

Emails received between 02/03/21 – 03/23/21

Sent: Wednesday, February 3, 2021 12:50 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail Trail

Hi, I cannot attend the meeting tomorrow, however, I wanted you to get my opinion. I am a lifelong resident of Santa Cruz (60 years) and think the endless studies need to stop. It is sheer madness to keep trying to ram the train down our throats after many studies that are clearly biased towards trains. Seriously, I do not know ANYONE that wants a train or thinks it is a good idea and I know a lot of people. Our bus ridership from Watsonville to Santa Cruz is minimal at best and according to their records the bulk of the ridership is from areas downtown to UCSC which isn't even in the cards for a train. We will be subsidizing a train for centuries.

This train is a train to nowhere. The cost alone is prohibitive for such a small population. Also, where are the rail stations going to be? I smell a lawsuit with every proposed location. Parking for the stations? Really? Where might that go? Are people going to walk from the hills to get to a station? It will never be built, and if it is it will destroy the character of Santa Cruz and cause nightmarish traffic and safety issues all through the Capitola and Live Oak areas. There are no less than 7 crossings from Capitola to the San Lorenzo River in an area that already has serious traffic issues. Let's stop it up worse with 30 train trips per day, sounds like a great idea.

The only study being done should be studying the results of a countywide referendum on the issue. Do not waste anymore of our money on another study. Put it on the ballot and I think you will find that most people here want a beautiful trail that can be used in very short order. Rail bank the corridor if you feel a need to preserve the right of way, but let's get a world class trail that will get tons of use by locals and tourists alike. It could be amazing. Thank you.

Gary Heath

CFO

Direct: 831.824.0635

Support: 888.973.7546 Email: Gary@beautysolutions.com

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Beauty Solutions, LLC | www.beautysolutions.com

Kevin Murphy | Color.Me | Hotheads | Alfaparf | Eleven | Megix10 | Trissola

From: <jon@longsworth.com>

Sent: Wednesday, February 3, 2021 2:58 PM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: NO TRAIN: build our multi-use trail now!

RTC Commissioners must not accept the findings of the Transit Corridors Alternatives Analysis (TCAA) as currently presented.

We need to stop the ongoing million-dollar RTC studies with clearly biased conclusions.

It's time for action instead of studies.

Exhibit:

- Lack of public support for a train — The only large-scale gauges of public opinion (10,000+ Greenway petition signers; Measure L in Capitola; the election of Manu Koenig—with this crucial plank of his platform) show minimal if any real support for a train.

Conversely there is essentially universal support for a trail.

- Complete absence of a trail-only study — While millions have been spent studying a passenger train, the RTC has never done a study focused on a trail alone. In fact this has been specifically excluded from all such sanctioned studies.

- Escalating costs for trains — Every RTC study of implementing a passenger train has increased the estimated cost to the point where it is now broaching \$1.3 billion. Santa Cruz County would have to raise its sales tax to fund a train. That requires overwhelming voter approval, a minimum of 2-to-1 in favor. It is extremely unlikely such a sales tax increase would pass given the results of Measure L and Manu Koenig's recent victory with more votes than any Santa Cruz County Supervisor ever.

- Railbanking preserves the option for a passenger train — Railbanking was created for exactly the situation in Santa Cruz County, where an old freight rail corridor is no longer viable (three rail operators having quit in the last eight years). Railbanking preserves the corridor and all of its

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legally recognized easements in case of future need.

- Both the TCAA study and the prior Unified Corridors Investment Study (UCIS) show that a train will cost as much as \$1.3 billion or more: not reasonably feasible for our small county of 270,000 people. Supervisors Bruce McPherson, Zach Friend's alternate Patrick Mulhearn, and new Supervisor Manu Koenig are insisting that we have done enough studies and the voters are anxious for the RTC to actually build a trail with the Measure D money passed in 2016.

The train is essentially a dead idea, due to cost and infeasibility. The only real question remaining: which trail to build.

- The current attempted version of a trail is mediocre and expensive — Because of the complexity and required regulations of a trail alongside the currently unused sections of track, the negligible bit of trail that has been built so far is narrow, has a fence dividing neighborhoods, and is very expensive. The sections of the trail that have not yet been built are substantially more complex, need to replace or build dozens of bridges and overpasses, cut hundreds of heritage trees, construct large additional retaining walls, and even after all that, the plan for this version of a trail detours it onto unsafe county streets for more than six miles.

This trail as originally envisaged by the RTC and the train lobby is unnecessarily narrow and situated immediately adjacent to the [proposed busy] railway. Nor is it a full trail, in its entirety, but rather a discontinuous chain of sections. These fragments as proposed would be made possible only by TWENTY-FOUR new bridges, extensive excavation, tree cutting and large retaining walls. Delayed over & over by the extensive re-engineering work required, only a 1.2 mile section of trail—among the easiest build—has been completed. The rest remains partially or completely unfunded.

The more fully envisioned trail on the existing rail bed **COULD BE BUILT WITH MEASURE D FUNDS.**

The RTC is hereby called on to set a target of 2026 to **COMPLETE** it, creating a wide multi-use trail down the center of the already ample, already leveled corridor, using existing bridges.

During Manu Koenig's successful campaign for county Supervisor, the train lobby was active with the same campaign of shortsighted [mis-]information they continue to spread to this day. Koenig's decisive victory shows that voters were clearly able to discern who has been offering the

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most legitimate claims—for the past six years.

We thank the RTC staff for including an agenda item (#10) explaining railbanking to the Commissioners and the public.; for finally acknowledging the truth of what trail advocates have been saying all along—and that FORT ('Friends of the Rail and Trail') has been denying for the entire six years: that railbanking is a real and viable backstop. With this impediment out of the way, it is well nigh time to move ahead.

Build the multi-use TRAIL now!

Thank you.

From: Jean Brocklebank <jeanbean@baymoon.com>
Sent: Wednesday, February 3, 2021 12:50 PM
To: Regional Transportation Commission <info@sccrtc.org>
Cc: Manu Koenig <manu.koenig@santacruzcounty.us>; Bruce McPherson <bruce.mcpherson@santacruzcounty.us>; Zach Friend <Zach.Friend@santacruzcounty.us>; Sandy Brown <sbrown@cityofsantacruz.com>
Subject: Comments for the 2/4/21 RTC meeting

Dear Commissioners ~

We will not be able to "attend" the February 4 meeting. Therefore we are submitting these comments to you via email and trust you will review them prior to or during the meeting.

Long time residents, we are primarily pedestrians, eschewing the use of a car, and using our feet as a legitimate form of transportation, traveling daily up to 5+ miles. Additionally, for large purchases or errands such as taking goods to Grey Bears for recycling, we employ a trailer for one of our bicycles. If traffic speeds were enforced (they are not) we would likely travel further on bicycles together on the county's roadways. For now, safety concerns plus physical limitations of our ages (75 and 71) is why we do not travel further by bicycle. We would use a bicycle trail in the (level) corridor to make round trips of 10+ miles, expanding our ability to travel from home. Some day we might even be able to use an electric assist bicycle or tricycle to double that mileage.

To clarify our remarks, we are **not** affiliated with Greenway. In fact, we were opposed to the plans for the industrialization of the rail corridor for years before discovering that there was organized opposition to the plans.

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We speak for ourselves and not at the behest of Greenway, although we do find their extensive work to be excellent. It should be noteworthy to the RTC and taken seriously.

In that regard, it makes sense to us that:

- The RTC has never done a study of trail only. In fact, it has specifically excluded it from studies.
- Rail banking preserves the option for a passenger train or any other train use.
- The information provided to Commissioners and the public in the agenda packet makes it clear that rail banking and a 20 foot wide trail only in the middle of the corridor are compatible. And make sense, both socially as well as environmentally.
- We think the RCT has a responsibility to review, address details, and take seriously Greenway's [Honest Answers for South County Residents](#), especially with regard to social equity.

Most importantly, as environmentalists first and foremost, we have had concerns for years about the destruction of vegetation and the living soils along the corridor. The first completed segment shows how this will happen. Attached are two photos of the corridor in Live Oak, the first taken in October 2016 and the second in July 2020. Both illustrate how everything green in this portion of the corridor would have to be decimated to provide for both rail and trail. Extrapolate this removal of what now is living soil (habitat to countless species of soil microorganism, insects, mammals, reptiles, and birds) to pave essentially a third industrial corridor through the county.

Our questions:

- Why are we planning this environmental destruction in a county that is supposedly environmentally aware?
- Why are we going HUGE, when smaller scale is sufficient to meet the goal of a diverse and environmentally sound transportation system that works?
- Why would we destroy the peace of this living corridor and turn it into a corridor of noise that will disturb not only human residents but

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the non-human residents with which we share this beautiful landscape?

- Why is the RTC pushing a narrow trail that will end up just like West Cliff Drive and the paved trails in Arana Gulch, where bicyclists and walkers are constantly dodging one another, in harm's way?

Finally, we think the county must enhance and provide for a **functioning bus system** on existing roadways. The opportunity cost forgone of grant seeking to funnel millions of dollars into a train and its infrastructure instead of channeling millions into the bus system is both short and long term foolishness. We ask this Commission to put on the brakes long enough to slow down, think about these things, and then reverse direction and explore creatively an alternative that it has ignored for too many years.

Thank you for considering our comments.

Sincerely,
Jean Brocklebank and Michael Lewis
1190 7th Avenue
Santa Cruz, CA 95062

From: Philip Boutelle <philboutelle@gmail.com>
Sent: Monday, February 8, 2021 1:38 PM
To: Ginger Dykaar <gdykaar@sccrtc.org>
Subject: LPA Business Plan

Dear Ms. Dykar,

I'm writing with comments regarding the business plan for the locally preferred alternative. I recommend that the RTC business plan includes an analysis of SB288, as well as one regarding a recent court case addressing voter thresholds required to pass taxes.

SB288 was signed into law in 2020, and it exempts certain projects from CEQA, including light rail on existing rail corridors. If the RTC can implement the LPA under SB288, this will significantly reduce implementation time, costs, and lawsuit risks.

In addition to SB 288, there is another recent court decision that could make funding balance of the project easier. Last month, a CA Court of Appeals ruled that special taxes brought by initiative only need 50%+1 to

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pass, not the 2/3 supermajority as normally required under Props 13 and 218. The ruling even states that elected officials can be involved in the campaign for the tax, as long as it is brought to the ballot by initiative. If we need a tax measure to fund the LPA, it would make sense that the RTC is involved in the campaign but that the tax is brought by initiative. This is a loophole that should be acknowledged and pursued by any government agency trying to gain support for infrastructure or other funding. The full ruling can be seen

here: <https://www.courts.ca.gov/opinions/documents/A157983.PDF>.

Thank you for your dedication to this project, and I hope for continued success.

-Phil Boutelle
Santa Cruz

From: Carey Pico <carey.pico@yahoo.com>

Sent: Monday, February 01, 2021 4:07 PM

To: Ginger Dykaar <gdykaar@sccrtc.org>

Cc: Guy Preston <gpreston@sccrtc.org>; Luis Mendez <lmendez@sccrtc.org>; Zach Friend <zach.friend@santacruzcounty.us>; Gine Johnson <gine.johnson@santacruzcounty.us>

Subject: RTC and Streetlight data

Ginger

I hope is all well with you and those around you.

As you know I've been working on understanding traffic patterns in our county. Last year I suggested the RTC use origin-destination metadata. You responded such metadata would be included in the TCAA. Following the release of the TCAA draft report, I asked for that data. In response, you informed me the TCAA consultants controlled the Streetlight data and the RTC lacks access to it. As an aside, it is my belief that the RTC paid for the TCAA study and its data and should have full command over it. Towards that, I am requesting the RTC to contact the consultants of the TCAA study to ask them to share their Streetlight origin-destination data with me.

Second, independently I contacted Streetlight to obtain my own origin-destination data as a private citizen. During that contact I made it clear two studies, the 2019 UCIS and the 2020 TCAA, employed Streetlight data - meaning, Streetlight had been paid twice in some form for access to its system. In principle, Streetlight agreed to move forward. However, later I

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learned their involvement with me is on hold because they want to assure there is no conflict of interest between the RTC consultants or the RTC and my independent research. For this reason I also am requesting the RTC to ask the consultants to permit Streetlight to work with me unconditionally in regards to the RTC TCAA study or any other study that may be part of the discussion.

I look forward to hearing from you and/or the RTC.

