If a Rails-to-Trails in Athens-Clarke County could produce the same revenue and receive a TE award then it could financially support the building and maintenance of the trail.

The Completed TE Application for the Athens-Murmer Trail

The completed TE application that is intended to be used as a reference for filling out future applications as well as a completed application for Athens-Clarke County is included as Appendix III.

Progress and Potential

Our elected officials theoretically represent the community's values. Many citizens, however, who would welcome a change, are unaware of federal and state programs that support progressive programs and consequently, rely on local

⁵⁹ Ibid 6.

⁶⁰ Ibid 7-8.

officials to lead them in solving problems of sprawl and safety. If the citizenry is informed and demands solutions, the elected body is more likely to respond creatively and take advantage of available funds and programs. Doing this takes a forward thinking government entity knowledgeable in the workings of grants and "title".

Too often, local governments view progress mistakenly as merely a succession of new developments based on an increasingly transient-consumer culture. These automobile-dependent development patterns increase sprawl while disregarding a town's historical identity and culture, not to mention degrading the environment. When new development ignores a community's culture and bases its design on a generic model, the community will eventually replace its heritage with strip malls and traffic, and in time see its identity disintegrate into one of the many other generic super-centers that are filling up the open spaces throughout America.

Our government leaders have a responsibility to protect our heritage. In order to achieve this goal, our elected officials need to take a proactive role that will help to strengthen the quality of life for a community. One possible tool for this effort is historic preservation, which can be applied to more than the revitalization of buildings; it can also help to mitigate sprawl. Traffic congestion and the rejection of the Atlanta paradigm, which is based on development patterns that encourage outward expansion rather than containment, are forcing people to find solutions. Transportation alternatives fostered by the federal government are a viable option for smart growth; the TEA-21 program created by the federal government, attempts to do just that. After all, "transportation is about more than

asphalt, concrete and steel. Ultimately it is about people. It is about providing people with the opportunity for a safer, happier and more fulfilling life."⁶¹

To reach this goal, society's idea of alternate transportation sources needs to change. It is imperative that citizens and their leaders need to view trails not only as recreational, but also as viable transportation routes. People must be educated about the advantage of using trails in a pragmatic way, as a real thoroughfare. The conversion of rails-to-trails allows the rehabilitation of connecting arteries from town to town. One way to educate people is newspaper editorials and opposite opinion of the editor pieces, which can affect a ground swell for change. Town meetings and other forums for public discussion also can be strategically planned to further the cause. Similarly, representatives from other communities that have already successfully created such trails can be invited to address the public. Essential to the success of any conversion of rails-to-trails is widespread public support for the idea and support from property owners immediately adjacent to the trail.

A community acting as one unit can accomplish any goal. Local leaders, if not originally in favor, will eventually follow if their constituents are rallying around the idea. Enthusiasm is contagious, and a disgruntled populace can be roused to enthusiasm when a viable solution is introduced. Rails-to-Trails can be that viable solution.

Athens has two possibilities for saving the trestle at this point. The first is to establish the trestle as a heritage marker and stabilize and restore the trestle. This option could also be funded by the TEA-21 program and would be the cheaper

⁶¹ www.Enhancements.org/whatiste.htm. 9-10-00.

alternative but would not serve to help with traffic congestion or aid in reducing air pollution. However, at least the trestle would be saved and Athens' heritage would be preserved.

The other, more progressive option, would serve the Athens community as a whole. Option two is to create the Athens-Murder Rails-to-Trail along the 1.9 mile abandoned CSX rail line that begins on the East side of the downtown commercial district and runs from town, (parallel to Lexington Road/Highway 78, an automotive corridor that has been expanded to its full five-lane capacity and is still heavily congested) to the east side of Athens. The Athens-Murder Trail would help alleviate traffic congestion by providing a low impact alternative to vehicular traffic to its terminating point adjacent to the Carmike Shopping Center and Barnett Shoals Road, which has recently been expanded and equipped with bike lanes.

Moreover, the city could continue to acquire right-of-way ultimately expanding the trail from Athens neighborhoods to Winterville. By doing so, Clarke County would link its two incorporated areas by alternative transportation routes and therein build a reputation for enlightened progress and be considered a harbinger of community life in the 21st century.

In order for either of these scenarios to be realized, the Athens community must embrace preservation and rehabilitation ideology. Presently, Athens' Mayor and Commission has established an advisory committee made up of elected officials and citizens to act as a clearinghouse for information. The committee needs to further develop its role as promoter and public arbitrator to accommodate any concern Athens' citizens might have. Also, the committee has an obligation to

inform the citizens about all the potential benefits (economic and recreational) a Rails-to-Trails conversion, and preservation in general, can have on a community.

If there is an outcry of public support, the Athens-Clarke & Murmur Rails-to-Trails will become a reality.

Action Agenda

To create the Athens-Clarke & Murmur Rails to Trails the following needs to take place:

1. Organization

- The Athens-Clarke Heritage Foundation, or a separate group, needs to organize a board of volunteers from the Athens community whose sole purpose is to promote support for the creation of the Rails-to-Trails project.
- Other possible groups, clubs, and organizations that would help to promote and to develop the Athens-Murmur Trail are: Athens Historical Society, Clarke-Oconee Genealogical Society, Athens Area Environmental Education, Athens Land Trust, Bird Enthusiasts & Keepers of Athens, Environmental Law Association, Georgia Land Trust Service Center, Keep Athens-Clarke County Beautiful, Northeast Georgia Chapter of the Conservancy, Oconee Greenway Organization, Oconee River Greenways Commission, and Oconee River Land Trust
- This group will need to provide the following information to Athens-Clarke County in order to receive support:

1. A door to door poll, within the communities the proposed trail will traverse, needs to be done to show property owner consent for the project.
2. An archaeological study on the proposed trail route should show if any other resources need specific attention.
3. A professional economic study that breaks down the economic benefits that a trail can generate for the Athens' community as well as a projected budget illustrating the funds that will be needed for policing and maintaining the trail.

2. Education

- The concerned citizens Athens should take a day trip and experience the Silver Comet Trail for first hand knowledge.
- The citizens of Athens need to see the economic benefits that derive from Rails-to-Trails. This can be achieved through 'town hall meetings' and leaflets.
- A "marketing campaign" needs to be developed. It would include such things as a tag-line that can be used on all fliers, posters, and collateral pieces. (This would be similar to "Save The Fox" campaign, which was used in the 1970s to restore the Fox Theater in Atlanta.) Attractive buttons need to be created and passed out to the community so that people see the support growing as more and more people wear the buttons.

3. Funding

- Fundraising events need to take place to raise money toward the local twenty percent match.
- The Athens Clarke County should propose to CSX a potential in-kind donation of the abandoned 1.9 mile long railroad right-of-way to Athens-Clarke County. CSX could receive a tax incentive for the donation and Athens-Clarke County would be able to use the donation toward the twenty percent local match.
- Greenway funds from the state of Georgia could be used as part of the local match.
- A community event needs to be held on the very site of the Murmur Trestle or as close to it as is feasible. It would serve as both a fundraiser and an awareness builder.
- Public Service Announcements need to be prepared for broadcast on such stations as University of Georgia's public radio station. These will bring awareness for the project. Printed Public Service Announcements can also be used in local newspapers.
- Build a partnership from amongst the various important constituencies, namely business leaders, the University, city and county government, and the populace.
- Capitalize on the popularity of the members of REM who have publicly stated their position in support of preserving the Murmur Trestle. Enlist their help in a thoughtful manner. It is possible they would give a donation,

perform at a fundraiser, speak out at meetings, write an op-ed for the papers, etc.

The citizens of Athens must become familiar with the philosophy of rails-to-trails as well as the potential economic, environmental, historical, and recreational benefits that the Athens-Murmur trail would provide for the community. Once the community fully supports the Athens-Murmur Rails-to-Trail project it will become a reality.

Athens Conclusion

Rails-to-Trails programs shift the focus of building highways to smarter planning that addresses air quality, open space and traffic problems. Non-polluting alternatives to the automobile are extremely beneficial, with the saving of billions of gallons of gasoline, which would, in turn, reduce exhaust emissions into the air. According to research conducted by the Rails-to-Trails Conservancy in 1995, 85 million people used Rails-to-Trails in 1994 alone. Further research illustrates that the American public saves from 3 to 14 cents for every automobile kilometer displaced by walking and bicycling due to reduced pollution, oil import costs, and costs due to congestion.⁶²

Moreover, studies have shown that bicycle and pedestrian facilities are a smart economic investment that attracts bicyclists, hikers, cross-country skiers and other tourists to the community. Bicycle and pedestrian facilities enhance the quality of life for many individuals. They are also an expression of community pride and

⁶² Tammy Tracy & Hugh Morris, "Rail – Trails and Safe Communities: The Experience on 372 Trails," Rails to Trails Conservancy in cooperation with National Park Service, (January 1998) : 8.

character and a channel through which to protect the historic and natural resources of an area. Thus, Rails-to-Trails programs preserve corridors for the integration of many important projects: footpaths, bikeways, historic preservation, nature study and beautification.

Utilizing the trestles as part of a Rails-to-Trails program would not only be the most effective means to preserve the historic structure but also a way to move people around town without the use of automobiles. By linking Athens' east side to Athens proper, trail users would be able to access downtown transportation facilities such as the Athens bus system, University bus system, The Greyhound bus system, taxi companies, airport shuttle, bicycle shops, and the future Multi-Modal Center. More specifically, the Athens-Murmur trestle would provide an efficient, inexpensive way to move bicycle and pedestrian traffic from the East side into downtown, reducing automobile traffic on Lexington Road, the road running parallel to it that has been expanded to its maximum capacity. Ultimately, the trestle would be the East-West connector for the North Oconee River Greenway and service many groups of people, including university students, those in surrounding impoverished neighborhoods, visitors to Dudley Park, and professionals.

The rehabilitated historic 19th century Athens-Murmur trestle will act as a focal point as well as an historic site. The trestle rehabilitation will be designed for pedestrians, bicyclists, and roller skaters. The trail itself will be 12 feet wide, which allows adequate space for traffic flow, and made of concrete at a two-degree angle, so water will run off gently, not damaging the environment.

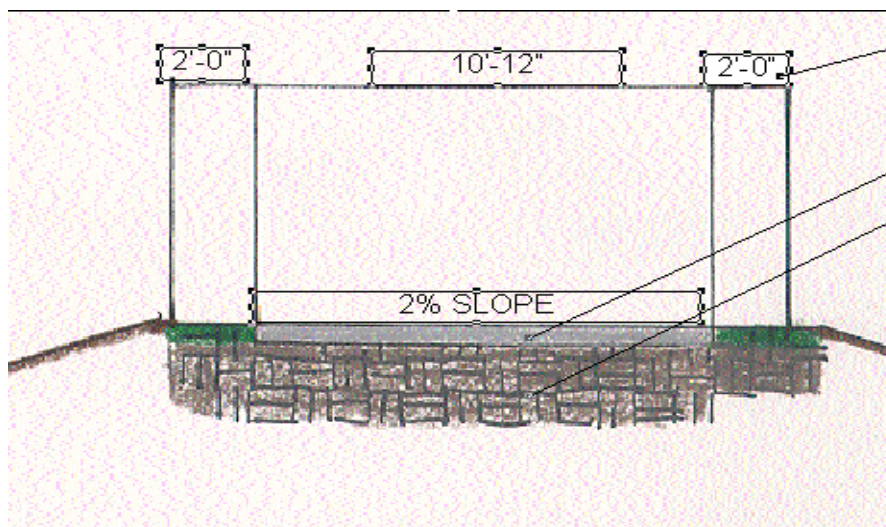
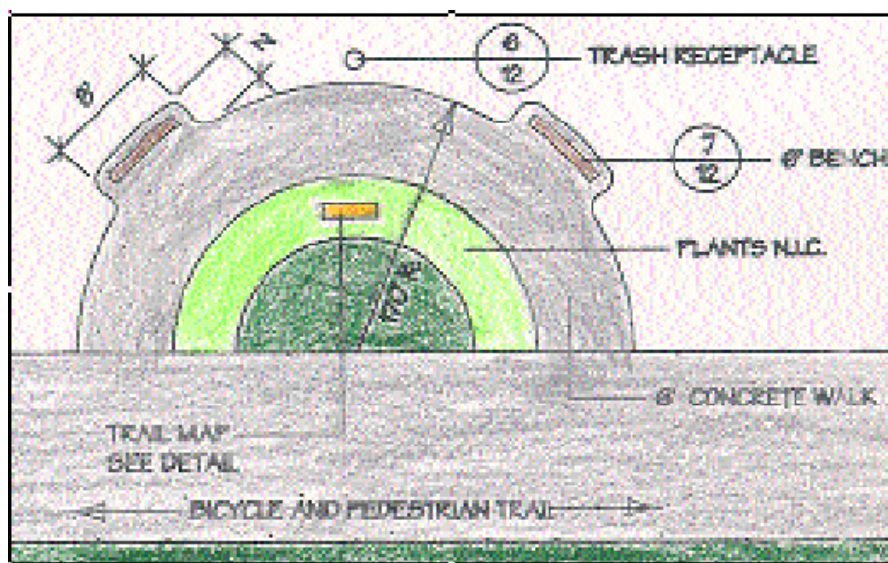


Illustration 12, A cross section of the trail.



