

# MULTIUSE RAIL TRAILS AND THE PROTECTION OF VIRGINIA RAIL LINES



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### EXECUTIVE SUMMARY

Rail corridors are tempting candidates for multiuse trails, as assembling a new trail corridor is daunting and expensive. There are 51 open rail trails in Virginia with 11 more in development. The Introduced 2023-2024 Biennial Budget includes a total of \$233 million to support three multi-use trails, two of which make use of out-of-service freight rail lines.

It is shortsighted for Virginia government to systematically target out-of-service rail corridors for permanent conversion to trails when those corridors have the potential to add new transportation alternatives to meet the growing rail transportation needs of Virginia citizens and businesses. Once these corridors are lost, it is exceedingly difficult to resurrect them. National statistics show that once a trail is built on the line and rail infrastructure fragmented or removed, reactivation of rail service almost never occurs.

Virginia rail policy should protect out-of-service and underutilized rail lines that may provide opportunities for future rail expansions while still providing for outdoor recreational opportunities through multiuse trails. The economic, environmental, and transportation benefits for reuse of out-of-service and underutilized short lines for rail transportation would be significant. An analysis of those benefits should be part of all feasibility and planning studies for proposed rail trails.

Railbanking is a voluntary federal registration process that protects trail owners from adverse land title claims while at the same time providing for potential reactivation of rail service in the future. It is highly recommended by the Rails-to-Trails Conservancy. In addition, Rails-WITH-Trails best practices allow for the shared use of rail corridors for both rail and trail operations to co-exist on the same right-of-way – a win-win solution for both rail transportation and outdoor recreation

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**VRPI RECOMMENDS THAT ALL RAIL LINES CONSIDERED FOR STATE-FUNDED MULTIUSE TRAILS IN VIRGINIA SHOULD BE RAILBANKED WHENEVER POSSIBLE. FOR TRAILS TO BE DEVELOPED ON RAILBANKED RAIL LINES, DUE CONSIDERATION SHOULD BE GIVEN TO THE POTENTIAL REUSE OF THE LINE FOR FUTURE RAIL OPERATIONS AND TO PLANNING, DESIGNING, AND CONSTRUCTING THEM IN A MANNER CONSISTENT WITH FEDERAL HIGHWAY ADMINISTRATION BEST PRACTICES FOR RAILS-WITH-TRAILS TO PRESERVE THE RAIL LINE FOR FUTURE REACTIVATION.**

## RAILS-TO-TRAILS CONVERSIONS OF INACTIVE RAIL CORRIDORS

VRPI understands and appreciates the interest in developing multiuse trails in Virginia, such as on the Eastern Shore, the Fall Line trail between Ashland and Petersburg, and in the Shenandoah Valley north of Harrisonburg. Multiuse trails offer environmental, recreational, and economic benefits to the cities, towns, and counties in which they are located.

Former Governor Ralph Northam included in his proposed Biennial Budget a total of \$233 million to support the planning, development, and construction of three multi-use trails, two of which (Eastern Shore and Shenandoah Valley) make use of out-of-service freight rail lines.

These rail trails would add to the 51 Rails-to-Trails facilities — a total 437 miles of rail trails already in service in Virginia, according to Kelly Pack, Senior Director of Trail Development for the Rails-to-Trails Conservancy ([VRPI Webinar](#)), and an additional 11 projects for 130 miles of rail trails are underway. This includes, in addition to the above-mentioned trails, the conversion of an out-of-service Norfolk Southern line originally purchased by the city of Virginia Beach for an extension of *The Tide* light rail, which is no longer under consideration by the city council.

Rail corridors are tempting candidates for trails, as assembling a new trail corridor is daunting and expensive. But VRPI urges caution. Rail corridors were built for rail transportation and once these corridors are lost, it is exceedingly difficult to resurrect them no matter the changed circumstances that may call for their return to rail use. Once the tracks are removed and the right-of-way converted to a park or trail easement, any potential for restoration of the former rail line all but vanishes.

## RAILBANKING AND THE PRESERVATION OF RAIL LINES

[Railbanking is recommended](#) by the Rails-to-Trails Conservancy because it protects Trail Managers from title claims by adjacent landowners that would arise if the railroad abandoned the corridor without the protection of federal rail banking law. It protects the railroad, as well, in case circumstances change and the railroad or a third party wishes to reactivate rail operations on the line. Of the 51 open rail trails in Virginia, three have been railbanked.