Again, best wishes

Carey

From: Barry Scott <barry@coastalrail.org>

Sent: Wednesday, February 03, 2021 12:22 PM

To: tim_gubbins@dot.ca.gov; Randy Johnson <rlj12@comcast.net>; Aurelio Gonzalez <aurelio.gonzalez@cityofwatsonville.org>; Sandy Brown <sbrown@cityofsantacruz.com>; Ryan Coonerty <ryan.coonerty@santacruzcounty.us>; Bruce McPherson <bruce.mcpherson@co.santa-cruz.ca.us>; Manu Koenig <manu.koenig@santacruzcounty.us>; Zach Friend <Zach.Friend@santacruzcounty.us>; Greg Caput <greg.caput@co.santa-cruz.ca.us>; Bertrand, Jacques <jbertrand@ci.capitola.ca.us>; Michael Rotkin <openup@ucsc.edu>; eduardo.montesino@cityofwatsonville.org; scott.eades@dot.ca.gov; Donna Lind <dlindslind@earthlink.net>; Donna Meyers <dmeyers@cityofsantacruz.com>; Dan Rothwell <darothwe@cabrillo.edu>; Renee Golder <rgolder@cityofsantacruz.com>; Lowell Hurst <lowell.hurst@cityofwatsonville.org>; Tony Gregorio <Tony.Gregorio@santacruzcounty.us>; Andy Schiffrin <Andy.Schiffrin@santacruzcounty.us>; Gine Johnson <Gine.Johnson@santacruzcounty.us>; Patrick Mulhearn <Patrick.Mulhearn@santacruzcounty.us>; Derek Timm <dtimm@scottsdalevalley.org>; Guy Preston <gpreston@sccrtc.org>; Ginger Dykaar <gdykaar@sccrtc.org>; Regional Transportation Commission <info@sccrtc.org>; Sam Storey <samforcapitola@yahoo.com>
Subject: Please disregard the "One page Infographic summarizing the why rail is a bad idea in SCC"

Dear Commissioners and alternates,

Mr. Colligan submitted a letter with a link to Greenway's position on rail transit that stands in stark contrast to the facts and findings of multiple legitimate studies by using reports that Greenway themselves commissioned from Nelson Nygaard and Alta Planning over the past several years.

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Together with others I've reviewed these reports at the time they were provided and found considerable error in both documents and I find it interesting that neither document is endorsed by a specific planner or engineer, a common practice found in other published work by these two firms. Even the renowned Rails-to-Trails Conservancy warned the RTC of some of the misinformation in the Colligan-commissioned Nelson Nygaard report, attached and available from a 2017 [Transportation Policy Workshop agenda packet](#).

Many of you already know that presentations by Greenway have been misleading and will reject the latest false claims made by the organization that seems bent on depriving our community of much needed rail transit integrated with expanded Metro bus service and the approved rail trail.

Please follow the public process and adopt the direction recommended by the Transit Corridor Alternatives Analysis/Regional Network Integration Study and work toward developing a business plan, but please expand the scope to include a wider range of lighter battery electric technologies that can be implemented at a much lower cost than traditional rail.

Respectfully,

Barry Scott

***Battery-electric streetcar service is available
today: coastfutura.org***

Coastal Rail Santa Cruz

A not for profit organization

831-612-6574



Western Regional Office
436 14th Street, Suite 416
Oakland, CA 94612
Tel 510.992.4662

www.railstotrails.org

August 17, 2016

Regional Transportation Commissioners and Staff
Santa Cruz County Regional Transportation Commission
1523 Pacific Avenue
Santa Cruz, CA 95060



Dear Commissioners and Staff,

On behalf of Rails to Trails Conservancy, I would like to submit comments on the *Great Santa Cruz Trail* report, which studies the potential for a trail-only option along the Santa Cruz Branch Line as an alternative to the rail-with-trail project that has been moving forward. The report raises some important issues to be considered by local policymakers. Our *America's Rails with Trails* report, which reviews the experience of rail-with-trail projects from across the country, was cited several times. I would like to clarify several items in the report where our study was cited, as they may lead readers to an incorrect understanding of our position on the Santa Cruz project and on rail-with-trail projects in general.

Rails-to-Trails Conservancy strongly supports the development of all rail trail projects, including both rail-to-trail and rail-with-trail, but we do not take a position on whether rail service is appropriate for a particular community. *America's Rails-with-Trails* was undertaken to demonstrate that in corridors where jurisdictions have elected to operate rail service that trails may also be viable, and to document the practices that have been employed on these projects throughout the country.

Regarding the references to our report in the *Great Santa Cruz Trail* report:

- 90% of rail-trails are in trail-only corridors (p. 21) – This is accurate, but should not be taken to mean that trail-only projects are inherently preferable. As our study found, the number of rail-with-trail projects around the country has grown significantly.
- “The average setbacks between rail and trail is 20-30 ft. in Rail-with-Trails corridors, with higher speed trains yielding larger setbacks or safety separations.” (p. 22) This is accurate as a general statement, but it should be noted that there are numerous examples of trails located immediately adjacent to light rail corridors (e.g. Minneapolis and Denver), where rail service operates at high frequency and relatively high speed. As with other rail-with-trail projects, project designs have incorporated measures to address safety concerns (typically fencing).
- Sidebar on p. 31: These comments are incorrectly attributed to our *America's Rails-with-Trails Report*. Rails-to-Trails Conservancy has not taken a position on the viability of transit service in Santa Cruz County.

We at Rails-to-Trails Conservancy are very excited about the development of the coastal trail in Santa Cruz County. It has the potential to become a major destination and provide significant benefits to the community, and we look forward to supporting this effort as the development of the trail continues.

Sincerely,

A handwritten signature in dark ink, appearing to read "Barry Bergman", with a stylized flourish at the end.

Barry Bergman
Manager of Trail Development
Rails-to-Trails Conservancy, Western Region Office

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From: Bud Colligan <bud@colligans.com>
Sent: Thursday, February 04, 2021 12:24 PM
To: Guy Preston <gpreston@sccrtc.org>; Ginger Dykaar <gdykaar@sccrtc.org>; Regional Transportation Commission <info@sccrtc.org>; Shannon Munz <smunz@sccrtc.org>
Cc: Donna Lind <dlindslind@earthlink.net>; Donna Meyers <dmeyers@cityofsantacruz.com>; Dan Rothwell <darothwe@cabrillo.edu>; Patrick Mulhearn <Patrick.Mulhearn@santacruzcounty.us>; Lowell Hurst <lowell.hurst@cityofwatsonville.org>; Renee Golder <rgolder@cityofsantacruz.com>; Andy Schiffrin <Andy.Schiffrin@santacruzcounty.us>; Tony Gregorio <Tony.Gregorio@santacruzcounty.us>; scott.eades@dot.ca.gov; Derek Timm <dtimm@scottsville.org>; Tim_gubbins@dot.ca.gov; Randy Johnson <rlj12@comcast.net>; Aurelio Gonzalez <aurelio.gonzalez@cityofwatsonville.org>; Sandy Brown <sbrown@cityofsantacruz.com>; Ryan Coonerty <Ryan.Coonerty@santacruzcounty.us>; Bruce McPherson <Bruce.McPherson@santacruzcounty.us>; Manu Koenig <Manu.Koenig@santacruzcounty.us>; Zach Friend <Zach.Friend@santacruzcounty.us>; Greg Caput <Greg.Caput@santacruzcounty.us>; Bertrand, Jacques <jbertrand@ci.capitola.ca.us>; Michael Rotkin <openup@ucsc.edu>; eduardo.montesino@cityofwatsonville.org; Gine Johnson <Gine.Johnson@santacruzcounty.us>
Subject: Fwd: FW: ATTENTION REQUESTED: False information in our Community

Dear Guy and Ginger,

The email below submitted by Faina Segal is irresponsible and defamatory. All the information on the Greenway website is readily available and verifiable for staff or Commission members to review themselves. The infographic is based on sources that can be found at <https://sccgreenway.org/honest-answers-for-south-county-residents>.

The remark regarding Nelson Nygaard's review of the rail corridor in 2016 impugns the reputation of one of the best transportation consultants in our country, who is also used by the RTC. FORT may disagree with the conclusions of the Nelson Nygaard study, but making irresponsible accusations is wrong. No one is accusing any of the many consultants used by the RTC of having bad faith.

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I would point out that Greenway has been right, and FORT has been wrong, about many critical issues:

- FORT insisted railbanking is not possible for the last six years, and now staff says it is. Greenway always supported railbanking.
- FORT insisted Progressive Rail would be a wonderful rail operator and insisted the RTC sign a 10 year contract. Progressive quit after two years. Greenway wrote and spoke extensively to oppose the Progressive Rail contract (<https://sccgreenway.org/news/the-case-against-progressive-rail>)
- FORT insisted that SMART and a diesel train was a great model for Santa Cruz County. Greenway has opposed this model from the beginning (<https://sccgreenway.org/smart-comparison>). SMART is now hemorrhaging money and their voters have rejected an extension of their sales tax.

So before false accusations are made and attempts made to impugn the reputations of organizations or community members, consider the history of actual evidence around the credibility of information provided to staff and the Commissioners over the last six years.

Sincerely,

Bud Colligan

From: Faina Segal <fainamps@gmail.com>
Sent: Wednesday, February 3, 2021 2:27 PM
To: Guy Preston <gpreston@sccrtc.org>; Ginger Dykaar <gdykaar@sccrtc.org>; info@sccrtc.org; smunz@sccrtc.org
Cc: samforcapitola@yahoo.com; Donna Lind <dlindslind@earthlink.net>; Donna Meyers <dmeyers@cityofsantacruz.com>; Dan Rothwell <darothwe@cabrillo.edu>; Patrick Mulhearn <Patrick.Mulhearn@santacruzcounty.us>; Lowell Hurst <lowell.hurst@cityofwatsonville.org>; Renee Golder <rgolder@cityofsantacruz.com>; Andy Schiffrin <Andy.Schiffrin@santacruzcounty.us>; Tony Gregorio <Tony.Gregorio@santacruzcounty.us>; scott.eades@dot.ca.gov; Derek Timm <dtimm@scottsville.org>; Tim_gubbins@dot.ca.gov; Randy Johnson <rlj12@comcast.net>; Aurelio Gonzalez

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<aurelio.gonzalez@cityofwatsonville.org>; Sandy Brown
<sbrown@cityofsantacruz.com>; Ryan Coonerty
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<Greg.Caput@santacruzcounty.us>; jbertrand@ci.capitola.ca.us;
Michael Rotkin <openup@ucsc.edu>;
eduardo.montesino@cityofwatsonville.org; Gine Johnson
<Gine.Johnson@santacruzcounty.us>
Subject: ATTENTION REQUESTED: False information in our
Community

******CAUTION:** This is an EXTERNAL email. Exercise caution. DO
NOT open attachments or click links from unknown senders or
unexpected email.****

Dear RTC Staff,

An infographic that includes false and misleading information concerning rail in Santa Cruz County has been circulated among our community and to the RTC Commissioners. We are all aware of the great dangers that fake news and false equivalencies can do in a democratic society. We urge the RTC Staff to address these false claims publicly, especially for the benefit of the commissioners, who will be responsible for voting tomorrow. We have addressed some of these falsehoods below that are easily verifiable based on the RTC's current studies, however we urge the professional RTC staff to clearly address this false information to prevent the community being misled by unverified sources and individuals.

1) \$242/month as the cost is FALSE – *the price of an all-access transit pass has not been established and will likely not exceed \$150 as evidenced by the fact that METRO currently offers an Amtrak/Hwy17 Express monthly pass for \$145 which includes unlimited use of both METRO and Santa Clara County's VTA systems. <https://www.scmtd.com/en/fares/fares> Even the much larger VTA offers an all access transit pass to their entire light rail and bus system for only \$180/month.*

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2) Trail-only completed in five years is FALSE – *pursuing a trail-only idea would delay the construction of ANY trail for at least 8 years as evidenced by RTC staff report titled “Options for use of the rail corridor” presented at the December 8, 2016 public meeting of the RTC. [RTC Agenda](#)*

3) Stating that children will be at risk is FALSE – *this is an utterly baseless and dangerous claim; in fact, as supported by the RTC’s own studies, adding rail transit will reduce injury accidents throughout our community. This safety information is contained in the performance metrics in the 2019 Unified Corridor Investment Study indicating that the Rail with Trail Scenario B will result in 118 fewer accidents per year than the Trail Only Scenario A all while saving us more than \$26M per year. [Final UCS](#)*

When one or more claims are plainly false, the entire package must be rejected and the source should be called into question moving forward. Friends of the Rail and Trail trusts that the commissioners will rely on their staff and consultants for facts and reject the deceptive infographic and related content submitted by Greenway’s Mr. Colligan.

FORT has faith that the commissioners will trust the science and facts behind the current TCAA study outcome, which was carefully prepared by a project team consisting of RTC and METRO staff capably supported by a team of nationally recognized professional consultants and with the full participation of the entire community in a transparent public process.

In 2016, the RTC reviewed and rejected the error-filled and misleading “2016 Great Santa Cruz Trail” document submitted by Mr. Colligan, before The Great Santa Cruz Trail Group changed their name to the more politically advantageous “SCC Greenway.” These new and similarly-misleading materials should be handled in the same way. When false information is inserted into our governmental processes we are all responsible for calling it out and refuting it.