THE ABOVE IS A CROSS SECTION OF A TRAIL THAT IS CURRENTLY BE USED IN DEKALB COUNTY.

Illustration 13, An example of a circular node that is nonlinear that is attached to the trail.



Illustration 14, An example of the conversion of a rail line trestle to a trail bridge.

If the city of Athens is to take advantage of this fortuitous opportunity, the city government must pursue the project with regard to parameters established by GDOT and the TEA-21 program. By doing so, the city would be eligible for a \$1,000,000 award that would help to develop the Athens-Murmur Trail.

CHAPTER 5

CONCLUSION

The Transportation Enhancement program is an extremely progressive program that promotes alternative transportation sources as well as historic preservation. TE are a valuable tool that city planners, educators, preservation commissions, nonprofits, main street managers, and citizens utilize to enhance communities. Cities and towns all across America have used the awards to improve certain aspects of their communities, such as streetscapes, bike lanes, and railroad depot restoration. The general public, however, which is an integral part of the TEA-21 program, needs to play a greater role in the program and, more importantly, demand that their community utilize TE funds.

A weakness in the structure of the program is that each state Department of Transportation is required to withhold transportation enhancement funds but is not required to disperse the funds on actual enhancements. Therefore, the responsibility is left to individual communities to utilize the program. In order for TE to permeate throughout all communities, each state's DOT should spend the allotted funding [10 percent of the Surface Transportation Program (STP) within the federal-aid Highway Program is designated for TE] solely on enhancements. If the system required states to spend the TE funds specifically on TE activities, the responsibility would then shift from communities to the state, and the promotion and use of monies for enhancement activities would take place.

City managers, planners, appointed commissioners, and decision makers need to be better educated about the programs with the creation of a guide to available funds. State sponsored regular seminars to provide detailed information to community leaders should be instituted. Clearly, the most substantial needs are public knowledge and public awareness for transportation enhancement programs. After all, we are the community and we owe it to ourselves and our children to strive for the best. Fortunately, our government has funding for programs that can bring us closer to this goal.

Recommendations

Changes at the national level

Several guiding principles should be emphasized in future TE legislation. These would include:

- State transportation agencies should be required to dedicate the full ten percent of the Surface Transportation Program (STP) on Transportation Enhancements.
- The Federal Highway Administration can better publicize the TE information.

Changes at the state level

- States should include government-sponsored seminars to educate the public about the funding resources that are available and how to utilize them.
- State departments of transportation could create an easily accessible clearinghouse that would include reports from every project that has been

funded. The collection should include complete documentation of the projects' progress and images of the site before work after is completed.

- Interviews with local community leaders who have successfully worked on TE could be available as an educational tool.

Changes at the local level

- Planners need to practice “smart growth” that incorporate comprehensive plans and adopt preservation principles.

Summary

The thesis begins with an exploration of the history of Rails-to-Trails and an examination of the Transportation Enhancement award that supports the conversion of rail lines into trails. In the chapters that follow, the Transportation Enhancement grant program is examined as it relates generally to all states, and then in detail, as it relates to Georgia. Recognizing that this thesis aims to offer a pragmatic guide to communities actively searching for the means to create a rails-to-trails, while it also serves as a body of data researched to prove its position that Transportation Enhancement funds are used as a resource for historic preservation and directly affect the quality of life for American citizens

While several case histories are used, Athens-Clarke County is used as a case specific example to illustrate the application process and ultimately be used in Athens. This case history also offers evidence of the fact that the actual components of the application process itself can serve as an important vehicle for developing community support, galvanizing the disparate interests in a community

into one, goal-oriented, highly focused community action group. The thesis concludes with a comprehensive set of recommendations that would strengthen the Transportation Enhancement program.

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APPENDIX A

LIST OF 19 RAILS-TO-TRAILS NATIONWIDE

The Federal Highway Administration has published a list of 19 rails that were converted to trails across the United States to be used as a reference for sponsors that are seeking a paradigm for their community:

Illinois

Conrail Bikeway

This rails-to-trails bikeway will reuse an abandoned Conrail right-of-way in southwestern Chicago to serve work and recreation trips, connecting forest preserves, commuter rail stations and moderate-density urban neighborhoods

Kansas

Prairie Spirit Rail-Trail

This project involves the development of a 50-mile, multi-use recreational trail, including surfacing, restrooms, and support facilities.

Louisiana

Tammany Trace

The Tammany Trace is a 31-mile corridor with a 200-foot right-of-way width, which follows the old Illinois Central Railroad corridor in the St. Tammany Parish, Louisiana. It will take several phases to turn this corridor into a bicycle, pedestrian and equestrian trail, connecting five cities and providing bicycle and walking access to 22 schools and 7 parks.

Michigan

Kentwood Trail

The objective of this project is to develop 2.5 miles of abandoned railroad into an asphalt trail for pedestrians, bicycles and non-motorized vehicles.

Michigan

Pere-Marquette Rail Trail

The Pere-Marquette Rail-Trail of Mid-Michigan is a 22-mile linear park along a 110-foot-wide abandoned railway corridor. It is being developed for non-motorized recreation and transportation. It is located on an abandoned railroad right-of-way (CSX Transportation).

Michigan

Burroughs Street Bridge and Portland Rails-to-Trails

The project includes construction of a trail that will run along the top of the bank in the floodplain adjacent to the Grand River, under the Bridge Street and Grand River Avenue Bridges along the edge of the river, and back up onto the top of the river-

bank until it reaches the Looking Glass River. The path will cross the Looking Glass River on the two-span historic Burroughs Road Bridge, which is to be restored. The remainder of the path will be above the 100-year flood elevation on the abandoned railroad grade, which the City of Portland has acquired.

Minnesota

Beaver Island Park & Trail - Phase I, II, III

This project involves the development of Beaver Island Park. This is a proposed park located along the west side of the Mississippi River south of St. Cloud State University (SCSU)

Nebraska

MoPac East Trail

The MoPac East Trail extends 25 miles east from Lincoln at 84th Street through the communities of Walton, Eagle, Elmwood and Wabash. The trail provides quality outdoor recreation for hikers, joggers, bicyclists, horseback riders, wildlife watchers and cross country skiers.

Pennsylvania

Ghost Town Trail, Phase I

The project consists of construction of a 15.5-mile-long pedestrian and bicycle trail that runs along an existing abandoned railroad right-of-way. The project passes through the Blacklick Creek Valley which has great natural beauty and historic significance relating to early industry. ISTEA funds were used to upgrade the corridor and apply a packed limestone surface (ASHTO #10).

Pennsylvania

Allegheny Highlands Trail

The Allegheny Highlands Trail is a 42-mile rail-trail under construction on the former Western Maryland Railroad right-of-way in southern Somerset County planned to link the C&O Canal National Historic Park with the Youghiogeny River Trail.

Pennsylvania

York County Heritage Rail/Trail

A 22-mile linear park along the right of way of the Northern Central Rail Line extending from the York County Colonial Courthouse South to the Borough of New Freedom.

Texas

Mineral Wells - Weatherford Rail Trail

This project entails the acquisition and preservation of 22 miles of railroad, turning it into a pedestrian/bicycle trail linking the Cities of Weatherford and Mineral Wells.

Texas

Denton Branch Rails-to-Trails

Eight miles of abandoned railroad, purchased by the City of Denton in 1983 from Missouri Pacific Railroad, will be converted to a pedestrian and bicycle trail, preserving the corridor for future transportation use. Additionally, a historic railroad depot at the north end of the trail will be relocated

Texas

Fair Park/CBD Trail

The objective of this project is to convert a portion of an abandoned railroad into a trail which will link Fair Park to the Central Business District.

Texas

Katy Trail

Three miles of abandoned rail line corridor near Highland Park, but within the Dallas city limits, is being acquired by the City and converted to a hike and bike trail for multi-use recreational and commuting purposes.

Texas

Walnut Hills Link Bicycle/Pedestrian Trail

The Walnut Hills Link will connect the two existing bicycle/pedestrian trails forming a 4 mile trail with greatly improved functionality as a transportation facility. The Link will connect the trail with two major and two minor arterials. Use of the trail is free and open to the public.

South Dakota

George S. Mickelson Trail

The George S. Mickelson Trail is a 110-mile recreation trail that passes through the heart of South Dakota's Black Hills. When completed, it will be one of the most scenic trails in the United States and will accommodate hikers, horseback riders, bicyclists, cross country skiers and along some portions of the trail, snowmobilers.

Virginia

Shenandoah Rail Initiative

The objective of this project is to connect existing rail, trail, historic and scenic resources of the Shenandoah Valley in Virginia via the existing under-utilized rail resource.

Washington

Olympic Discovery Trail again at Washington Ave. and extends to Elm Grove (2 miles). Handicapped-accessible parking areas are located at 35th Street in South

Wheeling, 12th Street in Downtown, North 9th Street in Warwood and Route 2 at the north end of Warwood.

APPENDIX B

LIST OF RAILS-TO-TRAILS IN GEORGIA FUNDED BY TE AWARDS

Moultrie Rail Trail

The city of Moultrie converted 5.2 miles of the former CSX rail bed into an asphalt path with a parallel gravel-walking path in early 1999

Silver Comet Rail Trail

The most famous and the largest of the trails in Georgia is named the Silver Comet Trail, located northwest of Atlanta, Georgia. The Trail is a non-motorized trail for walkers, hikers, bicyclists, roller bladders, horses, dog walkers, and is wheel chair accessible. When completed, the Silver Comet Trail will start in Smyrna, Georgia and end at the Georgia / Alabama state line.

Simms Mountain Rail Trail

The first completed section of the Georgia Pinhoti, this 5 mile rail trail (will be over 7 miles when complete) is maintained by the Rome-Floyd Parks and Recreation Authority.

McQueen's Island Historic Trail

What used to be the railroad that carried people from Tybee Island to Savannah in the late 1800s is now the first conversion project of rails to trails in the State of Georgia. The six-mile trail is situated on the old abandoned Savannah/Tybee Railroad bed. The construction of McQueen's Island Trail was made possible by grants from I.S.T.E.A., the Department of Natural Resources, and thousands of dollars in labor and equipment donated by volunteers.

Little White House Rail Trail

Proposed

APPENDIX C

THE STEPS A RAIL COMPANY MUST COMPLY WITH TO ABANDON A RAIL LINE

Office of Public Services

Surface Transportation Board

Washington, D.C. 20423

(202) 565-1592

April, 1997

- P R E F A C E -

This handout was prepared by the Surface Transportation Board's (STB) Office of Public Services (OPS). OPS was created to help the public participate meaningfully in STB proceedings.

As part of that effort, this paper explains the standards and procedures governing abandonments. It also discusses alternative means of preserving service, including the subsidy and purchases of lines that might otherwise be abandoned.

This paper is not an agency statement approved by the STB, but OPS believes it provides a good overview of these subjects. For readers who want to explore these issues in more detail, OPS has also prepared an information bulletin entitled "So You Want to Start a Small Railroad, Surface Transportation Board Small Railroad Application Procedures"

If you want copies of these publications or have questions, please contact OPS at (202) 565-1592. One of our staff attorneys will be glad to help you.