[The Federal railbanking law is explained in the [Appendix](#) of this document.]

In practice, reactivations of rail service on rail trails are extremely rare. Trails become popular public amenities that can be impossible to take back. While the railroad has the legal right to reclaim a railbanked line, the trail agency is entitled to receive fair market value for the corridor (plus money for improvements) under terms and conditions set by the Surface Transportation Board, making it prohibitively expensive to return the line to active rail service once converted to a trail.

Across the country, there are only two cases known to the Rails-to-Trails Conservancy where rail service was reactivated on railbanked corridors after trails had been constructed, and these involved only partial segments of the rail line, according to Kelley Pack, Senior Director of Rail Development for the Rails-to-Trails Conservancy ([VRPI Webinar](#)).

The “[Back on Track](#)” report published by the Chaddick Institute at DePaul University in Chicago reviewed 90 projects in the past 16 years, plus another 20 in development, involving discontinued rail lines successfully restored to active rail service, to the great benefit of the communities served.

For municipalities with populations over 20,000, more than three-quarters regained service through passenger rail initiatives, with the vast majority for light-rail or commuter rail lines. Significantly, “No municipalities in this category regained service by an initiative that required eliminating a recreation trail (“rail-trail”) built on a former railroad route.” (Pg 9)

## RAILS-WITH-TRAILS ALTERNATIVES

Rails-With-Trails are fundamentally distinct from “Rails-to-Trails” in that they represent the interests of both rail and trail to co-exist within the same or adjacent right-of-way — a win-win for both outdoor recreation and rail transportation.

The Federal Highway Administration has published a [Best Practices Manual](#) for Rails-With-Trails, defined as “a shared-use path or trail open and developed for public use that is located on or adjacent to the rights-of-way of an active railroad or rail transit corridor. By contrast, with Rails-to-Trails, “all rail service has been discontinued, tracks have been removed, and the entire right-of-way converted to a path or trail.”

“Public transportation agencies are increasingly working with communities to develop rails-with-trails along their right-of-way, often in conjunction with the development of new or expanded transit lines.” ([FHWA](#)) There are currently more than 399 Rails-With-Trails in the United States, with 1025 linear miles of them located along active railroad corridors—and more are being built each year ([VRPI Webinar](#)).

## RAIL TRAILS AND VIRGINIA’S FUTURE TRANSPORTATION NEEDS: ON A COLLISION COURSE?

VRPI recognizes that not every former rail line is a good candidate for restoration of rail service. We do not know what is to come. What we do know is that freight and passenger demand will increase in the future and that road capacity is unlikely to grow proportionately to match demand.

We know that Virginia's groundbreaking passenger rail initiatives for the I-95 Corridor between Washington, Richmond, and North Carolina, as well as the extension of passenger rail to Christiansburg and the state's developing plan for East-West passenger rail across the Commonwealth will all require the use of out-of-service Class I or underutilized short lines for key segments of the routes. Had these corridors been abandoned or irretrievably converted to trails, these important transportation projects would not be possible.

We know that freight railroads, while currently retrenching and shedding unused infrastructure, will respond to future trends and customer demands and expand their services accordingly in places that see little demand today.

As demand for passenger and freight rail grow, Virginia rail policy should protect out-of-service and underutilized rail lines that may provide opportunities for future rail expansions.

### **SHENANDOAH VALLEY FUTURE RAIL NEEDS**

The I-81 Corridor in the Shenandoah Valley is one of the most congested and hazardous in the nation. VDOT has committed to advancing multimodal solutions to relieve truck and automobile traffic on the corridor. It is no surprise that public demand for passenger rail is growing in I-81 communities. The cities of Roanoke, Christiansburg, Bedford, and Bristol have each mounted public campaigns for extensions of state-supported passenger rail to their communities.

The Shenandoah Valley West line (the Norfolk Southern western line between Broadway and Riverton Junction) is proposed to be converted to a rail trail. Although not mentioned in VDOT's [feasibility study of the Shenandoah Rail Trail](#), we should not overlook the rail line's potential for successful passenger or short line freight operations in the future.

The Shenandoah Valley West line connects small towns in a largely rural area but also provides rail access to burgeoning medium-size cities like Winchester and Harrisonburg, who may have much greater use for passenger rail in coming years. The permanent conversion of the Shenandoah Valley West line to trail-only use will likely eliminate any future opportunity for Harrisonburg to have convenient passenger rail connections to NOVA and Washington, D.C., along with the employment and rail access to Amtrak's Northeast Corridor and Long-Distance routes that would come with it.