Thank you for your continued commitment to our County.

Sincerely,

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Faina Segal

Board Chair, Santa Cruz County Friends of the Rail & Trail



From: Philip Boutelle <philboutelle@gmail.com>
Sent: Monday, February 8, 2021 1:38 PM
To: Ginger Dykaar <gdykaar@sccrtc.org>
Subject: LPA Business Plan

Dear Ms. Dykar,

I'm writing with comments regarding the business plan for the locally preferred alternative. I recommend that the RTC business plan includes an analysis of SB288, as well as one regarding a recent court case addressing voter thresholds required to pass taxes.

SB288 was signed into law in 2020, and it exempts certain projects from CEQA, including light rail on existing rail corridors. If the RTC can implement the LPA under SB288, this will significantly reduce implementation time, costs, and lawsuit risks.

In addition to SB 288, there is another recent court decision that could make funding balance of the project easier. Last month, a CA Court of Appeals ruled that special taxes brought by initiative only need 50%+1 to pass, not the 2/3 supermajority as normally required under Props 13 and 218. The ruling even states that elected officials can be involved in the campaign for the tax, as long as it is brought to the ballot by initiative. If we need a tax measure to fund the LPA, it would make sense that the RTC is involved in the campaign but that the tax is brought by initiative. This is a loophole that should be acknowledged and pursued by any government agency trying to gain support for infrastructure or other funding. The full ruling can be seen here: <https://www.courts.ca.gov/opinions/documents/A157983.PDF>.

Thank you for your dedication to this project, and I hope for continued success.

-Phil Boutelle

Santa Cruz County Regional Transportation Commission
Transit Corridor Alternatives Analysis – Business Plan

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Santa Cruz

From: Jack Brown <jack.b.brown@gmail.com>
Sent: Saturday, February 13, 2021 12:42 PM
To: Donald Schwartz <donald@lawofficedonaldschwartz.com>
Cc: J. Ben Vernazza <ben@benvcpa.com>; Brian Peoples <brian@trailnow.org>; openup@cats.ucsc.edu; Guy Preston <gpreston@sccrtc.org>; Matt Machado <Matt.Machado@santacruzcounty.us>; Zach Friend <BDS022@co.santa-cruz.ca.us>; Patrick Mulhearn <Patrick.Mulhearn@santacruzcounty.us>; Bruce McPherson <bruce.mcpherson@co.santa-cruz.ca.us>; Gine Johnson <Gine.Johnson@santacruzcounty.us>; Randy Johnson <rlj12@comcast.net>; Manu Koenig <manu.koenig@santacruzcounty.us>; Bertrand, Jacques <jbertrand@ci.capitola.ca.us>; Alex Clifford <AClifford@scmtd.com>; aurelio.gonzalez@cityofwatsonville.org; sbrown@cityofsantacruz.com; greg.caput@co.santa-cruz.ca.us; jimmy.dutra@cityofwatsonville.org; eduardo.montesino@cityofwatsonville.org; dmeyers@cityofsantacruz.com; David Scott <agentdavidscarn@gmail.com>; andrewjwulf@hotmail.com; Robert Stephens <awranch@aol.com>; Bill Gray <graybil@gmail.com>; brewmongerco@gmail.com; brodoni@aol.com; bsprout5@aol.com; Bud Colligan <bud@colligans.com>; Jennie Anderson <buzznjen@comcast.net>; Carey Pico <carey.pico@yahoo.com>; dbowman@pacbell.net; Dan <dbt33@hotmail.com>; Debby Molina <dlnmolina_2000@yahoo.com>; Ellen <ellen@ellenmartinez.com>; Robert Esposito <flowmechanic@hotmail.com>; Ginacolfer@aol.com; Gregory Becker <greg@laselva.us>; greggmed@gmail.com; Harry Domash <harrydomash@gmail.com>; hetzlerdouglas@comcast.net; Donald Hicks <JayHicks@yahoo.com>; jer63jan@sbcglobal.net; joex <joexmart@comcast.net>; Johaan Ryberg <johaanyryberg@gmail.com>; John Nicholson <John@thenicholsonco.com>; John Short <JShort@ridefox.com>; Karen Menehan <karenmenehan@yahoo.com>; Keith Otto <keith_otto@yahoo.com>; Keithschuler@sbcglobal.net; Kip Myers <kip@redrockventures.com>; Logan Cartwright <logancartwright@gmail.com>; Martin Engel <martinengel@sbcglobal.net>; William Menchine <menchine@cruzio.com>; Miles Reiter <miles.reiter@driscolls.com>; Michelle Kovac <mtkovac@sbcglobal.net>; nadenetd <nadenetd@yahoo.com>; Nancy Connelly <nancy.connelly@driscolls.com>; Paul Braga <paulb25@sbcglobal.net>; peter@lighthouserealty.net; Nathaniel James <rangjames@sbcglobal.net>; rennels@salkind.net; Bob Schneider <robertsschneider@yahoo.com>; rodonifarms@aol.com; Robert Quinn

Emails received between 02/03/21 – 03/23/21

<rpquinn@pacbell.net>; Ryan Sarnataro <ryan@calcentral.com>; Ryan Whitelaw <ryan@pacificappraisers.com>; S. Georges <sandrinesantacruz@yahoo.com>; Scott Owen <scott916@pacbell.net>; Shinshu Roberts <shinshu@cruzio.com>; shinshuroberts@gmail.com; suzimahler@gmail.com; timbrattan@yahoo.com; TMA Kellogg <tmakellogg@yahoo.com>; Dan Townsend <townsend@fusearchitecture.com>; Lisa Sheridan <trotrider@aol.com>; beachnit@pacbell.net; Valerie Leal <vlealxl@sbcglobal.net>; Scott and Jasmine Roseman <wascruzio@gmail.com>; mark wegrich <wegrich@comcast.net>; Will Mayall <will@mayall.com>; Russell Simpkins <russell_simpkins2030@yahoo.com>; Regional Transportation Commission <info@sccrtc.org>

Subject: Re: Timeline to build trail

\$8,000,000 per mile was for the easy part and it was money poorly spent as I documented in my video on Segment 7 when it first opened (https://www.youtube.com/watch?v=WCqV_cE1emM).

As you add up all the segments and their costs, the average cost is over \$22,000,000 per mile per the project fact sheet (<https://sccrtc.org/projects/multi-modal/monterey-bay-sanctuary-scenic-trail/>).

Brian's proposal is literally a penny on the dollar.

On Sat, Feb 13, 2021 at 11:48 AM Donald Schwartz <donald@lawofficedonaldschwartz.com> wrote:
Absolutely, right Ben.

Anyone who has lived in this County any period of time has run across the downed bike rider, hit by a car or truck.

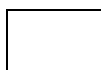
Of course, that's everywhere, I guess, where motor vehicles and bicycles interact.

Donald Charles Schwartz, MBA, JD
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Virus-free. www.avg.com

On Sat, Feb 13, 2021 at 10:11 AM J. Ben Vernazza
<ben@benvcpa.com> wrote:

. and the place to start the trail (until the Capitola Bridge is refurbished for hiking/biking) is at Monterey Drive and Park Ave for 7 miles to La Selva Beach with only 6, yes only 6, cross streets – Mar Vista, State Park Drive, (after going over the trestle and into Aptos Village) Aptos Creek Road, Trout Gulch Road, (after going over the southern trestle) Clubhouse Drive, then last Seascapes Blvd into the Resort, thence to the Village of La Selva Beach.

Emails received between 02/03/21 – 03/23/21

Just imagine that with the Mar Vista Hiway 1 overpass to be built soon becomes a wonderful "transportation" system for all the Villages of mid county: Capitola Village, Soquel Village, Seacliff Village, Aptos Village, Mar Vista Village, Aptos Hills, Rio Del Mar Village, Seascape Village, and La Selva Village.

And only \$200,000 per mile compared to \$8,000,000 per mile for Segment 7.

I CAN IMAGINE HOW MANY LIVES CAN BE SAVED AND SERIOUS ACCIDENTS AVOIDED BY THE HAVING THIS MID COUNTY TRAIL SOON, REAL SOON!

And it would be so satisfying to able the disabled the freedom to move easily and safely around mid-county in their E-chairs!!

Ben Vernazza

From: Brian Peoples <brian@trailnow.org>
Sent: Saturday, February 13, 2021 6:10 AM
To: openup@cats.ucsc.edu
Cc: Guy Preston <gpreston@sccrtc.org>; Matt Machado <Matt.Machado@santacruzcounty.us>; Zach Friend <BDS022@co.santa-cruz.ca.us>; Patrick Mulhearn <Patrick.Mulhearn@santacruzcounty.us>; 'Bruce McPherson' (<bruce.mcpherson@co.santa-cruz.ca.us>)' <bruce.mcpherson@co.santa-cruz.ca.us>; Gine Johnson <Gine.Johnson@santacruzcounty.us>; rlj12@comcast.net; Manu Koenig <manu.koenig@santacruzcounty.us>; Bertrand, Jacques <jbertrand@ci.capitola.ca.us>; Alex Clifford <AClifford@scmttd.com>;

Santa Cruz County Regional Transportation Commission
Transit Corridor Alternatives Analysis – Business Plan

Emails received between 02/03/21 – 03/23/21

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<will@mayall.com>; russell_simpkins2030@yahoo.com; Lisa
Sheridan <trottrider@aol.com>; info@scrrtc.org

Subject: Timeline to build trail

Goodmorning Mike,

We disagree with your comment that "pulling rails and building trail will take longer than the current plan of a trail next to tracks", based on the actual construction of the Santa Cruz Coastal Trail Segment 7a and North Coast Rail-with-Trail. Segment 7a was the first of the Coastal Trails built because it was viewed as the least expensive sections - where other sections will be in the \$20M-\$30M per mile cost. The North Coast Rail-with-Trail is another example of how the cost has delayed the project from the original plan of 2021 completion to a "possible" completion by 2025.

What you failed to recognize in your statement is the high cost of a rail-with-trail delays construction of the Coastal Trail for decades - and actually results in the trail never being built. Again, our bid was for a trail with removal of the tracks costing less than \$200,000 per mile, verse the \$8,000,000 per mile for the Segment 7a trail. Our contractor estimate is constructing one mile of trail per month which includes retrofitting trestles for pedestrians and cyclists, asphaltting roadway intersections and meeting all regulatory requirements (ADA, CEQA, EPA, FRA, STB). .

It is important that RTC Commissioners do not make false statements that will misguide the public on infrastructure projects. We will provide you actual timeline from other rail-to-trail projects and our contractors' projected timeline to prove that a rail-with-trail can not be built faster than a rail-to-trail.

Best regards,

Santa Cruz County Regional Transportation Commission
Transit Corridor Alternatives Analysis – Business Plan

Emails received between 02/03/21 – 03/23/21

Brian Peoples
Executive Director
Trail Now

From: Mario Scardina <mscardina1708@gmail.com>
Sent: Monday, February 15, 2021 9:09 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Locomotives and Bi-Levels for SCCRTC

Dear Santa Cruz Commission, My name is Mario A. Scardina, I'm 21 years old, I have autism and special needs so you'll begin to have 36 Siemens Charger SC-44s like the picture seen here and 78 new bi-levels like Amtrak .



From: Bruce Sawhill <bksawhill@cnsf.net>
Sent: Tuesday, February 16, 2021 10:37 AM
To: Ginger Dykaar <gdykaar@sccrtc.org>
Cc: Bruce Sawhill <bksawhill@cnsf.net>
Subject: Re: Suggestions related to biz plan

Hi Ginger;

As per your request, here is an email.

I understand that most of the work is being done by the consultants at HDR, so I don't know how much fine-grained control you have in the process, but I've got some questions that I'd like to see answered.

Emails received between 02/03/21 – 03/23/21

Here are two:

1. Consider the effect of adding two short spurs to the rail line, each less than 1/3 mile. One from Schafer St. area, into the UCSC Marine Sciences Campus. That would access (in time) thousands of students, faculty, and staff. The other spur would cross the freeway (either as a rail bridge or a ped/bike overdressing from a station on the existing ROW) to Cabrillo College, which would access many thousands of people and eliminate an expensive and roundabout bus link. I know that a lot of modeling software considers homes and jobs in terms of traffic generation, but it often does not consider students. This may be outdated information now that we have Streetlight Data and the like.

In fact, maybe rail service should start like Facebook—for students only. Then, like Huck Finn's fence, it gains popularity with the general populace who want in on the deal. I'm only half joking.