I. OVERVIEW

By the mid-1970's, our nation's rail transportation system was in dire financial condition. Rail carriers were faced with increased competition from other modes of transportation (especially trucking), rising labor, fuel and maintenance expenses, and pervasive regulation that made it difficult for rail carriers to get rid of unprofitable lines. These conditions had contributed to the bankruptcy of several prominent rail carriers.

Against this background, Congress enacted a series of new laws, most notably the Staggers Rail Act of 1980 (Staggers Act). Together with the implementing regulations issued by the Interstate Commerce Commission, the STB's predecessor, this legislation sought to increase the role of the marketplace, rather than government regulation, in shaping rail transportation. In essence, the Staggers Act gave railroads more flexibility to set prices and adjust service as the market requires and thus enabled them to act more competitively. At the same time, the necessity for some regulatory protection was recognized because rail carriers still have significant market power in particular situations and because rail transportation is sometimes vital to the public. The current regulatory scheme governing abandonments and acquisitions to preserve service seeks to balance these competing considerations.

Where the market has spoken clearly and regulation is found to be unnecessary, a rail carrier may usually abandon a line, subject to appropriate labor protection and environmental conditions. Indeed, lines over which no local traffic has moved for two years without any formal complaint have been exempted from traditional regulatory scrutiny and can be abandoned simply by filing a notice with the STB.

Under the more detailed abandonment application process for active lines, the Board balances the economic burden of continued operation against the public's need for the service. Permission usually will be given to abandon lines on which there are significant operating losses. On the other hand, the carrier's ability to earn more money by disinvesting from a line and reinvesting its assets elsewhere usually is not sufficient to allow abandonment in the face of a strong public need for service.

Although it may be easier for carriers to abandon unprofitable rail lines, it is also now much easier for States and private parties to preserve rail service. The Feeder Railroad Development Program enables any financially responsible person to force a rail carrier to sell a line that has been designated for possible abandonment, even though no abandonment application has been filed. Similarly, once an abandonment application is filed for a line, financially responsible parties can offer to subsidize the carrier's service or force the railroad to sell them the line for continued rail service. To encourage entrepreneurs and the States to operate these lines, the Board has frequently exempted them from

many regulatory requirements. Also, they can often avoid expensive labor protective conditions.

With this general background, we will first set out the standards and procedures that govern formal applications to abandon a line (Part II). We will then discuss exemptions, a widely used alternative to the more detailed abandonment application process (Part III). Several alternative ways of preserving rail service will be reviewed (Part IV), including the purchase or subsidy of lines slated for abandonment. The role labor plays in these cases will be examined (Part V). Finally, we explore alternative means of preserving rail rights-of-way through rail banking (Part VI).

In 1995, Congress enacted the "ICC Termination Act" which abolished the Interstate Commerce Commission and established the Surface Transportation Board to handle rail abandonments, *inter alia*. The new statutory reference is 49 U.S.C. 10903. The new rules are codified at 49 CFR Parts 1105 and 1152. A quick summary of the changes to 49 CFR 1152, which became effective on January 23, 1997, is included at Appendix I. The full text of the new rule is at Appendix IV.

II. ABANDONMENTS

Under the ICC Termination Act of 1995 (Act), a railroad may abandon a line only with the STB's permission. The Board must determine whether the "present or future public convenience and necessity require or permit" the abandonment. In making this determination, the Board balances two competing factors. The first is the need of local communities and shippers for continued service. That need is balanced against the broader public interest in freeing railroads from financial burdens that are a drain on their overall financial health and lessen their ability to operate economically elsewhere.

The railroad first must show how continued operation of the line would be a burden to it. If it cannot establish this, the abandonment will be denied. However, the railroad does not have to show an actual operating loss. It may also calculate its "opportunity costs" for the line. These are the costs of tying up the railroad's assets in the line when those assets could earn more money elsewhere.

If the railroad does demonstrate a burden, then evidence of the public's need for continued service is examined. The effect on local businesses, surrounding communities, the local economy, and the environment may be considered. Parties opposing abandonment should present that evidence and should also challenge the railroad's financial data.

With this general introduction, we will now address in more detail the steps in the abandonment process and the kinds of factors and evidence the Board considers in deciding these cases.

A. Steps In The Abandonment Process

The Act establishes strict filing and procedural requirements for abandonment applications. (49 U.S.C. 10904). The STB has adopted regulations to implement these requirements. These regulations are found at 49 CFR 1152.

Once an abandonment application is filed, interested parties have only 45 days to file protests. Yet, an effective opposition to abandonment requires substantial preparation. The Act, therefore, also gives communities and shippers advance notice of a railroad's abandonment plans.

1. System Diagram Map

The earliest indication that a railroad intends to abandon a line comes from the carrier's system diagram map. The Act requires a rail carrier to maintain a map of all its rail lines. A Class III carrier may choose to prepare a narrative description of its lines instead of a map. On this system diagram map or in its narrative report, the carrier must identify separately (1) any line for which it expects to file an abandonment application within the next three years and (2) any line that it considers to be a potential candidate for abandonment. The Board will reject an abandonment application if any part includes a line that has not been identified as a category 1 line (abandonment application planned within 3 years) for at least 60 days before the carrier filed the abandonment application. A carrier must publish its system diagram map or narrative in a newspaper of general circulation in each county containing a rail line in category 1, and publish all subsequent changes to its system diagram map. (The system diagram map rules are found at 49 U.S.C. 10903(c)(2) and 49 CFR 1152.10-13.)

Thus, the first indication that a railroad intends to abandon a line comes at least 60 days before the carrier's application is filed. This time should not be wasted. It gives shippers, local and State governments, and interested citizens an opportunity to meet to weigh possible opposition to abandonment, and to consider alternative means of continuing rail operations by the current railroad or another operator. For example, rate and service changes which might permit the railroad to operate more efficiently or profitably may be negotiated.

A line need not have been listed in category 2 (potentially subject to abandonment) prior to abandonment, so no weight should be attached to the fact that a line was or was not listed in category 2.

2. Notice of Intent

In addition to the system diagram map requirement, the STB requires the railroad to file a "Notice of Intent" to abandon. The railroad must publish this notice once a week for three consecutive weeks in general circulation newspapers in each country where the line is located, send it to each of the significant shippers on the line, send it to the State agency responsible for rail transportation planning, and post it at each agency station and terminal on the line. All these notice requirements must be fulfilled 15-30 days before the application is filed at the STB.

The complete form and all the information this notice must contain are set out in Section 1152.21 of the regulations. The notice describes when and how to file a protest to the proposed abandonment. It also explains how to obtain information on possible subsidy or purchase of the line. Once the Notice of Intent to abandon is received, shippers, communities, and interested citizens should organize their activities concerning the abandonment and prepare to present their position to the STB and the railroad. For help in preparing a Notice of Intent or preparing an opposition to an abandonment, please contact OPS at (202) 565-1592.

3. Abandonment Application

The abandonment application must contain detailed information about the costs and revenues on the line to be abandoned and the overall financial condition of the carrier. (A complete recitation of what must be in the application is found at 49 CFR 1152.22.) Any interested person may request a copy of the application from the carrier, and persons planning to participate should obtain a copy as soon as the application is filed and immediately begin to examine the information carefully.

Abandonment applications may contain pages of figures, tables, charts, and graphs, some of which may be less important than other parts. Opponents should make an effort to verify and, if appropriate, recalculate and reconcile key figures and totals. Shippers and small communities often lack the expertise to sort out rail financial data or the money to hire experts to do it for them. State rail officials can help in this area and should be contacted for assistance.

A railroad may ask the Board to waive certain informational requirements. For example, a railroad is normally allowed to exclude data concerning overhead or bridge traffic (shipments not actually originated or terminated on the line sought to be abandoned) if it would retain that traffic by rerouting it over other routes. However, an opponent who believes relevant information has been left out, should appeal the waiver explaining why the information is necessary. If the Board agrees, it will rescind the waiver and require the information.

4. Protests or Comments To The Proposed Abandonment

Once an application is filed, protestants have only 45 days to submit protests.⁽¹⁾ Protests should attempt to quantify the harm to shippers and the community and explain each protestant's interest in continued service. If possible, they should also try to critically evaluate the railroad's financial evidence. Section 1151.25(a) of the regulations lists all the information that should be in the protest.

All larger shippers and every community on the line should submit statements describing in detail their use of the line and the impact a loss of rail service will have on their operations and area. Opposition from elected officials from both the local and national level is also very helpful.

Shippers should submit car loading data and estimates of future use -- the best are showings of projected increased traffic. They should also point out any defects in the carrier's cost data. Communities and shippers should make every effort to quantify the harm from abandonment.

Protestants should describe their interest in the proceeding in as much detail as possible. For instance, if the line sought to be abandoned is used for grain shipments and the protestant is a grain producer, the statement should at least specify the number of years in farming, the farm's size, the amount of grain produced and shipped by rail, the number of people employed directly on the farm, the availability of alternative (whether rail, truck or barge) transportation, the cost of alternative transportation compared to the cost of using this line, and any other factors believed to be relevant. In addition, protestants should present any evidence they may have developed that contradicts the revenue and cost evidence the railroad has submitted. Always use specific numbers, facts and figures when possible, and explain where the information comes from or how it was developed. Cost and revenue information is usually critical. Remember: If it is shown that the line is not a financial burden to the railroad, abandonment will be denied.

Again, protests and comments to the proposed abandonment must be received at the STB within 45 days after the filing of the application. An original and 10 copies of each comment or protest must be filed with the Board. A copy must be mailed to the applicant railroad, and each copy must contain a "Certificate of Service" (a statement that the railroad was mailed a copy of the comment or protest). No set "form" exists for a protest and many letter protests are received. However, the more detailed a protest is, the more weight it will receive.

5. Modified Procedure And Oral Hearings

The Board will either set the proceeding for an oral hearing or, more often, what is called "modified procedure". (In the years 1990 and 1991, 8 of the 27 abandonment applications filed resulted in an oral hearing. During its first year in existence the STB held no oral hearings.) Modified procedure means that no oral hearing is held, and all evidence is filed in writing. Oral hearings are for the

primary purpose of cross examining witnesses who have filed verified statements in the proceeding. See 49 CFR 1152.25(a). With this in mind, requests for oral hearing should specify any factual matters which are likely to be disputed and require cross-examination.

Regardless of whether modified procedure or oral hearing is used, the core of both the railroad's and protestant's case will come in the form of written evidence.

After receiving the protests and the carrier's reply, the Board must issue its decision within 110 days after the application is filed.

6. Appeals

If a party is dissatisfied with a Director's decision, it may ask the STB to reconsider the matter. Director's decisions are made during certain stages of the proceeding. For example, the Director of the Office of Proceedings makes the determination whether or not an Offer of Financial Assistance is *bona fide*. See 49 CFR 1152.25(e) for other decisions made by the Director.

A party that is dissatisfied with a decision of the full Board may seek judicial review of the STB's decision by filing a petition for review in the appropriate United States Court of Appeals. In situations where the abandonment application was protested a dissatisfied party may ask the STB to reopen the case if it can show material error, new evidence, or substantially changed circumstances. In an unopposed case, the only recourse for a dissatisfied party is if it can show that the carrier's abandonment application was defective (for failure to provide the required notices, for example) in which case it can ask the Board to vacate the abandonment certificate.

B. Issues In Abandonments

We will now discuss the important issues in rail abandonments and the factors the Board weighs in deciding these cases.

As explained earlier, the standard used in deciding abandonment cases is whether the railroad's burden of continued service outweighs the public's current and future need for the service.

The railroad first must establish that it is indeed suffering a loss or burden from the line. If it fails to prove this, the abandonment will be denied. However, the railroad does not have to demonstrate an "operating" loss. The Board also considers the annual "opportunity costs" of owning and operating the line. This is the cost of tying up the railroad's assets in track, land, and materials on the

line, rather than putting those assets to other, more profitable uses. It is calculated by multiplying the carrier's investment in the line (including the net liquidation value of the track and land) by an appropriate annual rate of return. Where there is evidence of public need, the Board may refuse to grant abandonment based only on opportunity cost losses. If the railroad does show a loss or burden, then the protestants' evidence of public need is examined.