As to restoring freight operations on the line, the Virginia legislature established a public policy in 2006 declaring the retention, maintenance, and improvement of short line rail corridors to be in the public interest and essential to the Commonwealth's economic growth and vitality [Va. Code Section 33.2-1602]. The state established a Rail Industrial Access Program to support rail-served industrial sites and tasked the [Virginia Economic Development Partnership](#) with assisting them.

Economic indicators tell us that distribution and manufacturing is rapidly progressing South from the Northeast, increasing the demand for rail-served industrial sites in the Shenandoah Valley. VRPI's research found that since January 2020, the [Shenandoah Valley Partnership](#) has received 24 inquiries regarding the availability of rail-served industrial sites on or near the Shenandoah Valley West corridor, and there appears to be active interest among some members of the Shenandoah Valley business community in re-establishing freight service on the line.

That the current owner has shown no interest in reactivating freight service on this line is more a reflection of the business model preferred by large, shareholder owned railroads than an indictment of the potential for a small, independently owned short line to conduct successful freight operations on the line.

The economic and environmental benefits for the reuse of the Shenandoah Valley West line for rail transportation would be significant, and these should be part of any feasibility analysis or planning studies for the proposed rail trail.

## THE NEED FOR BETTER PUBLIC POLICIES FOR RAIL TRAILS

It is shortsighted for Virginia government to systematically target out-of-service rail corridors for permanent conversion to trails when those corridors have the potential to add new transportation alternatives to meet the growing rail transportation needs of Virginia citizens and businesses.

VRPI believes the only prudent course is for rail lines to be railbanked before building rail trails, and for those trails to be designed, constructed, and managed in a manner that will permit active rail operations and trail activities to coexist on the same right-of-way in accordance with FHWA Rails-With-Trails Best Practices.

## VRPI RECOMMENDS THE FOLLOWING AMENDMENTS TO BUDGET BILLS SB/HB30 (INTRODUCED), AND SB/HB 29 ITEM 447.10, SECTION B9

1. RAIL LINES CONSIDERED FOR STATE-FUNDED MULTIUSE TRAILS IN VIRGINIA SHOULD BE RAILBANKED WHENEVER POSSIBLE.
2. FOR TRAILS TO BE DEVELOPED ON RAILBANKED RAIL LINES, DUE CONSIDERATION SHOULD BE GIVEN TO THE POTENTIAL REUSE OF THE LINE FOR FUTURE RAIL OPERATIONS AND TO PLANNING, DESIGNING, AND CONSTRUCTING THEM IN A MANNER CONSISTENT WITH FEDERAL HIGHWAY ADMINISTRATION BEST PRACTICES FOR RAILS-WITH-TRAILS TO PRESERVE THE RAIL LINE FOR FUTURE REACTIVATION.

## APPENDIX: FEDERAL RAILBANKING LAW EXPLAINED

The following explanation of Railbanking is by Peter Raynor, the central author of the 1983 Railbanking Act which has led to the creation of over 4,200 miles of rail-trails across the country. This and more information about railbanking can be found on the [Rails-to-Trails Conservancy website](#).

Railbanking takes place during the rail corridor abandonment process, and official negotiations with the railroad can begin only after the railroad submits an initial notification to abandon the line to the Surface Transportation Board (STB). Any qualified private organization or public agency that has agreed to maintain the corridor for future rail use is eligible to negotiate for railbanking. During negotiations, the railroad is permitted to remove all its equipment and materials, except for bridges, tunnels, and culverts, from a corridor.

If railbanking negotiations fail, the railroad will usually proceed with line abandonment. If negotiations succeed, a railbanking agreement will be established, and the railroad will turn the corridor over to the qualified private organization or public agency. This property transfer precludes abandonment. In other words, because a railbanked corridor is not considered abandoned, it can be sold, leased, or donated to a trail manager without reverting to adjacent landowners.

The abandoning railroad has the right to re-establish rail service on a railbanked corridor. Should that occur, the trail-managing agency ordinarily is entitled to fair market compensation from the railroad seeking to re-establish rail service. However, to avoid disputes, this issue should be specifically addressed as a contingency in the initial contract with the abandoning railroad.

An informative article about railbanking and other legal concerns involving Rails-to-Trails Conversions may be found in the [Virginia Environmental Law Journal](#).