2. A couple of colleagues of mine have started an interesting company called Actual. It is "SimCity for planners", or as I like to call it, "Sim City with real numbers." It is a simulation environment that considers the broader context of a project—environmental effects, regulatory effects, incentives, knock-on benefits (land use, physical fitness of populace, solar credits, etc) They've used it, for example, for designing solar powered cell phone tower networks, and they built their experience by building a high-resolution airspace simulator for Airbus and the European Community that considers more than just air traffic—also noise, regulatory environment, emissions, etc. I would like to facilitate a meeting between them and the consultants, because I believe that what they are doing is beyond any existing consultant's toolbox and they have expressed a desire to be involved with something that is local and has a strong component of social benefit.

Thanks for being willing to hear me out and keep the conversation going.

Best,

Bruce

From: Board Chair Friends of the Rail Trail <executive@railandtrail.org>

Sent: Wednesday, February 17, 2021 12:12 PM

To: Tim_gubbins@dot.ca.gov; Randy Johnson <rlj12@comcast.net>; Aurelio Gonzalez <aurelio.gonzalez@cityofwatsonville.org>; Sandy Brown

Emails received between 02/03/21 – 03/23/21

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<dtimm@scottsvally.org>; Guy Preston <gpreston@sccrtc.org>; Ginger
Dykaar <gdykaar@sccrtc.org>; Regional Transportation Commission
<info@sccrtc.org>

Subject: Thank You RTC Commissioners!

Dear RTC Commissioners and Staff,

The Friends of the Rail & Trail community is celebrating the TCAA vote as one more step in a lengthy process toward our twenty year old North Star vision for repurposing our rail corridor. We considered the vote in favor of rail as the Locally Preferred Alternative to be obvious based on its merits, for equitably connecting our community and as a local commitment toward mitigating GHG induced climate change. At the same time we acknowledge the challenges and political realities of this moment in the context of the ongoing pandemic and economic uncertainty. Thank you for the courage to be accountable to the outcomes of the TCAA process, for taking a bold stand for the future of our county, and for keeping the trail construction portion of the project on track. We want to also thank the RTC Staff and the larger TCAA project team for all their efforts managing and supporting this process and look forward to working with you going forward.

Thanks again from the entire Santa Cruz County Friends of the Rail & Trail community!

Sincerely,

Emails received between 02/03/21 – 03/23/21

Faina Segal

Board Chair

Santa Cruz County Friends of the Rail & Trail

P.O.Box 1652, Capitola, CA 95010-1652

www.railandtrail.org and coastconnect.org

Cell: 831-331-6432

From: Board Chair Friends of the Rail Trail <executive@railandtrail.org>

Sent: Thursday, February 18, 2021 4:12 PM

To: Guy Preston <gpreston@sccrtc.org>; Ginger Dykaar
<gdykaar@sccrtc.org>

Cc: Regional Transportation Commission <info@sccrtc.org>

Subject: Input to TCAA/RNIS Business Plan

Dear Guy and Ginger,

Here at FORT we are very excited and optimistic to see the upcoming business plan currently being prepared. Thanks again for your huge effort and dedication to this project. FORT has spent some time reviewing the public comments for usage of the Locally Preferred Alternative and reviewing sustainable best practices and funding options that might apply. We have captured some suggestions for the TCAA business plan in the attached letter that we would like to submit as public input. I have also attached our previous comments on the TCAA for your reference.

Please let me know if you have any difficulty with the attachments.

I hope your week is going well.

All the best,

Faina Segal

Board Chair

Santa Cruz County Friends of the Rail & Trail

P.O.Box 1652, Capitola, CA 95010-1652

www.railandtrail.org and coastconnect.org

Cell: 831-331-6432



February 18, 2021

Santa Cruz County Regional Transportation Commission

523 Pacific Avenue
Santa Cruz, CA 95060

Re: TCAA Business Plan

Dear Guy and Ginger, RTC Staff and Consultants:

First of all, please accept our fullest congratulations on the recent RTC vote to accept the Transit Corridors Alternatives Analysis (TCAA) results and recommendation of Electric Passenger Rail as the Locally Preferred Alternative. This is a huge milestone for our community and we appreciate the RTC Commissioners', staff and consultants' efforts to continue making recommendations and approvals based on good analysis, data and facts.

We're writing to offer a few suggestions for the upcoming TCAA/RNIS Business Plan - a key document we trust will provide a very clear and specific road map for RTC efforts toward making concrete progress on the LPA over the next 3-5 years and into the future. Our suggestions are offered in the spirit of public input into an important planning guidance document essential to implementing passenger rail service.

As you know, FORT previously submitted comments regarding the original TCAA Task 9 Scope of Work: Business Plan for Locally Preferred Alternative on January 31st and February 2nd. For your convenience, copies of those documents are attached hereto. In addition to those comments, we offer comments on the following aspects of the Business Plan for your consideration:

- Governance Options
- Funding Strategies
- Transit Technologies
- Future Spurs / Rail Extension / Stops
- Triple Bottom Line Framework

Governance Options

Please consider creating a Joint Powers Authority with proportional representation from local jurisdictions along the rail line (County, Santa Cruz, Watsonville, Capitola).

Please also consider creating a Public-Private Partnership.

FORT is concerned that there are few local agencies with the capacity to manage this type and size of project. It appears METRO has bowed out of having any role in the capital aspect of the project. The RTC itself needs to significantly build its capacity to be able to manage this effort as well as its Highway 1 and other transportation programs. Specific rail service operating



arrangements can be decided later (eg, METRO may want to provide the administration, engineers, operators, maintenance, etc.)

Funding Strategies

When discussing the probable need for a source of local funding, the TCAA/RNIS only mentions a single source: "...a dedicated sales tax measure..." However, there are many possible sources of local funding for public transportation in addition to a sales tax. Consider this example:

Seattle has demonstrated that a thriving metropolitan region with a growing economy and population does not have to be synonymous with more driving and more emissions. Between 2006 and 2017, Seattle's population increased by 23 percent, yet daily traffic volumes declined slightly, by 5 percent. Transit ridership increased 46 percent over that time. Seattle's rate of driving alone to work fell nine percentage points between 2010 and 2019 at the same time that employment boomed and downtown Seattle added over 90,000 jobs.

*Seattle has significantly expanded both bus and rail transit over that time period, leading to a 20 percent increase in transit boardings over that time, even as many other cities have seen declining ridership. The city raised funds to expand bus service in 2014 through **a voter-approved \$60 vehicle registration fee and a 0.1-percent sales tax hike**, adding 270,000 additional service hours. As a result, Seattle has been able to drastically increase the percentage of householders within a ten-minute walk of relatively high frequency transit service (running at least every ten minutes) from 25 percent in 2015 to 70 percent in 2019.*

(Above from the October 2020 report: 'Driving Down Emissions' jointly produced by Smart Growth America and Transportation for America)

The truth is there are many ways to finance public transit. Below is a partial list of possible local funding options that could be evaluated:

Fare Increases	Parking Taxes
Discounted Bulk Transit Passes	Parking Levy
Property Taxes	Time of use public parking pricing
Local Income Taxes	Transient Occupancy Tax
Local Fuel Taxes	Development / Transportation Impact Fees
Vehicle Levy / Registration Fee	Real Estate / Land Value Capture
Utility Levy	Parcel Taxes on Lands near Transit Stops / Stations
Employee Levy	Reallocation of Measure D funds
Employer Levy	Local Assessment Districts
Sales Tax	Station Rents
Student fees	Station Air Rights
Road Tolls	Advertising
Congestion Pricing	Other - to be suggested by experts
Road User Charge - mileage based	



Because there are so many options, FORT recommends an approach that invites stakeholders and the public to engage in the process of deciding how best to finance the desired improvements. This approach would require engaging an expert public financing firm to assist our community in exploring public financing options, managing the public input process, analyzing the results and publishing the findings and recommendations. This process could be similar to the just completed TCAA process where a plethora of options for public transit in the rail corridor was initially considered and, through a public process of refinement and elimination, a locally preferred option was finally selected.

Unless the TCAA scope of work includes an analysis of all possible local funding options and a public process to determine what option or combination of options is best, FORT strongly suggests that the Business Plan simply summarize the range of probable local funding needed to implement and operate passenger rail transit and recommend a future public process be used to identify and select the options needed to provide a local source of funding. To do otherwise risks leaving the general public misinformed and disadvantaged when considering the value of investing in transforming our current transportation system.

Transit Technologies

Consistent with recommendations in the TCAA/RNIS regarding transit technologies, we suggest referencing the following battery electric and hydrogen hybrid vehicle makers:

- Stadler FLIRT and FLIRT H2 hydrogen hybrid
- Bombardier Talent 3, Primove and Flexity
- Alstom Coradia and iLINT
- Alstom Breeze Hydrogen hybrid
- MÁV Start Talent
- TIG/m MRV-3 and MRV-4

Future Spurs / Rail Extensions / Stops

Consistent with the goals of improving mobility options and increasing the use of public transit, FORT suggests the following spurs, rail extensions and stops be discussed in the business plan as future possibilities for expansion of a future passenger rail system especially if an estimate of increased ridership potential were included for each proposed addition. FORT recognizes the extension into downtown Santa Cruz would only be practical if LRT is selected as light rail vehicles can be found operating on existing streets carrying vehicular traffic.

- Spur or extension connecting with the downtown Santa Cruz METRO station



- Spur into Cabrillo College Campus
- Extension into UCSC Marine Sciences Campus
- Stop at Lee Road for Pajaro High School
- Stop at San Andreas Road for Renaissance
- Stop at Seascape Resort

Triple Bottom Line Framework

While the business plan will necessarily be focused on many aspects of financing the implementation and operational costs of passenger rail transit, FORT suggests it is important to reinforce that a Triple Bottom Line Framework used in selecting rail as the LPA as required by the RTC's adopted policy. Accordingly, FORT recommends the business plan include a Triple Bottom Line Cost-Benefit Analysis allowing the full value of the environmental and social equity benefits to be monetized and recognized. Doing so will further inform the community why passenger rail is an excellent investment of taxpayer dollars offering a positive return on investment.

Summary

We understand from the Commission's February 4, 2021 meeting that the staff intends for the Business Plan to be a frequently updated document which can guide Commission efforts toward the overall goal of achieving the LPA within a reasonable amount of time. To be clear, people in our county need this transportation option right now, not 25 or 50 years into the future. It's therefore critical that staff and consultant resources be committed now toward achieving this goal, in addition to securing the financial resources to make it happen. It's a daunting task, but FORT, your long-standing ally, is committed to supporting the Commission in this key effort to improve social equity, environmental sustainability and economic prosperity for our county and the entire Monterey Bay area.

Respectfully submitted,

Faina Segal
Board Chair
Santa Cruz County Friends of the Rail & Trail

Attachments

cc: Regional Transportation Commissioners
Caltrans District 5, CA Division of Mass Transportation
California Transportation Commission

www.railandtrail.org
P.O.Box 1652, Capitola, CA 95010-1652



January 31, 2021

**Santa Cruz County Regional Transportation Commission
1523 Pacific Avenue
Santa Cruz, CA 95060
Re: TCAA/RNIS Report and Associated Business Plan**

Chair Gonzalez, Vice-Chair Brown, Commissioners and Commissioner Alternates,

FORT supports completing the Business Plan for the Locally Preferred Alternative as described under Task 9 in the original TCAA scope of work with the following modifications:

1. The Business Plan time horizon should be reduced from 25 years to 5 years.
2. The Capital and Operating Expense figures should be expressed as ranges of possible costs.
3. The discussion of costs for rail service should clearly state the basis for figures provided.
4. The discussion of ridership must explain the discrepancy between the TCAA and the UCS.
5. The amount of time allowed for this task should be reasonable and allow for public input.

A more in depth explanation of the above follows.

First, the time horizon should be reduced from 25 years to 5 years.

It is impractical to produce a 25-year strategic business plan as there are simply too many factors subject to dramatic variability at this stage of the project's development. A 25-year time horizon is useful for broad, long-range planning but not for business plans.

The final draft of the TCAA/RNIS repeatedly refers to future decisions being made after future preliminary engineering and environmental analysis phases of work are completed. In fact, the TCAA/RNIS states "No engineering was performed to support the estimated costs."

Accordingly, the Business Plan should focus on the specific tasks to be completed in the next three to five years. Only tasks for which specific scopes of work can be determined and meaningful cost estimates prepared should be included. While a 5-10 year "future planning" horizon can be useful for generalized potential revenues and expenses, anything beyond 5 years would not be useful at this time.

Second, the CapEx and OpEx figures from the TCAA/RNIS should be expressed as cost ranges.

Because preliminary design and environmental review haven't even begun, the CapEx and OpEx figures presented in the TCAA/RNIS should be expressed as a range of probable costs rather than as single figures. Expressing costs as a single figure gives the stated figure more implied accuracy than is warranted.