The statute specifically directs the STB to consider whether the abandonment "will have a serious, adverse impact on rural and community development." 49 U.S.C. 10903(d). Protestants can address this factor through evidence showing the economic impact abandonment would have on the area. This can be done by computing (1) markets that would be lost without rail service, (2) the number of business failures or relocations and lost jobs that would result from abandonment, and (3) the number of current or future ventures (such as industrial parks) that depend upon continued rail service. Likely sponsors of this type of testimony would be shippers (using data from their own business, industry, or farm), development experts from local or state governments, elected or appointed officials, and Chamber of Commerce representatives. In sparsely populated areas, for example, discontinuance of rail service may cause a significant loss of jobs and reduce the tax base upon which the community depends to support its local school system and other important public services.

A critical factor in assessing the impact of abandonment on a rail shipper's farm or business is the possible transportation alternatives available after abandonment. If shippers have already switched to truck transportation for part of their traffic, then truck transportation may be a suitable alternative for all their traffic. Yet, truck rates may be higher than rail rates, bringing into question whether the business can survive with higher transportation costs. Also, sufficient trucks may not be available in the area to handle the increased traffic, or the local road system may not be capable of handling the increased wear and tear of truck transportation. These issues need to be fully explored and developed by protestants. This is another area where State transportation specialists can provide shippers and local communities with invaluable assistance.

Local shippers also should be able to present testimony concerning past and future use of the rail line. Reasons for the low levels of past rail shipments, such as sporadic business fluctuations, drought or other local disaster, should be explained. If shippers are expecting increased rail shipments, based on sound and defensible business forecasts, this should be documented.

Besides the economic impact of the proposed abandonment, protestants may also point out any effect that the abandonment would have on the environment. For example, increased use of alternative modes of transportation, such as trucks, might adversely affect noise levels in congested areas or pose safety problems. The environmental consequences of abandonment are assessed by the STB's Section of Energy and Environment (SEE). For more information about

environmental issues you can contact SEE at (202) 565-1538. Also see the STB's regulations at 49 CFR 1105.

. The balancing test the Board employs to decide abandonments has factors on both sides of the equation. To be successful, protestants should not only present the harm that they will suffer from abandonment, but they should also attempt to discredit the railroad's evidence of losses or burden from operating the line.

C. Evaluating Railroad Financial Data

Nobody opposing an abandonment can afford to ignore the railroad's financial data. The railroad must show it is incurring a loss or a burden. The railroad will attempt to show that (1) it is not receiving, and cannot reasonably expect in the future to earn, sufficient revenues from the line; and/or (2) it expects to face significant costs on the line in the future that it will not be able to recover. Normally, the past revenue generated by the line can be determined fairly accurately based on carrier and shipper records. Other data are subject to interpretation by the parties, however. These include: (1) projecting the revenues for the line; (2) isolating the historical expenses of operating and maintaining the line, and projecting future operating, maintenance and rehabilitation expenses; and (3) calculating the opportunity costs of operating the line.

Protestants who can critically evaluate this data will have a better chance of success. The assistance of a CPA or rail cost analyst is useful and can be critical. Even if there is insufficient time or money to analyze the financial data thoroughly, there are a number of key issues that should be examined.

Railroads are required to include in their abandonment applications projections of their revenues and costs on the line for a "forecast year" --the 12-month period beginning the first day of the month the application is filed. To project future revenues and costs, the railroad must necessarily make assumptions. Those assumptions should be evaluated critically. Nobody can predict the future with certainty, and in many instances the protestants may be in as good or better position than the railroad to make accurate predictions. For example, a substantial component of revenues usually consists of the number of shipments originating or terminating on the line. Shippers on the line presumably know their own businesses and future transportation needs and may be able to dispute the railroad's projections of future traffic. Wherever possible, protestants should provide specific facts and figures to support their own projections.

Of course, projections as to the future usually are based upon prior experience. Thus, the railroad's historical data should also be examined. Again, there are some issues that can be explored even if a rail cost analyst or other expert is not available.

First, confirm that all the data are from the relevant periods. Historical cost and revenue data must be submitted for a so-called "base year." The base year is the most recent 12 month period for which data have been collected at the branch level, ending no earlier than 6 months prior to the filing of the application.

Second, be alert to circumstances that may make the historical data unrepresentative. For example, was the carrier's ability to meet requests for service impaired by a shortage of rail cars? Or was there a recession or drought that resulted in lower, unrepresentative traffic volumes and revenues?

Third, confirm that actual costs and revenues are used where required by the regulations. Maintenance-of-way expenses usually cannot be estimated by prorating expenses from a larger section of track; actual expenses incurred on the line sought to be abandoned are normally required. Similarly, depreciation of equipment, the return on investment for locomotives, and fuel costs must be based upon the type of locomotive and freight cars actually used on the line. The use of summary data based upon "Road" and "Yard" categories is generally unacceptable, because it tends to overstate costs when, as is often the case, a local or way train serves the branch line.

Fourth, if there are high rehabilitation or deferred maintenance costs, a qualified individual should examine the railroad's work papers and physically inspect the properties. It may be possible to further defer maintenance-of-way expenses for yet another year, taking those costs out of the forecast year. Usually only those rehabilitation costs necessary to meet Federal Railroad Administration minimum class I standards are allowed. As a rule of thumb, rehabilitation costs and maintenance-of-way expenses vary inversely. That is, if rehabilitation costs are high, then maintenance-of-way costs should be low.

Fifth, as with the actual and projected revenue and cost information, the railroad's claimed opportunity costs should also be examined thoroughly by an analyst. Even if this is not possible, several key components of opportunity costs can be examined.

For example, land values are usually an important factor in calculating opportunity costs. Protestants should check with the Register of Deeds to make sure the land included in the railroad's calculations is and would still be owned by the railroad in the event of an abandonment. In some cases, ownership of the land reverts automatically to adjoining landholders. In addition, local bankers and real estate agents can supply accurate information on land values that may contradict the railroad's estimate of the value of its land holdings. Protestants should also (1) verify the tons of track material that will result from salvaging the line; (2) obtain an estimate of the scrap value in dollars per ton, and (3) see whether the cost of dismantling the track was deducted from the railroad's estimated sales proceeds.

It should be noted that a carrier may either calculate its own (pre-tax) cost of capital or use the industry-wide (pre-tax) cost of capital figure that is determined annually by the STB. To obtain the Board's latest cost of capital determination call the STB's Section of Costing and Financial Information at (202)565-1533.

Finally, the railroad's projected gains or losses on its rail assets should be examined. Local real estate agents or brokers can check projections of changes in value for land, and the railroad's projections can also be compared to the index price series for historical sales of rail assets maintained by the Board. The railroad must justify departures from these trends.

III. EXCEPTIONS TO THE ABANDONMENT PROCESS

UNDER 49 CFR 1152.50

The STB's power to exempt rail lines from the normal abandonment procedures is found in the ICC Termination Act, 49 U.S.C. 10502. Section 10502 gives the Board a broad grant of authority to exempt carriers, services and transactions from almost any and all kinds of STB regulation. The Board must exempt a carrier, service or transaction from regulation if it finds (1) that continued regulation is unnecessary to carry out the national rail transportation policy of 49 U.S.C. 10101, and (2) that either the transaction or service is of limited scope or application of the regulatory scheme is unnecessary to protect shippers from an abuse of market power. Congress clearly contemplated that the STB would use this general exemption power broadly. The legislative history reflects Congress' desire that the Board actively exempt railroads from unnecessary regulation, particularly regulations restricting changes in rates and services. But Congress also provided the Board with authority to revoke exemptions that it has issued if and when the Board finds that its regulation is indeed necessary.

The STB and the ICC before it have both used broad exemption authority to facilitate the abandonment of lines where it believes that closer regulatory scrutiny is unnecessary, through both class exemptions and individual line exemptions. As a class, the Board has exempted the abandonment of lines over which no local traffic has moved for at least 2 years without formal complaint about a lack of service. Where a line has generated traffic within the last 2 years, the railroad may seek to persuade the STB that an exemption is nevertheless appropriate for that individual line.

These exemptions are widely used.

A. Class Exemption: Out-of-Service Lines

To invoke the class exemption for out-of-service lines, a carrier must file a notice at the Board certifying that (1) no local traffic has moved on the line for the past 2 years; (2) any overhead traffic that has moved over the line can be rerouted over other lines; and (3) no formal complaint about a lack of service is pending or has been decided in favor of the shipper.

Unlike the traditional application process, no Notice of Intent to abandon or system diagram map or narrative notice is required. However, 10 days before filing the exemption notice with the Board, the railroad must notify the affected State's Public Service Board or equivalent agency of its intention to do so. The railroad must also send an advance environmental notice to the State, in accordance with STB regulation 49 CFR 1105.11.

The STB will publish the exemption notice in the Federal Register within 20 days after it is filed. Thirty (30) days after the Federal Register notice, the railroad may abandon the line, unless the Board stays the exemption.

Stay requests that raise transportation concerns must be filed within 10 days after the exemption notice is published in the Federal Register. Stay requests based on environmental or historic preservation concerns may be filed at any time but must be filed sufficiently in advance of the effective date for the Board to consider and act on the petition before the notice becomes effective. Offers to subsidize or purchase the line must be filed within 30 days after the Federal Register publication.

In addition, parties may ask the Board to reject the notice or reconsider the exemption as it applies to a particular line. Petitions to reject or reconsider may be filed within 20 days after the Federal Register notice. After the exemption takes effect, parties may ask the STB to revoke the exemption. Petitions to revoke may be filed at any time.

The STB will reject the notice if the information contained in the request is false or misleading. Therefore, if local traffic has moved on the line within the last 2 years, the exemption will be rejected.

Although environmental concerns, public need for continued service, and other issues can be raised in a petition to reconsider or revoke, the Board will disallow the exemption only in extraordinary cases.

If use of the class exemption is disallowed for a line, the railroad is still free to apply for abandonment of the line under the regular application procedures.

discussed above (or seek an individual exemption under the procedures discussed below). The complete regulations applying to this class exemption are found at 49 CFR 1152.50. Also see the attached STB Timetable for class exemption proceedings at Appendix II..

B. Individual Exemptions under 49 CFR 1152.60

As with the out-of-service lines exemption, no Notice of Intent to abandon or system diagram map or narrative notice is required when a request for an individual exemption is filed. The only notice a railroad must give before filing an individual exemption request is an environmental notice to the designated State agency in each state where abandonment is proposed. To obtain the name and address of the designated agency in your State call the Board's Section of Energy and Environment at (202) 565-1538.

The Board must publish notice of the proposed exemption in the Federal Register 20 days after it is filed. No further public notice is given even if the petition is denied. Carriers frequently will serve a copy of their petition on any shippers on the line but are not required to give notice when the petition is granted or denied. Interested persons can be notified individually by the Board, if they ask that their names be placed on the Board's service list in a particular case. Parties of record (applicants and protestants) are placed on the service list automatically, but other interested persons should notify the Board's Office of the Secretary, 1925 K Street, N.W., Washington, D.C. 20423 of their desire to be served with copies of all decisions in a particular case.

A petition for an exemption generally will include only a brief description of the relevant facts. It need not be, and typically is not, accompanied by detailed financial or other information.

Persons opposing an exemption must file an opposition within 20 days after publication of the Federal Register notice. Offers to purchase or subsidize the line must be filed 120 days after the filing of the petition or exemption or 10 days after the service of the Board's decision granting the exemption, whichever occurs sooner. To receive a copy of that decision, you must have notified the Office of the Secretary of your interest in the case and have asked to be put on the service list as instructed, *supra*.

Petitions to stay the effective date of the decision may be filed in either "Petition" (Individual exemption) or "Notice" (class exemption cases). It should be noted that administrative agencies, like the Courts, have developed firm criteria for staying administrative action. To justify a stay, a petitioner must demonstrate that:

- (1) there is a strong, and the emphasis is on strong, likelihood that it will prevail on the merits;
- (2) it will suffer irreparable harm in the absence of a stay;
- (3) other interested parties will not be substantially harmed by the issuance of a stay; and
- (4) the public interest supports the granting of the stay.

The Board, as do the Courts, gives very careful consideration to each of the above criteria and has required a strong substantive showing on all of the four factors. While the showing of irreparable injury may vary from case to case, the key consideration is irreparable, and injuries that can be corrected later (however substantial in terms of money, time and energy) may not be enough to justify a stay. Similarly, in determining the public interest factor, the interests of private litigants must give way to the realization of public purposes. The burden of making a strong showing on all four of the above factors rests with the petitioner to convince the Courts or the Board that such extraordinary relief is warranted.

Where possible, parties opposed to the exemption should file an opposition or a protest with the Board before it acts on the exemption request. Even in the absence of a formal notice requirement, community leaders and shippers often are aware of a railroad's plan to seek an exemption before the carrier files its petition.

Protests and petitions for reconsideration of individual exemptions should include essentially the same kind of facts that would be included in a regular abandonment case. For instance, shippers should explain their business operations, quantify their use of the involved rail line, discuss the availability and any additional cost of alternative transportation services, and explain the impact loss of the rail service would have on their businesses and the community. To the extent possible, protestants also should try to critically evaluate any financial information and traffic projections submitted by the railroad.

If the Board denies a carrier's request for an exemption, the carrier is free to file for authority to abandon under the regular application procedures discussed earlier.

IV. ALTERNATIVES TO ABANDONMENT

Users and interested parties should consider alternatives to abandonment at the first sign a carrier may be contemplating abandonment. The fact that the existing railroad believes the line is no longer economically viable does not necessarily

mean the line cannot continue operations under other arrangements. There are many examples of small "short line" railroads operating on lines that the main line railroad sought to abandon. Congress and the STB have made it easier to preserve rail service by acquiring or subsidizing rail lines. These options will be briefly outlined below.

A. Forced Sales and Subsidies

To encourage continued service, Congress and the STB have adopted procedures that make it possible to force the sale or subsidy of lines slated for abandonment where the parties cannot agree on the price or terms of a subsidy.

1. Lines Approved For Abandonment

Under the offer of financial assistance (OFA) procedures, any financially responsible party seeking to continue service on a line approved for abandonment (or exempted) may compel the railroad to sell or conduct subsidized operations over the line. The statutory requirements and STB regulations concerning offers of financial assistance are contained at 49 U.S.C. 10904 and 49 CFR 1152.27, respectively.

Parties may request data on subsidy and acquisition costs from applicants in abandonment proceedings as soon as the Notice of Intent to abandon is filed. This includes (1) an estimate of the minimum purchase price or annual subsidy needed to keep the line in operation, (2) reports on the physical condition of the line, and (3) traffic and other data necessary to determine the amount of annual financial assistance needed to continue service. Any one who believes subsidy or acquisition is a possibility should request this information immediately and begin a thorough feasibility study. Often the State will assist the railroad by providing substantial money for rehabilitation of the line.

In class exemption cases, where the railroad files a Notice of Exemption, Offers of Financial Assistance must be filed within 10 days of the publication of the Notice of Exemption in the Federal Register. In individual exemption cases where the carrier files a Petition for Exemption and in cases where the carrier files a full abandonment application and OFA must be filed within 10 days of the service date of the Board's order granting the exemption or abandonment application or within 120 days after the application or petition for exemption is filed, whichever is sooner. It is very important for a potential offeror to be aware of both the filing date and the date of the Board's decision. To do this, the potential offeror should ask to be placed on the Board's service list⁽²⁾ for the relevant abandonment proceeding, so that the offeror will be advised as soon as any decision is in the case is served.

Each OFA is reviewed by the Board to determine whether the offeror is financially responsible and whether the offer itself is reasonable. A copy of the offeror's annual report or other financial statements should be submitted with the

offer to show its financial responsibility. The STB assumes a State or local government entity to be financially responsible.

As to the reasonableness of the offer, a subsidy should cover the railroad's avoidable operating losses on the line, plus a reasonable return on the value of the line. An offer to purchase should equal the acquisition cost of the line (the net liquidation or going concern value of the line, whichever is higher). The offeror should explain how its offer was calculated and explain any disparity between its offer and the carrier's estimate.⁽³⁾ If the Board finds that the offeror is financially responsible and the offer is reasonable, it will postpone the abandonment and give the parties an opportunity to negotiate.

If negotiations are successful and the parties voluntarily enter into a purchase (or subsidy) agreement which will result in continued rail service, the Board is required to approve the transaction and dismiss the abandonment application.

Should the parties fail to agree on the amount or terms of subsidy or purchase, either party may ask the STB (within 30 days after the offer is filed) to establish terms and conditions. The Board must issue a decision setting the terms and conditions, within 30 days after the request is made. The offeror then has 10 days to accept or reject the STB's terms and conditions. If the offeror chooses to accept them, then the railroad by law is forced to comply with them.

When a railroad receives more than one OFA, it can select the offeror with whom it wishes to transact business. Moreover, if the STB establishes terms and conditions at the request of an offeror who subsequently withdraws, then any other qualified offeror may take its place, forcing the railroad to go through with the subsidy or sale under those terms and conditions.

Certain conditions apply to sales under Section 10904(f)(4)(A). A purchaser may not transfer the line or discontinue service over the line for at least 2 years after consummation. After that time period, the purchaser may transfer the line back to the selling carrier, but it must wait at least 5 years before it can sell the line to others.

The financial assistance provisions of Section 10904 also apply where the Board exempts an abandonment from the formal application process. There are some differences however, particularly as to timing. For example, in exemption proceedings, persons interested in purchasing or subsidizing the line must first submit to the STB and the railroad a written expression of their intent to make such an offer. This expression of intent must be received within 10 days after notice of the exemption is published in the Federal Register. Once the expression of intent is received, the exemption will be automatically stayed for 40 days. The offer itself is due 30 days after the Federal Register notice. For more information on these procedures see the STB's regulations at 49 CFR 1152.27.

2. Purchase of Lines Potentially Subject to Abandonment

The feeder railroad development program was designed as an alternative to abandonment. Congress envisioned it as a method of allowing shippers, communities, or other interested parties to acquire rail lines before an abandonment application is filed. If a rail line has been listed on a carrier's system diagram map as potentially subject to abandonment, a financially responsible person can compel the Board to require a railroad to sell it the line⁽⁴⁾. The price for such a sale is either agreed to by the parties or set by the Board. The statutory procedures for this program are found at 49 U.S.C. 10907 and the STB's regulations are detailed at 49 CFR 1151.

In short, a proceeding commences upon the filing of a feeder line application with the Board. The applicant must show, among other things, that it can (1) pay the net liquidation value of the line or its going concern value, whichever is higher, and (2) provide adequate service for at least 3 years. The Board has 15 days to reject the application if it does not contain the prescribed information or to accept it by filing a Notice in the Federal Register no later than 30 days after the application is filed. Within 30 days after the application is accepted, any other interested party may file a competing application to acquire all or any portion of the same line. The owning railroad and other interested parties may submit verified statements containing their evidence and arguments within 60 days after the initial application is accepted. Within 80 days after the initial application is accepted, offerors may file verified replies. The STB must publish its decision in the Federal Register. Within 10 days of the service date of the decision, the offeror must file a notice with the STB and the owning railroad either accepting or rejecting the Board's terms. If two or more offerors accept the STB's terms, the owning railroad has 15 days from the service date of the Board's decision to select the offeror with whom it wishes to transact business and to notify the STB and offerors. If the parties agree on a price then that price will be the final sale price.

In theory, this program has two major advantages. It allows the parties to save the time and expense involved in the abandonment process, and it allows the new owners to take over operation of a line before further downgrading occurs. The program however, has not lived up to its potential, in part because it places the railroad and new short line owner in an adversarial relationship from the outset. It forces the railroad to sell at a price it may not agree upon and requires the newly created shortline to then develop a relationship with the railroad (with whom it must interchange traffic to reach the main line) in order to function in its new venture.

B. Voluntary Sales and Operations

Parties interested in preserving rail service need not wait until abandonment is approved to negotiate a voluntary purchase of a line proposed for abandonment or for that matter any active rail line. To make purchases of lines that might otherwise be abandoned more attractive to potential buyers, the STB has exempted these purchases from regulation. Special provisions have also been adopted to encourage continued service on abandoned lines acquired by States.

1. Class Exemptions

The statutory standards for voluntary acquisitions are found in 49 U.S.C. 10901, 10902, and 11323. Section 10901 applies only when (1) a non-carrier acquires a rail line, and (2) an existing carrier acquires an inactive line (a line that is already lawfully abandoned). Acquisitions of active rail lines by existing carriers fall under Section 10902 or 11323. These formal application procedures are seldom used to preserve rail service on lines threatened with abandonment. Instead, voluntary purchases of lines subject to abandonment are almost always consummated under exemptions to the formal acquisition procedures. These exemptions are discussed below.

A. SECTION 10901 ACQUISITIONS

Following the Staggers Act and deregulation of the railroads, large Class 1 carriers began to sell or abandon unprofitable or marginally profitable lines. Requests to acquire and continue service over these lines were usually unopposed and were almost always approved because they were in the public interest. This led the ICC to promulgate broad class exemption procedures in 1986.⁽⁵⁾ The current rules are found in 49 CFR 1150 Subpart D. Most non-carrier acquisitions and operations are now exempt from formal regulation under Section 10901, as are all carrier acquisitions of abandoned lines. When a Class II or Class III carrier acquires a line, it is governed by 49 U.S.C. 10902.

To invoke the class exemption, the acquiring party must file a verified notice including general information about the transaction, and a caption summary which will be used to provide public notice of the transaction. The exemption procedures differ depending on the carrier's size (in terms of gross revenue). If the transaction will create a Class III (smallest size) railroad, the exemption will be effective 7 days after the notice is filed.

B. SECTION 11323 TRANSACTIONS

Class exemptions have also been established for seven kinds of transactions that would otherwise require approval under 49 U.S.C. 11323 -- the statute applicable to carrier acquisitions of active rail lines. The most important for our discussion here are (1) acquisition of a line which has already been approved for abandonment and would not constitute a major market extension,

(2) acquisition of nonconnecting lines, and (3) acquisition of trackage rights. (The last two categories do have some qualifications not relevant here.) See 49 CFR 1180.2(d).

To invoke these exemptions, the carrier must file a verified notice, at least one week before the transaction is to be consummated, containing the information listed in the Board's regulations at 49 CFR 1180.4(g)(1). To qualify for an exemption for acquisition or renewal of trackage rights agreements, a caption summary must be filed as well. See 49 CFR 1180.4(g)(2)(i).

2. Individual Exemptions

Where no class exemption applies, an individual exemption may be sought for almost any small rail acquisition or operation, under the Board's general exemption authority at 49 U.S.C. 10502. Such requests for individual exemptions should be tailored to the particular situation involved.

The statute itself exempts some types of rail operations and transactions from STB regulation. The acquisition or use of spur, industrial, team, switching or side tracks is exempt under 49 U.S.C. 10906. These statutory exemptions are defined narrowly and the facts of each situation must be carefully examined to determine if the exemption applies.

V. LABOR ISSUES

No discussion of the acquisition and abandonment of rail lines would be complete without recognizing the increased importance rail labor plays in many of these cases. Labor witnesses often take an active role in opposing abandonment applications and other proceedings. In addition, the ICC Termination Act provides certain protection for employees of railroads engaging in some major changes in operations. It requires railroads to protect their employees from financial loss for a period of up to 6 years and to provide other protection relating to benefits and seniority.

Labor issues may arise in any rail transaction. The STB imposes labor protective conditions (LPC's) in most abandonments.

The conditions have been crafted differently for each situation. Generally there are the Oregon Short Line conditions imposed in abandonment cases, the Mendocino Coast conditions imposed in lease transactions, and the New York Dock conditions imposed in line sales to existing carriers⁽⁶⁾

. When imposed, these conditions obligate the selling or abandoning railroad and, in some cases, can also be imposed on the acquiring railroad. When the acquiring entity is an established railroad or is a wholly owned subsidiary that is

not independent from its rail parent, conditions may be imposed on both the acquiring and selling carriers. But where there is an acquisition of a line by a non-carrier or a Class III carrier, the employees are not entitled to any labor protection. Moreover, LPC's are not imposed for forced sales under the offer of financial assistance provisions of Section 10904 and are imposed only on the seller when there is a forced sale under the Feeder Railroad Development Program. ⁽⁷⁾

The Board is not allowed to use its exemption powers under 49 U.S.C. 10502 to excuse carriers from providing employees with the LPC's they are due.