For example, the OpEx figure of \$25M presented in the TCAA comes from Table B-10 (copy attached) in the Unified Corridor Investment Study (UCS). However, the \$25M UCS figure includes \$13M for rail operations and \$12M for "new local bus transit connection to rail". This \$12M estimate for new local bus service represents a whopping 32% increase from the \$37M spent on all local bus service in FY 2018 (see attached METRO Fact Sheet). Furthermore, this \$12M estimate has not one single transit planning document to support it. In FORT's opinion, it seems far more likely that many rail transit riders would walk, bike, or use other

mobility options to access rail platforms, and existing METRO bus routes would only need to be strategically reconfigured to “kiss” the rail line using the common pulse transit timing system.

Furthermore, TIG/m presented a proposal, at the January 14, 2021 RTC meeting, to capitalize and operate both commuter rail service between Watsonville and Santa Cruz AND an excursion rail service for one-quarter the costs estimated in the UCS. The TIG/m system proposed only required a total public investment of \$60M over 15 years or \$4M per year.

Summarizing, the CapEx and OpEx figures provided in the TCAA/RNIS are extraordinarily high without adequate explanation. Going forward, FORT recommends using a range of figures for both CapEx and OpEx to more accurately depict the probable range of estimated costs for adding passenger rail service. The ranges used should be:

CapEx range \$100M to \$475M

OpEx range \$4M to \$13M

Third, the discussion of costs for rail service should clearly state the basis for figures provided.

In order to properly evaluate cost figures, it is important to be perfectly clear about what is or is not included in the figures. As discussed in the second comment above, the cost figures included in the TCAA/RNIS appear to be taken directly from the 2019 UCS. If the TCAA figures are based on the cost estimates in the UCS, the public has a right to know that the TCAA cost figures include a robust capital investment in brand new buses and a 32% increase in spending on local bus service. In essence, a robust investment in upgrading and transforming the entire public transit system, not just adding rail service. Please clarify the basis of the cost estimates and exactly what is included.

Furthermore, the TCAA/RNIS does include a discussion of the triple bottom line framework under which decisions such as this shall be made. However, no attempt was made to monetize the equity and environmental benefits of passenger rail service. A statement to that effect should be included in the final report along with a plain language conclusion something like: If the environmental and equity benefits were monetized and included to the plain dollar costs, electric passenger rail would prove to be the least expensive option and an even better investment.

Fourth, the discussion of ridership must explain the discrepancy between the TCAA and the UCS.

The TCAA indicates that adding passenger rail transit would result in countywide transit ridership increasing to 34,500 daily boardings but adding BRT would result in countywide transit ridership increasing to 37,500 daily boardings, about 9% more than adding rail.

On the other hand, the UCS indicated that Scenario B (adding rail on the rail corridor) would increase countywide public transit mode share to 6.0% while Scenario C (adding BRT on the rail corridor) would increase countywide public transit mode share to only 4.8%. Based on the difference in the mode share figures in the UCS, a logical conclusion would be that adding rail would result in a 25% greater increase in countywide transit ridership over adding BRT. Yet that is not what the TCAA countryside transit ridership figures reflect.

Perhaps the countywide transit ridership estimates provided in the TCAA/RNIS did not include the effect of adding the 32% increase in local bus service as stipulated in the UCS. If not, the Operating Cost figures should be revised to reflect this difference. Regardless of how this discrepancy is resolved: i.e. whether the ridership numbers or the cost figures adjusted, the resolution of this discrepancy should be clearly explained and the TCAA/RNIS updated accordingly.

Fifth, the amount of time allowed for this task should be reasonable and allow for public input.

Because the original scope of work needed to complete the TCAA/RNIS report is not yet complete and no time appears to have been allowed for public input into preparation of the Business Plan, it seems that the proposed time schedule (delivery by April 2021) needs to be adjusted.

Completion of the TCAA/RNIS report requires completion of all tasks identified in the scope of work, particularly the tasks described under Deliverable 8.2.2 and Deliverable 8.3.2. Both of these deliverables require compiling a “list of comments from public, partner agency, advisory committees, METRO, and RTC and responses to the comments.” (*emphasis added*) While comments have been compiled, responses to the comments have not yet been provided. We respectfully request that responses to the comments made in this letter also be provided.

As noted above, adjustments to estimated CapEx and OpEx figures should be made and justified before proceeding with the Business Plan. And, since the recommended LPA of “electric passenger rail” is not definitive of rail vehicle or system attributes (beyond electric), the Business Plan will properly need to include a broad range of options in its analysis.

Lastly, the public must be given the opportunity to review and provide input on both the current scope of work for and the resulting draft Business Plan. In addition to being right, just and warranted, inviting public participation is an essential mission of the RTC and public infrastructure planning efforts.

Summarizing, FORT fully supports moving ahead with the LPA Business Plan provided the above five recommendations are considered and incorporated. Otherwise, the resulting Business Plan will not be able to fulfill its mission of providing a meaningful short-term (3-5 years) road map for the project, and will only lead to further public confusion and consternation.

Respectfully submitted,

Faina Segal
Board Chair, Santa Cruz County Friends of the Rail & Trail

From: Board Chair Friends of the Rail Trail <executive@railandtrail.org>

Subject: TCAA/RNIS – Cost Estimates should be modified to reflect a range of options

Date: February 2, 2021 at 4:13:09 PM PST

To: Randy Johnson <rj12@comcast.net>, Aurelio Gonzalez <aurelio.gonzalez@cityofwatsonville.org>, Sandy Brown <sbrown@cityofsantacruz.com>, Ryan Coonerty <Ryan.Coonerty@santacruzcounty.us>, bruce.mcpherson@co.santa-cruz.ca.us, manu.koenig@santacruzcounty.us, Zach Friend <zach.friend@santacruzcounty.us>, Greg Caput <greg.caput@co.santa-cruz.ca.us>, ibertrand@ci.capitola.ca.us, Michael Rotkin <openup@ucsc.edu>, eduardo.montesino@cityofwatsonville.org, Tim_gubbins@dot.ca.gov, **Cc:** Donna Lind <dlindslind@earthlink.net>, Donna Meyers <dmeyers@cityofsantacruz.com>, Dan Rothwell <darothwe@cabrillo.edu>, Renee Golder <rgolder@cityofsantacruz.com>, Lowell Hurst <lowell.hurst@cityofwatsonville.org>, Tony Gregorio <tony.gregorio@santacruzcounty.us>, Andy Schiffrin <Andy.Schiffrin@santacruzcounty.us>, Gine Johnson <Gine.Johnson@santacruzcounty.us>, Patrick Mulhearn <patrick.mulhearn@santacruzcounty.us>, Derek Timm <dtimm@scottsvaley.org>, samforcapitola@yahoo.com, scott.eades@dot.ca.gov, Guy Preston <gpreston@sccrtc.org>, Ginger Dykaar <gdykaar@sccrtc.org>, info@sccrtc.org

Dear RTC Staff and Commissioners,

Thank you for all of the time and effort that has gone into the TCAA and into the previous studies on the rail corridor. We appreciate your public service. I'm writing today on behalf of the Friends of the Rail and Trail to ask that the Commission accept the staff recommendation to approve Electric Passenger Rail as the Locally Preferred Alternative **but include a directive to staff that the resolution and any resulting Business Plan be explicit about addressing 1 clean fuel technologies to include more affordable systems.** The timing of the Business Plan (stated as April 2021 in the Draft Resolution) may need to be modified or deleted to allow for a full review of passenger rail options.

You were recently provided a conceptual proposal for high capacity passenger rail service as part of the public comment period during the January 14 meeting and through email. The two TIG/m modern streetcar presentations are included among published public comments [here](#). TIG/m also created this [video](#) of the concept proposal.

The TIG/m vehicles are built in California and are available today. TIG/m streetcars can reach 50 mph and carry 100 to 200 passengers with room for wheelchairs and bikes. Please note **the proposed TIG/m system would only require \$60M to build and operate for 15 years, a cost of only \$4M per year.** TIG/m is just one of many affordable options.*



Proposed concept for rail transit on the SCBL

- A public-private partnership to **Design, Build, Operate and Maintain**
- **Passenger service** between Watsonville and W Santa Cruz
- **Excursion service** between Capitola and Davenport
- **The project is divisible and expandable** to meet current and foreseeable ridership
- **The concept proposal includes \$120M private investment with a public contribution of \$60M over a 15-year period, with a project cost one quarter of that identified in the UCIS - because of TIG/M's technology and other aspects of the project**
- **The TIG/m proposal includes track improvements, platforms, 38,000 new ties, rail welding, 2.5 miles of new track, maintenance facilities, other improvements**

Please pass the draft resolution with an amendment to assure that the business plan includes more affordable and sustainable technologies, consistent with the TCAA/RNIS recommendations, p. ES-19.

Thanks again!

Faina Segal, Board Chair

Santa Cruz County Friends of the Rail and Trail, FORT

*FORT is not recommending the TIG/M vehicle and proposal specifically for RTC investment, but rather presenting it as an example of new rail technologies that are substantially more cost-effective than previous technologies.

¹ Cost estimates in the [TCAA/RNIS Final Draft](#) seem inconsistent with recommendations made in the Draft Resolution prepared for the February 4 meeting. The Draft resolution was published [here](#).

The basis for Capital and Operating costs estimates used in the Transit Corridor Alternative Analysis are unclear and seem to have been based on dated technologies, *"Cost estimates were based on previous work on the Rail Transit Feasibility Study and the Unified Corridor Investment Study (p. 5-21) .*

These cost projections may be in conflict with this TCAA recommendation: *"Alternative fuel technologies including hydrogen fuel cell, battery or other future clean, or non-fossil fuel technologies would be utilized. (p. ES-19)*

Santa Cruz County Regional Transportation Commission
Transit Corridor Alternatives Analysis – Business Plan

Emails received between 02/03/21 – 03/23/21

From: Bud Colligan <bud@colligans.com>
Sent: Saturday, February 20, 2021 4:43 PM
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Subject: Santa Clara County VTA woes

Dear Commissioners and Staff,

I thought you would be interested in this article from yesterday's San Jose Mercury News. Some Commissioners often reference the VTA in Santa Clara County as the type of "light rail" they promote for Santa Cruz County. Santa Clara County has a population over 7 times Santa Cruz County. We have also heard the same things about the SMART train in Sonoma/Marin, which has a population 3 times Santa Cruz County. Both are failing. We have enough information in the UCIS and TCAA to KNOW that the population and economics for passenger rail in Santa Cruz County won't work. Go no further than our neighbors in other Bay Area counties. We don't need to forecast or project forward--the answers are available from historical examples next door.

Here's the latest:

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<https://www.mercurynews.com/2021/02/18/bill-would-scrap-south-bay-transportation-board-that-critics-say-fueled-crisis-long-before-coronavirus/>

Time to toss VTA board? Bill would overhaul transit agency in 'crisis'

Current VTA board lacks time or expertise to hold agency accountable, lawmaker says

Nico Savidge February 19, 2021 at 4:10 a.m.

Spurred by a scathing report that called the Santa Clara Valley Transportation Authority "one of the [most expensive and least efficient transit systems](#) in the country," a South Bay lawmaker is taking action to overhaul the agency's board.

Assemblyman Marc Berman, D-Los Altos, introduced legislation Thursday that would scrap the current VTA board — an 18-member body made up of local elected officials who critics say lack the expertise or time to adequately oversee the authority — and replace it with appointed members of the public with experience in transportation, finance and other fields related to running an agency.

Berman says the overhaul would create a more effective board that holds VTA accountable and steers it in the right direction.

"There is a big problem that needs to be addressed," Berman said. "VTA needs a board that is really focused on the governance of the transportation authority."

Berman's action is in response to a 2019 civil grand jury report that identified the agency's governing board as a core problem in need of structural change.

A long list of responsibilities falls under VTA's purview — along with running a bus and light rail network, the authority is also the county's congestion management agency, meaning it oversees South Bay highways. And VTA is building the \$6.9 billion [extension of BART service through downtown San Jose](#), the largest infrastructure project in Santa Clara County's history and one [beset by delays and mounting costs](#).

But state law requires that VTA's board of directors be made up of South Bay politicians. The [grand jury report](#) found those mayors, county

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supervisors and others in many cases regard running the authority as a lower priority compared to their primary office and other responsibilities.

“It’s just impossible for most council members to be able to do all of those things 100 percent — but VTA needs that,” Berman said.

VTA officials said their board is already considering changes to its structure following the grand jury report, but said the current setup “has proven beneficial” because directors have authority both in transportation and land use.

“VTA looks forward to suggestions that will improve the delivery of transit and transportation projects for the people of Santa Clara County and our region,” authority spokesman Ken Blackstone said.

The grand jury report concluded the board has contributed to a “crisis” at VTA, with high operating costs and low ridership driving large deficits even before COVID-19 send public transportation ridership into a downward spiral. Two other grand jury reports in recent decades have drawn similar conclusions about the board.

Berman’s legislation, AB1091, would bar people who hold other elected office from serving on the VTA board. It would shrink the board’s size as well — from 12 voting directors, plus six alternates, to just nine members.