It is important at the beginning of any abandonment or acquisition proceeding to determine what position, if any, rail labor intends to take. There are some abandonments which will have minimal or no effect on rail jobs. In those cases, rail labor often decides not to participate. There are other situations in which labor witnesses play an active role, challenging railroad costing testimony and providing conflicting data in such areas as labor costs, track maintenance, and the current condition of the track and rolling stock.

VI. ALTERNATIVE USES FOR RAIL RIGHTS-OF-WAY

The ICC Termination Act and the National Rails to Trails Act, along with the STB's regulations give interested parties the opportunity to negotiate *voluntary* agreements to use a railroad right-of-way that otherwise would be abandoned for recreational or other public use, such as a commuter rail service or a highway. These methods of preserving a railroad corridor are known as "rail banking" meaning that the right-of-way is preserved for potential future use as a railroad. Many railroads do not own the land on which their tracks lie. Rather, they have easements over the land of adjoining property owners. Unless those easements are "rail-banked" by converting them to a trail or other public use, they are extinguished. ⁽⁸⁾ Some rights-of-way which were "banked" have been reactivated. The rules for filing a request for a public use condition are slightly different from those which apply to the filing of a trails use request. The sample request which appears in this bulletin as Appendix III is a request for both types of conditions. Proponents often ask for both conditions in the same request in order to take advantage of the benefits of each type of condition. This disadvantage of this approach is that the request for a trails use condition has a filing fee, while a request for public use condition does not.

Since filing fees for all types of cases change at least once a year, it is advisable to contact the Board's Office of Public Services at (202) 565-1592 to determine the current fee, if any, before filing any pleading.

A. Public Use Conditions

Under the terms of the ICC Termination Act at 49 U.S.C. 10905, when the Board approves or exempts an abandonment it must determine whether the rail line is suitable for alternative public use, such as highways, other forms of mass transit, conservation, energy production or transmission, or recreation. If it is, the Board may prohibit the railroad from selling or otherwise disposing of the rail corridor for up to 180 days after the effective date of the decision or notice authorizing abandonment. During the 180 day period, interested persons may negotiate with the railroad to acquire the property for public use. The railroad's consent is unnecessary for the imposition of this negotiating period. If the parties fail to reach an agreement within the 180 day period⁽⁹⁾, the Board must allow the railroad to fully abandon the line and dispose of its property. It cannot *require* the railroad to sell its property for public use.

The Board will only impose a public use condition when it has received a request to do so pursuant to 49 CFR 1152.28. The request must:

1. state the condition sought;
2. explain the public importance of the condition;
3. state the period of time for the condition (which cannot exceed 180 days);
- and
4. provide justification for the requested period of time.

5. A "Certificate of Service" indicating that a copy of the public use request has been served on the carrier seeking abandonment at its address of record.

A sample request for Public Use Condition is provided in Appendix III. An original and 10 copies must be submitted to the Board.

Timing is important. In an application for abandonment, the public use proponent must file the request within 45 days of the filing of the application, i.e. 25 days after the notice of the application appears in the Federal Register. In exemption cases, whether the exemption is a class exemption (notice) or an individually sought exemption (petition), the public use condition request must be filed within 20 days after the Federal Register publication appears.

B. Request for Trail Use Conditions

To begin the trail use process, a trail proponent must file a trail use request in the proceeding initiated by the railroad to abandon the line. A trail use request has no effect on the Board's decision whether to give a railroad permission to

abandon. It is considered only after the Board has decided to permit the abandonment.

Under 49 CFR 1152.29, the trail use request must include:

A map which clearly identifies the rail corridor (including mileposts) which is proposed for trail use,

2. A statement of willingness to accept financial responsibility which indicates the proponent's willingness to manage the trail, pay property taxes on the trail and accept responsibility for any liability arising from the use of the rail corridor as a trail, and.

3. An acknowledgment that trail use is subject to the user's continuing to meet the above obligations, and the possibility of future reactivation of rail service on the corridor.

A "Certificate of Service" indicating that a copy of the trails use request has been served on the carrier seeking abandonment at its address of record.

A sample public use condition/trails use request appears at Appendix III. An original and 10 copies of the request must be filed with the Board and a copy served on the railroad.

Unlike the public use condition, the trail use condition will only be imposed if the railroad consents. If the railroad does agree, then a condition is imposed which prohibits the rail carrier from otherwise disposing of the rail corridor for 180 days while the parties negotiate an agreement. The Board has granted an extension of that 180 day period in cases where the parties jointly request it indicating that they are close to agreement.

As with the public use condition request, timing is very important. In an abandonment application, trail use requests must be filed within 45 days of the filing of the application i.e., 25 days after the publication of the application in the Federal Register. The rail carrier seeking abandonment authority then has 15 days to notify the Board whether and with whom (if more than one proponent has submitted a request) it intends to negotiate a trail use agreement. In class exemption cases, a trails use request must be filed within 10 days of the appearance of the notice in the Federal Register. Note that this is 10 days earlier than a public use condition request is due. In an individual exemption case (petition), a trails use request must be filed with 20 days of the appearance of the Federal Register notice. In both types of exemption cases the carrier has 10 after the trails use request is received to notify the Board whether and with whom it intends to negotiate a trails use agreement.

Note: Appendices referred to in this booklet are only available by mail. To request the appendices call the Office Public Services at 202 565-1592 or write to: Office of Public Services, Surface Transportation Board, 1925 K Street, N.W., Washington D.C. 20423

1. NOTE: *Oral Hearing* requests must be filed within *10 days* of receipt of the application. The Board must act on those requests within *15 days* of the filing of the application. See time line in Appendix I.

2. Write to the Office of the Secretary, Surface Transportation Board, 1925 K Street, N.W., Washington, D.C. 20423 and identify the docket number of the proceeding .

3. Any carrier seeking abandonment authority from the Board must provide certain information to a party considering making an offer of financial assistance, including an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation. See 49 U.S.C. 10904(b)(1) and OPS's information bulletin entitled "So You Want to Start a Small Railroad" which provides a more detailed discussion of the OFA process.

4. Even if a line is not shown on the carrier's system diagram map as a candidate for potential abandonment, shippers and communities may seek to compel the Board to require a railroad to sell the line by proving that the "public convenience and necessity" requires or permits the sale. This test, however, is more difficult to satisfy.

5. The STB has modified these rules by decision served November 18, 1996 at Ex parte 529, Class Exemption for Acquisition or Operation of Rail Lines by Class III Rail Carriers under 49 U.S.C. 10902.

6. These conditions are set forth in Oregon Short Line R. Co.-- Abandonment -- Goshen, 360 ICC 91 (1979); Mendocino Coast Ry., Inc. -- Lease and Operate, 354 ICC 732 (1978) and 360 ICC 653 (1980), as clarified in Wilmington Terminal RR, Inc. -- Pur. and Lease -- CSX Transp., Inc., 6 ICC 2d 799 (1990), aff'd sub nom, Railway Labor Executives' Ass'n v. ICC, 930 F2d 511 (6th Cir. 1991) (Wilmington Terminal); and New York Dock Ry. -- Control -- Brooklyn Eastern Dist., 360 ICC 60 (1979), as clarified in Wilmington Terminal, *supra*. They are all variations of the original LPC agreement hammered out between labor and management in 1936, the Washington Job Protection Agreement.

7. Feeder line purchasers are required to use the existing employees on the line to the extent possible. See 49 U.S.C. 10910 (e) and (j).

8. Because real estate law and practice differs from state to state, we refer to landowners along the rail line as "adjoining" property owners. Sometimes adjoining property owners may have what is commonly called a "reversionary" interest in the land, meaning that upon the termination of the easement, the land is then available for the full, unencumbered use of the landowner or fee holder. In some states, when a rail use terminates, the land on which the rail line sits passes, as a matter of state law, to the adjoining landowners even when those landowners had no title to the land prior to its use as rail property. In some cases, railroads do own the land on which the track sits in fee simple and can dispose of it as they wish.

9. Unlike trails use conditions, public use conditions cannot be extended beyond the statutorily imposed 180 day limit, even if the parties' consent.

APPENDIX D

A COMPLETED TE APPLICATION TO BE USED FOR THE ATHENS-
MURMUR TRAIL OR AS A REFERENCE FOR FUTURE RAILS-TO-TRAILS
APPLICATIONS

GEORGIA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION ENHANCEMENTS
FOR
FY2002 AND FY2003



TRANSPORTATION ENHANCEMENT
APPLICATION
FOR

FY 2004 and 2005

Submit Fifteen (15) Stapled Copies and One (1) Unbound Black & White 8 ½ x 11 Reproducible

Copy by

3:00 p.m. on July 28, 2000 to:

Steve Roberts

Transportation Enhancement Manager

Office of Planning
Georgia Department of Transportation
 2 Capitol Square, Room 372
 Atlanta, GA 30334
 Phone: (404) 656-5411

TRANSPORTATION ENHANCEMENT APPLICATION
 FOR FY 2004 AND 2005

SECTION I - APPLICANT INFORMATION			
APPLICANT - Must indicate one of the following: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <input type="checkbox"/> State Agency <input checked="" type="checkbox"/> City/County Government <input type="checkbox"/> Authority <input type="checkbox"/> Other </div>			
APPLICANT <i>Athens-Clarke County, Georgia</i>			
APPLICANT'S CONTACT PERSON <i>City Planner</i>	TITLE <i>Planner</i>	PHONE NO. <i>(706) 613-3515</i>	
APPLICANT'S MAILING ADDRESS <i>120 West Dougherty Street</i>	CITY <i>Athens</i>	STATE <i>Georgia</i>	ZIP CODE <i>30601</i>
SPONSOR <i>City Planner</i>			
SPONSOR'S CONTACT PERSON <i>City Planner</i>	TITLE <i>Planner</i>	PHONE NO. <i>(706) 613-3515</i>	
SPONSOR'S MAILING ADDRESS <i>120 West Dougherty Street</i>	CITY <i>Athens</i>	STATE <i>Georgia</i>	ZIP CODE <i>30601</i>

SECTION II - PROJECT			
COUNTY <i>Clarke</i>	CITY <i>Athens</i>	CONGRESSIONAL DISTRICT <i>Eleven</i>	GDOT DISTRICT
PROJECT NAME <i>Athens-Clarke & Murmur Rails to Trails</i>			

PROJECT BEGINNING AND END (From...To...)

Athens' Historic and Downtown Commercial District...to...Carmike Shopping Center and Barnett Shoals Road with adjacent Bicycle Lanes.

PROJECT LENGTH (MILEAGE) **1.9 miles**

BRIEF PROJECT DESCRIPTION (1-2 sentences):

The Athens-Clarke & Murmur Trail is an intermodal project. The trail will provide pedestrians, bicyclists, and other non-vehicular users an alternative route in and out of Athens' Central Business district and the University of Georgia for the east side of Athens.

SECTION II - PROJECT (CONTINUED)

PROJECT CATEGORY - Check all boxes that apply. **Attachment C must be completed for each primary category selected. (It is uncommon to have more than one primary category. Please see the instruction book for further explanation.)**

MULTI-USE FACILITIES (Attachment C-1)

- ☐ Provision of Facilities for Pedestrians & Bicycles
- ☐ Provision of safety and educational activities for Pedestrians & Bicycles
- ☒ Preservation of Abandoned Railway Corridors (Including their conversion & use for pedestrian or bicycle trails)

HISTORIC RESOURCES (Attachment C-2)

- ☐ Acquisition of Historic Sites
- ☐ Rehabilitation & Operation of Historic Transportation Buildings, Structures, or Facilities (including railroad facilities and canals)
- ☐ Historic Preservation
- ☐ Archeological Planning & Research
- ☐ Transportation Museums

TRANSPORTATION AESTHETICS (Attachment C-3)

- ☐ Landscape and Other Scenic Beautification
- ☐ Mitigation of Water Pollution Due to Highway Runoff
- ☐ Control and removal of outdoor advertising
- ☐ Environmental Mitigation to Reduce Vehicle Caused Wildlife Mortality

SCENIC PRESERVATION (Attachment C-4)

- ☐ Scenic Byway Program
- ☐ Acquisition of Scenic Easements & Scenic Sites
- ☐ Tourist & Welcome Center Facilities

APPLICANT'S SIGNATURE:	TITLE:	DATE
SPONSOR'S SIGNATURE:	TITLE:	DATE
Property Ownership Questionnaire		
Who owns the property for the project?	<input type="checkbox"/> SPONSOR <input type="checkbox"/> APPLICANT <input checked="" type="checkbox"/> OTHER	
Is property to be acquired for this project? If yes, STOP ALL NEGOTIATIONS!	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
Is property for the project under a lease agreement? If yes, list parties and term of the agreement(s).	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Does sponsor propose to control the property by way of an easement? If yes, identify parties, term and purpose of easement.	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Is the project located on or near property owned by a railroad? If yes list the railroad(s). <i>CSX Railroad</i>	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO

ATTACHMENT A:
DESCRIPTION OF PROPOSED PROJECT

Project Description – In the space below, provide a clear, concise narrative of the scope of work with technical specifications. In the description, include beginning and end points, all proposed work, any right of way (property acquisition), leases, easements required, relationship between the proposed project and the transportation facility to be enhanced, any current or proposed construction work on the transportation facility, and the proposed project work schedule. You may add a separate sheet to this attachment if necessary.