Directors would be appointed by local governments, which the legislation mandates “shall ensure that expertise, experience, or knowledge relative to transportation, infrastructure or project management, accounting or finance, and executive management are represented on the board.”

Appointees would come from all over the South Bay — five from the county supervisor districts, two from San Jose and two from other Santa Clara County cities.

The changes would take effect in 2022 if the bill becomes law.

Regards,

Bud Colligan

From: Jack Brown <jack.b.brown@gmail.com>
Sent: Monday, February 22, 2021 7:03 PM
To: Guy Preston <gpreston@sccrtc.org>; Ginger Dykaar

Emails received between 02/03/21 – 03/23/21

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Johnson <Gine.Johnson@santacruzcounty.us>
Subject: Over 320 miles of unused tracks railbanked for the California's
Great Redwood Trail

I wanted to pass along this great news to the RTC that unused rail can be railbanked and turned into something wonderful for the community.

In Key Step for the Great Redwood Trail, NCRA Board Votes To Railbank the Line from Willits to Samoa

<https://lostcoastoutpost.com/2021/feb/19/key-step-great-redwood-trail-ncra-board-votes-rail/>

On February 19th, it was reported that the North Coast Rail Authority finally dissolved and approved the way toward railbanking over 320 miles of track north of SMART to create one of the most spectacular trails ever.

A key point to the article, which states that the trail is open to all, with "such public access tends to increase property values along trails while boosting the economies of nearby communities via lodging, tourism, public sector expenditures and more."

It took many years of Mike McGuire to be elected as their state senator to gut the NCRA of their train lobby and to take action, but it is working! As we prepare to see the business plan from the TCAA in April we will see two things. The plan in itself, will be economically infeasible and although rail groups will try to tout TIG/m as a provider that can get close to

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budget, they have absolutely no experience in providing a system at the scale required for Santa Cruz.

TIG/m has:

- No experience with commuter rail, only mall rides.
- Never ran a tram at speeds faster than an average speed of 9 MPH.
- Never ran a system greater than a distance of 2 miles.
- No experience on a single track with anti-collision positive train controls.
- No experience with virtual coupling.
- Shown in their simulation have shown that their vehicles would carry less than 1% of Highway 1 commuter traffic during peak times.

It is time we end the studies, end the divisiveness of rail, rail bank the tracks, put in a multi-modal trail and concentrate on the core tenets both sides agree on:

- A revamped Metro bus system with bus on shoulder, bus rapid transit and smart signaling
- Improved paratransit that does not require reservations for door to door transport
- Affordable housing initiatives near employment, educational, government and medical centers
- Economic development in South County to remove the culture of commuting

It's time the RTC gets proactive and focuses on what is realistic and areas the commission can solve transportation problems. The recent acquisition of the new Proterra electric buses are a great first step. Let's keep it going!

Respectfully,

Jack Brown
Aptos, CA

From: Board Chair Friends of the Rail Trail <executive@railandtrail.org>

Sent: Thursday, February 25, 2021 10:13 AM

To: Randy Johnson <rlj12@comcast.net>; Aurelio Gonzalez <aurelio.gonzalez@cityofwatsonville.org>; Sandy Brown <sbrown@cityofsantacruz.com>; Ryan Coonerty <Ryan.Coonerty@santacruzcounty.us>; bruce.mcpherson@co.santa-cruz.ca.us; manu.koenig@santacruzcounty.us; Zach Friend <zach.friend@santacruzcounty.us>; Greg Caput <greg.caput@co.santa-cruz.ca.us>

Santa Cruz County Regional Transportation Commission
Transit Corridor Alternatives Analysis – Business Plan

Emails received between 02/03/21 – 03/23/21

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Dykaar <gdykaar@sccrtc.org>; Regional Transportation Commission
<info@sccrtc.org>

Subject: Public Concerns on Railbanking the Santa Cruz Branch Rail Line

Dear RTC Commissioners and Staff,

The FORT board would like to submit the attached letter and supporting study to yourselves as public comment. FORT would like to call attention to concerns of adverse consequences should the RTC decide to support abandonment and rail banking of the Santa Cruz Branch Rail line.

Please let me know if there are any difficulties with the attachments.

Thank you so much for your diligent attention and stewardship of the Santa Cruz Branch Rail Line.

Sincerely,

Faina Segal
Board Chair
Santa Cruz County Friends of the Rail & Trail
P.O.Box 1652, Capitola, CA 95010-1652
www.railandtrail.org and coastconnect.org
Cell: 831-331-6432



February 25, 2021

Santa Cruz County Regional Transportation Commission

523 Pacific Avenue
Santa Cruz, CA 95060

Re: Railbanking

Chair Gonzales, Commissioners, Commissioner Alternates, Guy Preston and Staff:

We understand the RTC intends to file a request to railbank the Santa Cruz Branch Rail Line in the event Progressive Rail, the current owner of the freight rail easement, files for an abandonment of all or part of the SCBRL with the Surface Transportation Board.

In our opinion, railbanking the corridor may have significant adverse consequences including:

- Loss of funding and substantial delays in completing the Coastal Rail Trail
- Loss of funding to repair, maintain or replace rail infrastructure
- Reduction of competitive position in funding eligibility for future repair, maintenance or replacement of rail infrastructure
- Loss of funding for further planning of passenger rail service
- Reduction of competitive position in funding eligibility for further planning of passenger rail service
- Requirement to reimburse the State for Proposition 116 funds + inflation + interest
- Risk of sudden corridor reactivation through a simple ministerial action of the STB
- Risk of severe harm to Roaring Camp Railroads, a successful local business
- Loss of corridor continuity due to reversions of easements and fee simple parcels
- Risk of litigation regarding reversion issues: easements; rail corridor maintenance or lack thereof; rail improvements or lack thereof; design and funding of future rail trail projects; resulting delays in completing the rail trail; requirements of freight-service dependent businesses; and other risks not yet fully understood or known.

Accordingly, **the Friends of the Rail & Trail does not support the abandonment and railbanking efforts of the RTC and, respectfully requests that any decision about railbanking be considered only after a full public vetting of all the pros and cons of such a decision.** The rail corridor is a priceless public asset and the last continuous transportation corridor connecting major population centers to major employment centers, to commercial districts, to educational facilities and to popular resident, visitor and tourist destinations. The people of this county deserve a robust and transparent public process before any railbanking decision is made.



For those less familiar with the complexities and pitfalls of railbanking, I urge you to read and carefully consider the attached document titled *“Locomotives v. Local Motives: the Coming Conflict, Statutory Void, and Legal Uncertainties Riding with Reactivated Rails-to-Trails,”* dated May 2015, by Matthew J. McGown and published in the Vermont Journal of Environmental Law. The essence of this paper is that there is little case law or experience with either reactivating rail lines that have been railbanked OR with adding public transportation onto railbanked corridors. In the case of future reactivation, the RTC may have little recourse as reactivation requires only a ministerial action by the STB and would not require an EIR. The RTC would essentially be venturing into unknown territory without the benefit of a public process or of a full understanding of the consequences of railbanking in our particular circumstances with the SCBRL. It would be wise for the RTC to avoid railbanking until such time as Congress can implement a regulatory scheme to address the issues raised.

Most, if not all, of these expensive and time consuming headaches can be avoided through an open and transparent public process. **This is no time for rashly railbanking the rail corridor.**

Please slow down, engage the public, and take the time to understand the full consequences and challenges of railbanking an active rail line.

Respectfully yours,

Faina Segal, Board Chair
Santa Cruz County Friends of the Rail & Trail

Attachment: McGowan paper

CC: info@sccrtc.org
FORT Board of Directors

LOCOMOTIVES V. LOCAL MOTIVES: THE COMING CONFLICT, STATUTORY VOID, AND LEGAL UNCERTAINTIES RIDING WITH REACTIVATED RAILS-TO- TRAILS

By Matthew J. McGowan[†]

Study after study projects that the United States economy will come to rely more and more on freight rail in the twenty-first century. Few would have predicted the industry's reemergence 30 years ago when Congress, alarmed at the mass exodus from railroad and the resulting anemic rail infrastructure due to abandonment, began passing laws that culminated in 1983 with a rail-banking amendment to the National Trail System Act of 1976. The new statute streamlined the transfer of these rail corridors to private groups for safekeeping in the event railroads once again needed to reactivate the corridors. Since then, parks departments, nonprofits, and local transportation authorities have taken full advantage of the available "linear parks," nationally amassing some 21,000 miles of former freight corridors now used as trails or converted for local use as light passenger rail.

Courts, federal officials, and scholars have thoroughly explored the legal questions raised by landowners during the rails-to-trails program's initial legal maelstrom; but surprisingly, little discussion has addressed the legalities of reactivation, which, after all, is the whole premise for the rails-to-trails program. Data tracking freight rail's reemergence suggests corridor-starved rail companies will soon begin reactivating their old lines. But local communities have come to rely on these rail-banked corridors for their transportation and recreational needs. This paper attempts to start a conversation about the legalities of reactivation before offering to trail groups strategies for preserving recreational use even after the freight trains return, an arrangement called rails-with-trails. It also proposes new laws at the state and federal level that might further encourage rails-with-trails.

[†] J.D. Candidate, Texas A&M University School of Law, May 2015; B.A. in Journalism, Texas Tech University, 2008. Author would like to thank Professor Timothy M. Mulvaney for his insight, patience, and continual vote of confidence from the very inception of this Comment; and classmates Whitley Zachary, Terrell Fenner, and Brian Singletery for their gracious and helpful suggestions.

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INTRODUCTION

Rising about 30 feet above the bustle of Manhattan's Lower West Side on a ribbon of concrete and steel, the leafy park space of the High Line pierces through more than a mile of one of the most densely populated neighborhoods in the United States.¹ The High Line's hulking concrete substructure was once a freight rail corridor sitting on an easement dating back to the 1920s.² At first, the freight trains regularly groaned along the

1. *Visit the High Line*, FRIENDS OF THE HIGH LINE, <http://www.thehighline.org> (last visited Jan. 26, 2015); *see also* U.S. CENSUS BUREAU, 2010 CENSUS BRIEFS: POPULATION DISTRIBUTION AND CHANGE: 2000 TO 2010, at 10 (2011) (showing population density by county in 2010).

2. *About the High Line*, FRIENDS OF THE HIGH LINE, <https://www.thehighline.org/about> (last visited Jan. 26, 2015).

corridor. But as the decades passed, demand for freight rail began to decline.³ Daily rail service became weekly. Weekly became monthly. Monthly became biannually, and so on. Finally, in the 1970s, the last freight car came and went, leaving the corridor dilapidated and abandoned for more than a generation until a community group, Friends of the High Line, saw recreational potential in a 1.45 mile stretch of the structure and approached local officials about converting it into a public park under a federal program called Rails-to-Trails.⁴ In 2009, the unique “linear park,” as they are called, opened to the public and has since drawn approximately 3.7 million visitors each year,⁵ many of which are presumably only vaguely aware of the corridor’s freight-rail beginnings.⁶

Imagine the following scenario: CSX Transportation, Inc., the railroad company that transferred the right-of-way to the City of New York decades after ceasing freight service over it, suddenly finds itself in need of the corridor and, acting under a federal rail-banking law, reactivates the corridor, dismantles its landscaping, demolishes its amphitheaters, and reinstates freight rail operations along it—all exactly as Congress intended.

This sort of scenario is perhaps farfetched for this particular stretch of former freight corridor, but this Comment argues that such reactivations of corridors-turned-parks should become increasingly common as economic realities demand more railroad shipping,⁷ putting railroad companies’ needs on a collision course with local initiatives that have employed the unused corridors as public parks or, in some instances, as extensions of local light-rail networks for commuters.⁸ Freight companies’ interests once aligned

3. *Id.*

4. National Trails System Act, 16 U.S.C. § 1247(d) (2012).

5. Kate Lindquist, *Destination High Line: What It Means to Be One of the World’s Top Landmarks*, FRIENDS OF THE HIGH LINE, <http://www.thehighline.org/blog/2012/02/22/destination-high-line> (Feb. 22, 2012).

6. N.Y.C. Dep’t of Parks & Recreation, *First Section of High Line Park Opens To The Public*, DAILY PLANT (June 11, 2009), <http://www.nycgovparks.org/parks/the-high-line/dailyplant/21962//>; Lisa W. Foderaro, *High Line Offers a Walk on the Wild Side*, N.Y. TIMES (June 9, 2013), http://www.nytimes.com/2013/06/10/nyregion/high-line-offers-a-walk-on-the-wild-side.html?_r=0.

7. Daniel Machalaba, *The Future of Rail: Freight Railroads Have Made a Strong Comeback in Recent Years. Can They Stay on Track?*, WALL ST. J. (May 23, 2011), <http://online.wsj.com/news/articles/SB10001424052748703834804576301230350030512> (concluding that railroads could soon enjoy a “comeback and are poised to become busier places in the years ahead. Forecasts for freight growth are substantial, prompting railroads to plan capacity additions”); see also TEX. DEP’T OF TRANSP., TEXAS RAIL PLAN 1–12 (2012), available at <http://ftp.dot.state.tx.us/pub/txdot-info/rail/plan/ch1.pdf> (“According to the Association of American Railroads (AAR), one gallon of diesel fuel moved one ton of freight an average of 235 miles in 1980; by 2009, one gallon moved one ton of freight an average of 480 miles, a 104% improvement.”).

8. The Rails-to-Trails Conservancy estimates that America’s 20,000-plus miles of rails-to-trails corridors draw about 100 million trail users each year. *History of RTC and the Rail-Trail*

with the public's, initially at least when federal law, now commonly called the "rail-banking" provision of the National Trails System Act of 1976,⁹ gave both railroad companies and the trail-creating entities what they wanted: railroads shed the tax and tort liability of unused land while retaining near-unfettered authority to reactivate the rights-of-way; trail enthusiasts and local governments obtained readymade strips of land well suited for pedestrian and passenger light-rail traffic,¹⁰ subject to only a farfetched possibility of later surrendering the corridors back to the railroads.¹¹ Everybody won, until now.

The coming decades will see railroads once again become a fulcrum of the American economy.¹² And with that boom in railroad use could come a shortage of corridors, meaning railroad companies will increasingly return to the Surface Transportation Board ("STB"), the federal agency that administers rail-banking, and invoke their right to reactivate.¹³ Although reactivation has occurred only 11 times since the program took off with the rail-banking statute of 1983¹⁴—meaning only a small fraction of the more

Movement, RAILS-TO-TRAILS CONSERVANCY, <http://www.railstotrails.org/ourWork/trailBasics/railTrailHistory.html> (last visited Jan. 26, 2015).

9. 16 U.S.C. § 1247(d).

10. Aaron Kraut, *Trail Supporters Run To 'Save The Trail' As Purple Line Nears*, BETHESDA NOW (May 29, 2013), <http://www.bethesdanow.com/2013/05/29/trail-supporters-run-to-protect-the-trail/>. It should be noted at the outset that not all reinstatement of "rail" service necessarily constitutes reactivation in the context of this article. Freight-rail service can be distinguished from light-rail, or passenger, service such as the scenario cited above in Bethesda, Maryland. Specifically, many local governments utilized the trail program to put light commuter rail networks on the rail-banked land. Passenger lines are nonetheless still subject to freight reactivation under the rail-banking statute. *See e.g.*, Balt. & Ohio R.R., Metro. S. R.R. & Washington & W. Md. Ry. Co.—Abandonment & Discontinuance of Serv.—in Montgomery Cnty., Md., & D.C., No. AB-19 (Sub-No. 112), 1990 WL 287371, at *2 (Interstate Commerce Comm'n Mar. 2, 1990) (stating that "[t]he reuse of a right-of-way for a public purpose concurrently with a trail use has previously been found consistent with the Trails Act").

11. Rails-with-trails receives extensive discussion *infra* Part VI, but the concept is precisely as its name suggests: the reactivation of a railroad line alongside an existing trail. *See generally* RAILS-TO-TRAIL CONSERVANCY, *Trail-Building Toolbox*, <http://www.railstotrails.org/build-trails/trail-building-toolbox/> (last visited Jan. 29, 2015).

12. *See, e.g.*, Machalaba, *supra* note 7 (explaining that rail activity could possibly double by the mid-point of the century, 2035–2040).

13. *See infra* Part VI (arguing that states have failed to fill in the legislative gap by ignoring reactivation and that the STB or Congress should implement a second regulatory scheme to accommodate the coexistence of light passenger rail-with-trail and freight rail on reactivated railroad corridors).

14. E-mail from Dennis Watson, Media Officer, Surface Transp. Bd., to Matthew J. McGowan, author (Nov. 5, 2013, 12:37 CDT) (on file with author) (explaining the discrepancy between the importance of the low reactivation rate and its being overlooked by legal scholarship). For one of the few discussions that touches on the legal aspects of reactivation, *see* Scott Andrew Bowman & Danayna H. Rosenberg, *Charitable Deductions for Rail-Trail Conversions: Reconciling the Partial Interest Rule and the National Trails System Act*, 32 WM. & MARY ENVTL. L. & POL'Y REV. 581 (2008), available at <http://scholarship.law.wm.edu/wmelpr/vol32/iss3/2> (explaining the history of the National Trails System Act of 1983).

than 700 rail-banked corridors have seen resumed freight operations¹⁵—the frequency of reactivation seems poised to explode.

Although freight rail plays an increasingly vital economic role in modern America, the same is true about nature trails and light passenger rail. The once-aligned interests would turn against one another as railroad companies' need to reactivate conflicts with the possessory needs of trail stewards and local governments that have poured resources into developing the corridors, which play crucial roles in these communities. Fortunately, these uses need not all be mutually exclusive. Much room remains for compromise, and this Comment attempts to start the conversation on how to get there.

First, it begins with a brief legal history of the rails-to-trails initiative before going on to show why reactivation, a once-remote scenario despite its being the basis for federal rail-banking laws in the first place, could become much more common.¹⁶ The following sections then turn to the legal machination of reactivation, an administrative process at the STB,¹⁷ before sounding an alarm to trail groups only now entering into negotiations with railroad companies that they should safeguard certain contractual rights to the corridors at the outset. This Comment also addresses methods by which groups that have already converted railroad corridors might compromise with reactivating railroad companies to retain trails-*with*-rails. Finally, this Comment concludes by calling on state and federal lawmakers to enact new laws that, in addition to promoting rail-banking generally, also help to facilitate such trails-*with*-rails compromises.

I. HISTORY OF RAILS-TO-TRAILS

Flat, dismantled, and up to 100 feet wide, corridors of former freight railroad rights-of-way patchwork the country in disconnected segments

15. The Rails-to-Trails Conservancy estimated that, as of summer 2009, some 698 rail-banking orders had been issued. Transcript of Public Hearing at 16, *Twenty-Five Years of Rail Banking: A Review and Look Ahead* (Surface Transp. Bd. July 8, 2009) (Ex Parte No. 690), *available at* <http://www.stb.dot.gov/TransAndStatements.nsf/transcriptsandstatements?openview> (testimony of Marianne Fowler, Rails-to-Trails Conservancy).

16. *See generally* H.R. REP. NO. 98-28 (1983), *reprinted in* 1983 U.S.C.C.A.N. 112 (presenting an example of the rails-to-trails initiative growing in exposure); *see also* U.S. GEN. ACCOUNTING OFFICE, GAO/RCED-00-4, *SURFACE TRANSPORTATION: ISSUES RELATED TO PRESERVING INACTIVE RAIL LINES AS TRAILS* 11 (1999) (quoting a railroad official who noted that the "rights-of-way [the company] agreed to bank were banked under the assumption that the conversion to trails would be permanent").

17. *See* 49 C.F.R. § 1152.29(a) (2012) (stating that the STB provides much of the regulatory requirements of rail-banking).

ranging in length anywhere from a mile or two to a few hundred miles.¹⁸ Local communities and the public in general typically cherish their role as nature trails.¹⁹ Officials in some densely populated areas took advantage of rail-banking by adopting the abandoned corridors and putting them to use within their local passenger transportation network.²⁰ These converted corridors, however, did not take their present form quietly.

All those hundreds of miles of rail-banked corridors now used as trails or light-rail lines came at tremendous cost to taxpayers. The 1983 law that made rail-banking possible sparked furious backlash by adjacent landowners who argued the rail-banking process violated the Fifth Amendment's prohibition of uncompensated governmental takings by depriving them of a future reversionary right in the right-of-way.²¹

The Supreme Court upheld the rail-banking law's constitutionality as a valid exercise of commerce power, but it went on to note that landowners may seek just compensation under the Tucker Act.²² Today, some 20 years after the Supreme Court's landmark holding on rail-banking, courts and scholars have extensively explored most legal aspects of the initial rails-to-trails conversion—and, in fact, the Supreme Court again addressed rail-banking in 2014.²³ The next round of legal salvos, those fired over the

18. Danaya C. Wright & Jeffrey M. Hester, *Pipes, Wires, and Bicycles: Rails-to-Trails, Utility Licenses, and the Shifting Scope of Railroad Easements from the Nineteenth to the Twenty-First Centuries*, 27 *ECOLOGY L.Q.* 351, 404 (2000).

19. Many studies have shown general community-wide support of various rails-to-trails corridors. *See, e.g.*, Bhavana Kidambi, *Assessing the Impacts of Converted Rail-Trails in North Texas Communities: Learning From the Stakeholders' Perspectives* 58 (Dec. 2011) (unpublished Master's dissertation, University of Texas at Arlington), available at http://dspace.uta.edu/bitstream/handle/10106/9597/Kidambi_uta_2502M_11147.pdf?sequence=1) (determining that many nearby landowners, even those who initially opposed rails-to-trails in their communities, grew to appreciate the trails). The report gauged the regional value of six North Texas trails through interviews with more than a dozen "stakeholders" from municipalities, neighborhood associations, and trail-building groups. *Id.* at v. (concluding that "[t]he findings of the research reveal that although each of the five factors assessed weigh differently, the stakeholders all affirm the positive impacts of rail-trail conversions in North Texas. The study also reveals, that while rail-trails may have specific tribulations, stakeholders value the adaptation and point out that the benefits to the environment outweigh the problems.").

20. Charles Montange, *Conserving Rail Corridors*, 10 *TEMP. ENVTL. L. & TECH. J.* 139, 153 n. 76 (1991).

21. *See, e.g.*, Helen Thompson, *Railroaded: Hiking in a Country Setting? Great, But Not in My Back Yard, Say Rural Citizens*, *TEX. MONTHLY* 76, 78 (Mar. 1992), available at <http://www.texasmonthly.com/content/railroaded>) (quoting landowner, "Most people around here who need to jog or walk can go to the mall. We won't be able to sleep at night; our cattle will be in danger; we won't have any privacy").

22. *Preseault v. I.C.C.* (*Preseault I*), 494 U.S. 1, 5 (1990) (plurality opinion) ("We also hold that the statute is a valid exercise of congressional power under the Commerce Clause.").

23. *Marvin M. Brandt Revocable Trust v. United States*, 134 S. Ct. 1257, 1257 (2014). The case issues and facts, although intriguing on the question of railroad easements initially granted on federal land, do not fall within the scope of this article.

reactivation of these hard-won nature trails, however, has thus far only loomed in the background—but the implications of reactivation have nonetheless cropped up in takings litigation.

The following section briefly explains the history of the rails-to-trails initiative and the takings lawsuits it sparked, a legal narrative punctuated by reminders that reactivation is the sole driver of all the hubbub.

A. *Rail's Decline & Congressional Solutions*

American railroad use entered an era of decline that culminated in the 1960s as shippers (and passengers) increasingly opted for trucks, cars, and airplanes for their logistical needs.²⁴ Railroad companies that had obtained rail corridors over the past half-century began submitting applications to the Interstate Commerce Commission (“ICC”), the STB’s precursor, seeking permission to abandon the unused lines unnecessarily burdening them with tax and legal liability.²⁵ Traditional abandonment proceedings were relatively straightforward. Upon receiving a request to abandon a line, the ICC would first determine whether cessation of service along it would not harm public interest.²⁶ Once it made that determination, the agency would issue a discontinuance order giving the company one year to commence whatever actions necessary to cancel service.²⁷ If, upon the expiration of that year window, the services had not recommenced, the agency’s discontinuation order became a finalized certificate of abandonment.²⁸

By the 1970s, the ICC was granting discontinuation requests at a rate that alarmed Congress as America’s rail infrastructure shrank from its peak

24. John C. Spychalski, *Rail Transport: Retreat and Resurgence*, 553 ANNALS AM. ACAD. POL. & SOC. SCI. 42, 43 (1997) (“Between the dawn of the 1960s and the mid-1970s, rail carriage labored under siege and suffered retreat on virtually all major fronts. The primary force behind this siege and retreat was relentless, growing competition from road, air, water, and pipeline transport.”).

25. See Bowman & Rosenberg, *supra* note 14, at 588–89 (noting that rail-banking permits railroads “to escape tort liability to trespassers on unused corridors and the environmental liability from a century of heavy industrial railroad use”).

26. 49 C.F.R. § 1152.29(a)(2).