The Athens-Murmur Rails- to- Trail project runs along a 1.9 mile abandoned CSX rail line. It begins on the east side of the Athens' downtown commercial district and runs parallel to Lexington Road/ Highway 78, which is an automotive corridor, expanded to its full five lane capacity and is still heavily congested. The Athens-Murmur Trail will help alleviate traffic congestion by providing a low impact alternative to vehicular traffic (for the professionals, university students, those in the surrounding impoverished neighborhoods, and visitors to Dudley Park) to its terminating point adjacent to the Carmike Shopping Center and Barnett Shoals Road. This road has recently been expanded and equipped with bike lanes, which extends the usefulness of the Trail.

The Athens-Clarke County government will acquire half of the rail line by an in-kind donation from CSX and will pay for the remainder of the corridor. Thus, Athens-Clarke County will follow the provisions specified by the Georgia Department of Transportation in order to use the acquisition of the abandoned railroad towards the required twenty percent match, an example of

SECTION III - FUNDS REQUESTED AND LOCAL MATCH		
FEDERAL FUNDS REQUESTED \$ 1,000,000.00	LOCAL MATCH (minimum 20% of TOTAL) \$ 200,000	TOTAL PROJECT COST \$ 1,000,000.00
HAVE YOU PREVIOUSLY APPLIED FOR ENHANCEMENT FUNDS FOR THIS PROJECT?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
IS PROJECT A CONTINUATION OF A PREVIOUSLY FUNDED ENHANCEMENT PROJECT?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
IF YES, WHAT IS THE PI#? _____		
DOES LOCAL UNIT OF GOVERNMENT SUPPORT PROJECT? (Attach support letter, Attachment G)	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
IS PROJECT ON A STATE HIGHWAY?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
FOR METRO AREAS OVER 50,000 POPULATION, IS PROJECT IN LONG RANGE PLAN?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DATE ADDED OR TO BE ADDED TO LONG RANGE PLAN: 10-01-02		
DO YOU INTEND TO USE "INNOVATIVE FINANCING" FOR THIS PROJECT?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
PLEASE READ PAGE 2 OF THE INSTRUCTION BOOKLET BEFORE YOU ANSWER THIS QUESTION.		

innovative financing.

By linking Athens' east side to Athens proper, Trail users will be able to access downtown transportation facilities such as the Athens bus system, the University bus system, the Greyhound bus system, taxi companies, airport shuttle, bicycle shops, and the future commuter rail terminal.

The historic 19th century Murrell trestle will act as a focal point as well as an historic site. The trestle rehabilitation is designed for pedestrians, bicyclists, and roller bladders. The trail itself will be 12 feet wide, which allows for traffic flow, and made of concrete at a two degree angle, allowing gentle water runoff which protects the environment.

Project Benefits –This is your opportunity to promote the benefits of the proposed project. You may add a separate sheet to this attachment if necessary.

The Dudley Park Trestle gained worldwide fame after it was featured on REM's first album, *Murrell*. The preservation of the Trestle is supported by thousands of people all over the world, both for its notoriety as well as its historic and aesthetic value. The Trestle could attract tourists to Athens, as well as offer future generations the chance to experience a part of nineteenth-century history. Furthermore, railroad lines are historically significant, since they once brought commerce to communities and facilitated travel.

Utilizing the Trestle as part of a Rails-to-Trails program would not only be the most effective means to preserve the historic structure, but also a means to move people around town without the use of automobiles. More specifically, the Dudley Park Trestle would provide an efficient, inexpensive way to transport bicycle and pedestrian traffic from the East side into downtown, reducing automobile traffic on Lexington Road, which runs parallel to it and is already expanded to its maximum capacity. Ultimately, the trestle would be the East-West connector for the North Oconee River Greenway and service many groups of people, including university students, those in surrounding impoverished neighborhoods, visitors to Dudley Park, and working professionals.

Rails-to-Trails programs effectively shift the focus of building highways to smarter planning which addresses air quality, open space and traffic problems. Non-polluting alternatives to automobiles are extremely beneficial, saving billion liters of gasoline, which concomitantly prevents exhaust emissions into the air. According to research conducted by the Rails-to-Trails Conservancy in 1995, 85 million people used Rails-to-Trails in 1994 alone. Further research illustrates that the American public saves between 3 to 14 cents for every

automobile kilometer displaced by walking and bicycling due to reduced pollution, oil import costs, and costs due to congestion.

Studies show that bicycle and pedestrian facilities are a smart economic investment because they attract bicyclists, hikers, cross-country skiers and other tourists to the community. Bicycle and pedestrian facilities such as these enhance the quality of life for many individuals. They are also an expression of community pride and character and a channel through which to protect the historic and natural resources of an area. Thus, Rails-to-Trails programs preserve corridors for the integration of many important projects: footpaths, bikeways, historic preservation, nature study and beautification.

<p>Will the project facilitate transportation and strengthen the cultural, aesthetic, and/or environmental aspects of the intermodal transportation system? <u>If no</u>, project is <u>ineligible</u> for the TE Program. If yes, explain (You may add a separate sheet if necessary):</p> <p>More specifically, the Dudley Park trestles would provide an efficient, inexpensive way to nonvehicular traffic from the East side into downtown (Athens City Bus, government agencies, University of Georgia, University of Georgia's bus system, taxi stands, etc.), reducing automobile traffic on Lexington Road, the road running parallel to it that is expanded to its maximum capacity. Ultimately, the trestle would be the East-West connector for the North Oconee River Greenway and service many groups of people, including university students, those in surrounding impoverished neighborhoods, visitors to Dudley Park, and working professionals.</p>	<input checked="checked" type="checkbox"/> YES	<input type="checkbox"/> NO
---	--	---------------------------------------

ATTACHMENT B:

MAPS, PLANS, PHOTOGRAPHS

Provide a maximum of 5 - 8 1/2" x 11" pages, including or replacing this page.

(Sheets up to 11" by 17" may be used if folded to 8 1/2" by 11". Printed on front side only)

Trestle Re-design

Trestle Re-design

Entrance for Rails-to-Trails

Map and Site Design

Illustration 15, Trestle Re-designed



Before



THE PEDESTRIAN, BIKING AND NON-VEHICULAR BRIDGE IS PLACED WITHIN THE SUBSTRUCTURE OF THE BRIDGE. IN DOING SO THE BRIDGE-TRAIL WOULD CLOSELY RESEMBLE A BOARDWALK. BY PLACING THE BOARDWALK WITHIN THE BRIDGE'S SUBSTRUCTURE THE PLATFORM IS SITUATED CLOSER TO THE GROUND.

A MULTIPLY USE PROJECT THAT INCORPORATES PEDESTRIAN, NON-MOTORIZED AND BICYCLE TRAFFIC ON AN ABANDONED RAILWAY CORRIDOR WHILE SIMULTANEOUSLY PRESERVING THE HISTORIC INTEGRITY OF THE RAILROAD TRESTLE AND ROUTE.



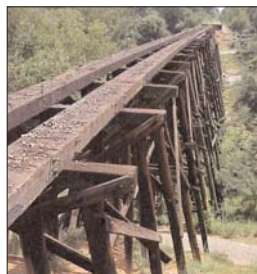
After



Town	ATHENS, GEORGIA
Project	RAILS TO TRAILS TRESTLE
Owner	

BIVINS/ WILDER
DRAWN BY
AUG 2001
DATE
NTS
SCALE

SHEET 1 OF 4



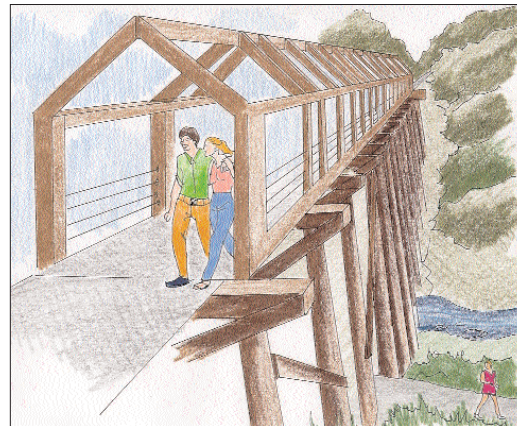
Before



After

RECOMMENDATIONS:

A MULTIPLY USE PROJECT THAT INCORPORATES PEDESTRAIN, NON-MOTORIZED AND BICYCLE TRAFFIC ON AN ABANDONED RAILWAY CORRIDOR WHILE SIMULTANEOUSLY PRESERVING THE HISTORIC INTEGRITY OF THE RAILROAD TRESTLE AND ROUTE.



THE PEDESTRIAN, BIKING, AND NON-VEHICULAR BRIDGE IS AESTHETICALLY PLEASING AS WELL AS SAFE AND FUNCTIONAL. THE UTILIZATION OF CABLE AS FENCING PROVIDES SAFETY, AS WELL AS ALLOWS LIGHT AND AIR TO FREELY PENETRATE AND CIRCULATE THROUGHOUT THE COVERED BRIDGE. LIKEWISE, THE ROOF SHOULD REMAIN OPEN, YET SECURE, OR CAN BE COVERED WITH TIN OR SHINGLES.



ATHENS, GEORGIA
RAILS TO TRAILS TRESTLE
TOWN: _____
PROJECT: _____
OWNER: _____

BIVINS/WILDER
DRAWN BY
AUG 2001
DATE
NTS
SCALE

SHEET 2 OF 4

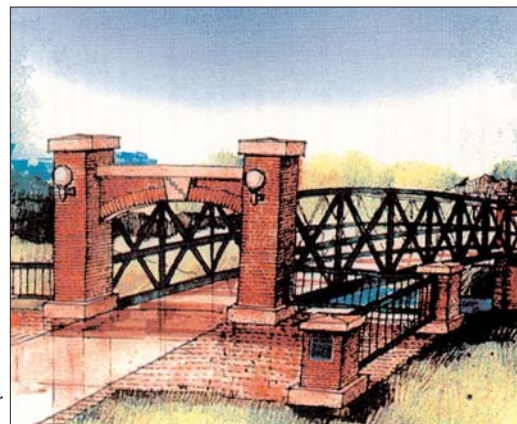
Illustration 17 Entrance for Rails-to-Trails



Before

RECOMMENDATIONS:

- A MULTIPLY USE PROJECT THAT INCORPORATES PEDESTRAIN, NON-MOTORIZED AND BICYCLE TRAFFIC ON AN ABANDONED RAILWAY CORRIDOR WHILE SIMULTANEOUSLY PRESERVING THE HISTORIC INTEGRITY OF THE RAILROAD TRESTLE AND ROUTE.
- THE ENTRANCE WILL ALSO BE USED AS AN INTERPRETIVE SITE.



After

THE PEDESTRIAN, BIKING, AND NON-VEHICULAR BRIDGE IS AESTHETICALLY PLEASING AS WELL AS SAFE AND FUNCTIONAL. THE UTILIZATION OF WOOD CROSS BRACING AS FENCING PROVIDES SAFETY, AS WELL AS AN ATTRACTIVE DESIGN FOR THE TRESTLE.



ATHENS, GEORGIA
RAILS TO TRAILS TRESTLE
TOWN: _____
PROJECT: _____
OWNER: _____

BIVINS
LAYOUT BY
AUG 2001
DATE
NTS
SCALE

SHEET 3 OF 4

Entrance Rendering provided by Newtown

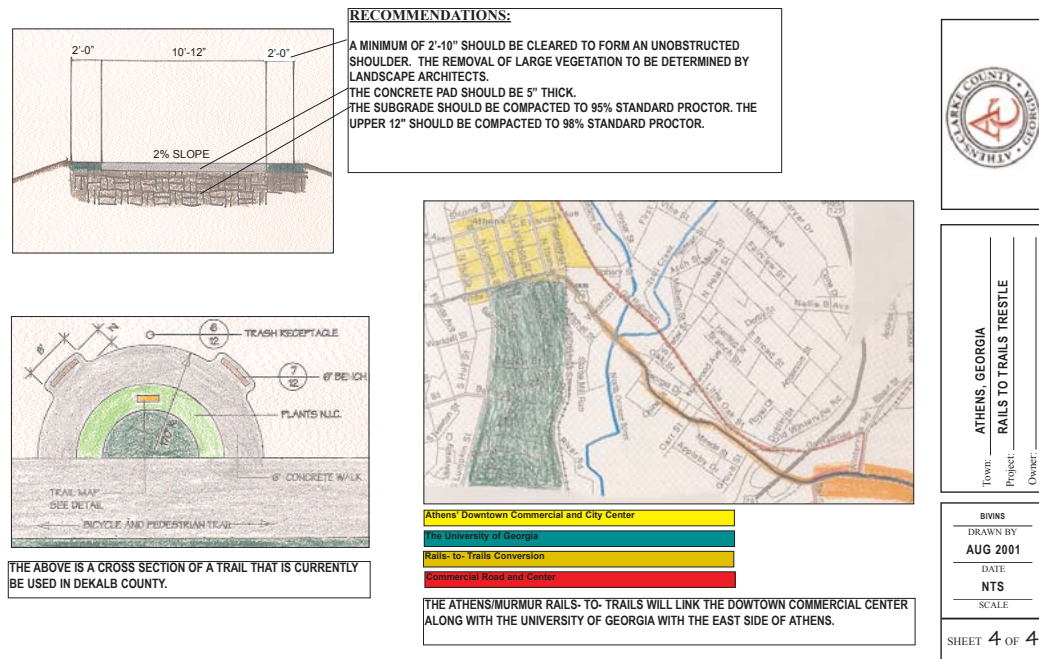


Illustration 18, Map and Site Design

**SPECIAL NOTE REGARDING
 ATTACHMENT C:**

Please complete only the appropriate questionnaire that corresponds to the primary project category selected on **Section II** of the main application form. Discard any questionnaires not required. It is unlikely that a project will have more than one primary project category. **If however, the project has two categories please complete the following:**

- all Steve Roberts at (404) 656-5411 or Chris Kingsbury at (770) 263-5945 for assistance.
- Fill out the questionnaires in *Attachment C* that corresponds with each project category you have selected.
- Photocopy *Attachment F* and complete a budget for each category.

ATTACHMENT C-1: EVIDENCE OF ELIGIBILITY BY PROJECT CATEGORY:

MULTI-USE FACILITIES QUESTIONNAIRE

Is project located on the right-of-way of a State Route, U.S. Highway, or Interstate? If yes, list routes:	<input type="checkbox"/> Y E	<input checked="" type="checkbox"/> NO
---	------------------------------------	---

	S	
Do project limits represent logical begin and end points (i.e. "Logical Termini")? Explain: <i>Begins at the Downtown Central Business District and ends at a new commercial development and major streets with bike lanes.</i>	✓ Y E S	<input type="checkbox"/> NO
Connection to mass transit or other transportation modes? If yes, list: <i>Athens Bus Company, University Bus, Greyhound Bus</i>	✓ Y E S	<input type="checkbox"/> NO
Historical/Archeological sites within project limits? If yes, list:	✓ Y E S	<input type="checkbox"/> NO
Is there access or proximity to other resources (historic/archeological sites or districts, tourist attractions, parks, etc)? If yes, list: <i>Dudley Park, Athens Greenway, Sandy Creek Nature Center & Park, State Botanical Gardens, Athens Historic Business District, and the University of Georgia</i>	✓ Y E S	<input type="checkbox"/> NO
Does project include amenities (bridges, rest areas, furnishings, landscaping, etc.)? If yes, describe: <i>The Athens-Clarke & Murmur Trail will bisect Dudley Park, which provides amenities such as restrooms, water fountains, meeting space, and recreational activities.</i>	✓ Y E S	<input type="checkbox"/> NO
Briefly explain how this project meets the eligibility criteria for Multi-Use Facilities: <i>The Project will provide a significant role in the intermodal transportation system in and around Athens. Pedestrians, cyclists, and nonvehicular vehicles will be able to use the trail on a daily basis. The 1.9-mile corridor runs parallel to the congested highway 78 and will provide an alternative route for many commuters and residents within the city, helping the city in poor air quality mitigation and lowering traffic congestion. In addition, the trail will connect with the local mass transit to provide service to key points along the trail. As well as connecting to additional bike lanes to allow an alternative transportation link from Athens' commercial downtown to the budding east side.</i>		

Sponsor acknowledges awareness of the following guidelines and information which may influence project design and budget:	✓ YES
---	-------

ATTACHMENT D:

PRELIMINARY ENVIRONMENTAL WORKSHEET

PLEASE READ CAREFULLY:

This is a two (2) page attachment to be filled out entirely.

This is a preliminary worksheet designed to inform GDOT of environmental implications for the proposed project, and to alert the applicant/sponsor of future environmental documents needed if the project is selected. If the project is selected, the sponsor will be required to complete detailed environmental documentation and obtain environmental clearance before acquiring/certifying right-of-way or beginning construction.

PROPOSED PROJECT

DESCRIPTION OF POSSIBLE IMPACTS: (Relative to the environmental aspects of the project, include details of all proposed construction, including areas of impact, grading, ROW required etc., as appropriate)

The Trail Corridor will include a 12ft. wide concrete trail with 2 ft. grassed shoulders. The trail grade will be maintained at 5% or less to accommodate the physically impaired. The trail will be sloped at 2% to allow for drainage. To build the facility described, rails will be removed and grading will be performed as necessary to allow for installation. All areas that are disturbed during construction will be hydro seeded and strawed.

CATEGORICAL EXCLUSION

ANTICIPATED ADVERSE IMPACTS: IF NO INVOLVEMENT is anticipated, check "NO". If involvement IS anticipated or unknown, check "YES" and describe under Anticipated Impacts on Page 2 of this form.

YES

NO

YES

N
O

A. Social Environment			C. Natural Environment		
1. Neighborhood Impacts	<input type="checkbox"/>	✓	1. Wetlands	<input type="checkbox"/>	✓
2. Relocation Potential	<input type="checkbox"/>	✓	2. Floodplain	<input type="checkbox"/>	✓
3. Churches/Institutions	<input type="checkbox"/>	✓	3. Farmlands	<input type="checkbox"/>	✓
4. Cemeteries	<input type="checkbox"/>	✓	4. Endangered	<input type="checkbox"/>	✓
5. Economic	<input type="checkbox"/>	✓	Species	<input type="checkbox"/>	✓
6. Significant Natural		✓	5. Wild/Scenic	✓	
Features			Rivers	<input type="checkbox"/>	✓
			6. Land Disturbance		
			7. Tree Removal		
B. Cultural Environment			D. Permits Required		
1. Parks/Public Lands	<input type="checkbox"/>	✓	1. U.S. Coast Guard	<input type="checkbox"/>	✓
2. Historic Potential	<input type="checkbox"/>	✓	Permit	<input type="checkbox"/>	✓
3. Archeological Potential	<input type="checkbox"/>	✓	2. Forest	<input type="checkbox"/>	✓
			Service/Corps Land		
			3. Section 404		

ANTICIPATED ADVERSE IMPACTS EVALUATION

For those items you answered "YES", describe anticipated/potential adverse impacts and sources of information. Refer to numbered items from the Anticipated Impacts checklist. Attach additional sheets if needed.

Land Disturbance- potentially, some mature trees may be removed to facilitate trail construction. All disturbed areas will be seeded and strawed. Silt fencing will be installed and maintained to prevent erosion.

Do you have any existing environmental documentation for the proposed project or the area of the proposed project:? If so, please list: *NO*

**IDENTIFY PARTY RESPONSIBLE FOR PREPARING THE
ENVIRONMENTAL DOCUMENTATION**

Name <i>School Of The Environment at The University of Georgia</i>	Title <i>Pratt Cassity</i> Phone Number <i>(706) 542-4731</i>	
Agency Name <i>University of Georgia</i>	Mailing Address <i>325 South Lumpkin St.</i>	
City <i>Athens</i>	State <i>Georgia</i>	Zip Code <i>30603</i>
<p>I have considered the potential effects on the natural and environmental resources and assure that this worksheet is completed to the best of my knowledge. Further, I assure that the appropriate environmental documentation will be completed in accordance with state and federal regulations if the project is selected. I understand that the project must comply with all applicable state, local and federal environmental regulations. I also understand that it is the sponsor's responsibility to obtain any necessary environmental permits required by affected state and federal agencies. Lastly, I understand that the sponsor must comply with the stipulations and conditions of any permit issued and that adequate soil erosion and sedimentation control measures will be used for this project.</p>		
APPLICANT'S SIGNATURE:	TITLE:	DATE
SPONSOR'S SIGNATURE:	TITLE:	DATE

ATTACHMENT E: **PROPOSED MAINTENANCE AND MANAGEMENT PLANS**

Describe proposed maintenance plan, budget (including source of funding). Specify who is in charge of management and security of the project. This page only.

ATTACHMENT F: **BUDGET (Budget Required for Each Project Category)**

Please show estimated cost for each phase of the project.

The County is responsible for this page.

COST CATEGORY	TOTAL COST	FEDERAL FUNDS REQUESTED	LOCAL FUNDS
1. DESIGN PHASE (Includes planning, architecture, and construction fees)	50,000	50,000	0
2. PROPERTY ACQUISITION	150,000	0	150,000
3. PROJECT ADMINISTRATION	50,000	0	50,000
4. CONSTRUCTION	700,000	700,000	0
5. CONTINGENCY (maximum is 10% of construction costs)	50,000	50,000	0
TOTAL PROJECT	1,000,000	800,000	200,000

COST (Sum of items 1-5)			
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ESTIMATED LOCAL MATCH = \$200,000 WHICH IS 20% OF TOTAL PROJECT COST

(Must be at least 20% of TOTAL PROJECT COST)

SOURCE OF LOCAL MATCH: In-kind donation, donated staff support, donated material, and fund raising.

AMOUNT FEDERAL (TE) FUNDS REQUESTED: \$800,000

(Not to exceed 80% of TOTAL PROJECT COST OR \$1 MILLION)

SPONSOR'S BUDGET CERTIFICATION:

The sponsor's signature indicates understanding of the need to provide matching funds, the sponsor's commitment to maintaining the project and the sponsor's obligation to follow federal guidelines for all actions, including, but not limited to consultant and contractor selection, environmental regulations and property acquisition guidelines.

SIGNATURE

TITLE

PRINTED NAME

DATE

ATTACHMENT G:

LETTERS OF SUPPORT

Attach a maximum of five letters of support. If project is located within an urbanized area, the MPO ***must*** provide one additional letter of support. See INSTRUCTIONS.

Groups in the Athens Area to contact for letters of public support:

***Athens Historical Society
Athens-Clarke Heritage Foundation
Clarke-Oconee Genealogical Society
Athens Area Environmental Education
Athens Land Trust
Bird Enthusiasts & Keepers of Athens
Defenders of Wild Cumberland
Environmental Law Association
Georgia Land Trust Service Center
Keep Athens-Clarke County Beautiful
Northeast Georgia Chapter of the Conservancy
Oconee Greenway Organization
Oconee River Greenways Commission
Oconee River Land Trust
Athens-Clarke County Planning Department
Athens-Clarke County Mayor's Office***

Does the project have broad support of the community and of the property owners within the project's limits? Explain:



YES



NO

A Countywide steering committee made up of citizens and elected officials from Athens-Clarke County have guided the development of the Athens- Clarke County & Murmur Trail. This committee will continue to have monthly meetings as a forum for any comments from the public.