27. Danaya C. Wright, *Eminent Domain, Exactions, and Railbanking: Can Recreational Trails Survive the Court’s Fifth Amendment Takings Jurisprudence?*, 26 COLUM. J. ENVTL. L. 399, 446 (2001) (“Under the federal abandonment law, once a certificate of discontinuance is granted affirming that the public convenience and necessity do not require continued rail services, the railroad has one year to complete abandonment proceedings by taking whatever steps it desires to terminate services. It need not sell any real estate, nor does it have to remove tracks and ties. In most cases the salvage value will encourage such actions, but they are not required by the STB. If the railroad decides at the end of a year that it has no future interest in the discontinued line, the discontinuance certificate will be converted to an abandonment certificate and the railroad will no longer be liable to the shipping and traveling public along the abandoned route; it cannot be forced to resume active rail services later.”).

28. *Id.*

of 270,000 miles in 1920 to 141,000 miles in the 1970s.²⁹ Federal lawmakers responded in 1976 with the Railroad Revitalization and Regulatory Reform Act (“4-R Act”), a law authorizing the ICC to grant railroad companies permission to divest themselves of possessory interest in the rights-of-way while retaining the reversionary right to reactivate years down the line.³⁰ It was a prophylactic measure aimed at preserving the corridors in case freight demand returned in the future.

The 4-R Act directed the ICC to suspend abandonment requests for lines that might serve non-rail public interests, such as “mass transportation, conservation, energy production or transmission, or recreation.”³¹ Administratively, that early law directed the agency to, upon receipt of an abandonment request from railroad companies, suspend the abandonment for up to 180 days if it believed the corridor would serve those public interests.³² Third-parties interested in using those corridors for interim uses were invited to petition the agency to grant it stewardship authority over the right-of-way until—and this was always also a big “if”—the railroad chose to return service to the line.³³

But the first congressional attempt fell short of corridor preservation due to its failure to contend with state property laws that terminated the rights-of-way before the interim transfer took place.³⁴ As Congress soon learned, the mere specter of abandonment triggered state property laws that shattered railroad companies’ often fragile interests in these corridors.³⁵ Many—perhaps, some say, even *most*³⁶—railroad companies never actually

29. Andrea C. Ferster, Commentary, *Rails-to-Trails Conversions: A Review of Legal Issues*, 58 PLAN. & ENVT'L. L. 3, 4 (2006).

30. Wright, *supra* note 27, at 434.

31. 49 U.S.C. § 10905 (2012).

32. *Id.*

33. Curtis A. Morgan et al., *Preservation and Reuse of Abandoned Rail Corridors: Legal and Policy Issues*, 2012 PROC. OF THE ASME JOINT RAIL CONF. 523, 527.

34. See *Preseault I*, 494 U.S. at 6–8 (stating that Congress prevented property interests from reverting under state law by deeming interim trail use more similar to discontinuance than abandonment).

35. *Id.* at 8.

36. Richard Welsh, *Federal Rails To Trails Act: 18 Years of Hell for 62,000 Property Owners*, NAT'L ASS'N REVERSIONARY PROP. OWNERS (July 1, 2001), <http://home.earthlink.net/~dick156/hell.htm> (estimating that 85 percent of railroad rights of way sit on easements). NARPO's numbers are certainly subject to dispute. One rails-to-trails scholar insists the organization's estimate that some 80% of rail corridors are easements is erroneous. Transcript of Public Hearing at 170–71, Twenty-Five Years of Rail Banking: A Review and Look Ahead (Surface Transp. Bd. July 8, 2009) (Ex Parte No. 690), available at <http://www.stb.dot.gov/TransAndStatements.nsf/transcriptsandstatements?openview> (testimony of Danaya C. Wright.) (arguing before the STB that “the claim is that railroads acquired most of their property rights as easements is simply untrue. I have examined over probably 3,000 and my students and I have examined over 7,000 railroad deeds from the 19th Century, and I can attest that over 80 percent

owned the land on which their lines ran, meaning they held no fee, only century-old rights-of-way or easements.³⁷ Thus, the 4-R Act did not go far enough because the railroad companies' constructive intent to abandon—as evidenced by the ICC's discontinuation order—immediately extinguished the carrier's interest in the right-of-way and the ICC's oversight authority, which triggered the landowners' reversionary interest under state property law.³⁸ In other words, upon filing abandonment requests with the ICC, railroad companies showed intent to forfeit their interests in the underlying land.³⁹ Under most states' property law, manifestation of that intent alone meant legal abandonment of railroad use and immediate termination of the right-of-way.⁴⁰ Thus, despite some successful trail conversions under the 4-R Act, the law failed to protect railroad companies from individual quiet-title actions by landowners who believed their reversionary rights were violated.⁴¹ This understandably soured railroad companies' willingness to take advantage of the 4-R Act.

With this flaw in mind, Congress enacted 1983's rail-banking statute,⁴² an amendment to the National Trails System Act that carried out the aims of the 4-R Act.⁴³ The new law sought to preserve would-be abandoned corridors by expressly preempting state law through nullification of landowners' abandonment claims upon transfer to non-railroad entities. It reads, in part, as follows:

Consistent with the purposes of [the Railroad Revitalization and Regulatory Reform Act], and *in furtherance of the national policy*

of those from States like Pennsylvania, New York, Ohio, Indiana, Kansas, Missouri, Iowa, Idaho and Washington are clear, unambiguous fee simple absolute deeds in the railroads").

37. See Emily Drumm, *Addressing the Flaws of the Rails-to-Trails Act*, KAN. J. L. & PUB. POL'Y 158, 158 (1999) ("Estimates hold that 85% of all railroad tracks are mere easements on property (as opposed to fee simple) actually owned by adjoining landowners, easements that would revert back to the owners upon abandonment were it not for the Act."). Although "rights-of-way" and "easements" are both terms of art, this paper refers to the corridors as both interchangeably. See, e.g., *W. Union Tel. Co. v. Pennsylvania R.R.*, 195 U.S. 540, 570 (1904) (concluding that a "railroad right of way is a very substantial thing. It is more than a mere right of passage. It is more than an easement").

38. Morgan et al., *supra* note 33, at 526.

39. *Preseault I*, 494 U.S. at 6–7.

40. See generally Cecilia Fex, *The Elements of Liability in a Trails Act Taking: A Guide to the Analysis*, 38 *ECOLOGY L.Q.* 673 (2011) (providing a background of rails-to-trails litigation and railbanking).

41. Bowman & Rosenberg, *supra* note 14, at 589 ("Railroads and trail groups have had to defend each individually deeded or acquired parcel of land comprising the corridor from attacks by adjacent landowners who feel that abandoned corridors should be merged into their own back yards.").

42. 16 U.S.C. § 1247(d).

43. National Trails System Act Amendments of 1983, Pub. L. No. 98–11 sec. 208, 97 Stat. 42, 48 (1983) (codified as amended at 16 U.S.C. § 1247(d) (2000)). For the legislative history of the 1983 Act, see H.R. REP. NO. 98–28 (1983).

to preserve established railroad rights-of-way for future reactivation of rail service . . . in the case of interim use of any established railroad rights-of-way . . . if such interim use is subject to restoration or reconstruction for railroad purposes, such interim use shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes. If a[n] [entity, private or public] is prepared to assume full responsibility for management [and assume tort and tax liability] . . . then the Board shall impose such terms and conditions as a requirement of any transfer or conveyance for interim use in a manner consistent with this chapter, and shall not permit abandonment or discontinuance inconsistent or disruptive of such use.⁴⁴

In effect, the statute “specifically holds that these easements will remain valid during an interim trail use period because the corridor is being used for railroad purposes; it is being preserved for possible future rail reactivation. A number of courts have recognized that corridor preservation constitutes a legitimate railroad use.”⁴⁵ Railroads, by operation of the statute, retained their full rights in the corridor, less only a possessory interest. And trail groups—whether state parks departments, municipalities, or private groups of trail enthusiasts—now had the option to negotiate with railroad companies to obtain stewardship rights to the trails on behalf of public use, subject only to the express provision that they stand aside if and when railroad companies returned some day to reactivate the corridors.⁴⁶

Railroad companies eagerly embraced this strengthened statutory ability to shield themselves from tax and tort liability without relinquishing any permanent rights in the corridor.⁴⁷ So long as the trail groups promised not to interfere with the resumption of railroad service, federal authorities would refrain from dictating any further provisions in the deal between the railroad carriers and the trail sponsors.⁴⁸ Following 1983’s amendment, the issuance of ICC rail-banking orders—called Notice of Interim Trail Use (“NITU”)—also meant that, administratively, the agency preserved its

44. 16 U.S.C. § 1247(d) (internal citations omitted) (emphasis added).

45. Bowman & Rosenberg, *supra* note 14, at 588.

46. *Id.*

47. Morgan et al., *supra* note 33, at 527 (noting that “the value and advantage of a preserved rail corridor when compared with a brand new alignment is evident: individual property negotiations are avoided, environmental processes are streamlined, and major structures will have been kept intact”).

48. *Id.*

jurisdiction over the corridor.⁴⁹ Meanwhile, trail groups obtained a trail right-of-way, railroad companies kept a right to re-enter, and “state law property rights were held in a limbo on that ground.”⁵⁰

The law’s creation of recreational parks garnered tremendous popular support, making it almost an afterthought that the law was in fact an infrastructure-preservation measure masquerading as a recreational one. Congress merely employed linear parks as, in a sense, property-interest placeholders to overcome the prohibitive headache of undergoing new eminent domain proceedings and forced easements necessary to cobble together a railroad right-of-way.⁵¹ The 1983 amendment did the trick administratively, but landowners continued demanding redress.

B. Constitutionality: Uneasy Easements

Rail-banking prompted burdened landowners to assert their reversionary interest in the idle rights-of-way, which the federal law preempted, because most states’ common laws—absent contrary language in the original granting instrument—would have otherwise terminated the easement. These landowners found their land burdened by another easement—at least that is how they would soon argue it under state law.⁵²

The Supreme Court upheld rail-banking as facially constitutional in *Preseault v. I.C.C.*,⁵³ a case out of Vermont involving a railroad right-of-way dating back nearly 100 years.⁵⁴ A unanimous Court upheld the amended law as a valid exercise of commerce power.⁵⁵ Notably, the Court disregarded plaintiffs’ allegations that lawmakers’ stated railroad-preservation purpose was a sham because, the challengers argued, economic realities showed little likelihood of any future trail reactivations.⁵⁶ In the end, the Court remanded on the takings liability

49. Fex, *supra* note 40, at 678.

50. *Id.*

51. Wright & Hester, *supra* note 18, at 435.

52. *Preseault I*, 494 U.S. at 22 (O’Connor, J., concurring) (“Although the Commission’s actions may pre-empt the operation and effect of certain state laws, those actions do not displace state law as the traditional source of the real property interests.”).

53. *Id.* at 5.

54. These details come from a later Federal Circuit Court decision on remand, a holding in which the facts received much more extensive discussion. *Preseault v. United States (Preseault III)*, 100 F.3d 1525, 1535 (Fed. Cir. 1996).

55. *Preseault I*, 494 U.S. at 17.

56. *Id.* at 18 (plaintiffs claimed “the rail banking rationale is a sham. If Congress really wished to address the problem of shrinking trackage, it would not have left conversions to voluntary agreements between railroads and state and local agencies or private groups”). Many scholars continue to question congressional motives behind enacting the rail-banking law. *See, e.g.*, JAMES V. DELONG, PROPERTY MATTERS: HOW PROPERTY RIGHTS ARE UNDER ASSAULT — AND WHY YOU SHOULD CARE

question because, it reasoned, the Tucker Act provided the plaintiffs an opportunity to seek just compensation.⁵⁷ Lower courts, deferring to applicable state laws, would thus determine takings liability and compensation amounts on a case-by-case basis.⁵⁸

The ruling set off a torrent⁵⁹ of often bitter and protracted rails-to-trails takings lawsuits, many class actions, filed at a rate almost in lockstep stride with the proliferation of the trails themselves.⁶⁰

C. Reactivation as a Factor in Compensation

Takings litigation breaks down into two general stages: (1) courts determine whether a taking occurred in the first place and, upon determining that a taking has in fact occurred, they (2) determine how much money the government owes the landowner.⁶¹ The Federal Claims Court places little emphasis on the possibility of a rail reactivation when it determines whether the trail conversion, in and of itself, constitutes a taking because such consideration

is a matter of speculation about the distant future, based on uncertain economic and social change, and a change in government policy by managers not yet known or perhaps even born. Such speculation does not provide a basis for denying protection to existing property rights under the Constitution.⁶²

In rails-to-trails litigation, state property law most often supports a liability finding upon which the Federal Claims Court assesses compensation as “the difference in the value [to plaintiffs] before and after

268 (1997) (“The right-of-way is railbanked, against the possibility of future need. No one really believes this, and it is amusing to imagine the reaction of hikers and bikers if the government tried to take the trails back for railroad use. The banking idea was a convenient fiction to justify keeping the rights-of-way.”).

57. *Preseault I*, 494 U.S. at 13.

58. *Id.*

59. *Id.* at 11. For a detailed explanation of just how pervasive these takings suits have become, see, e.g., *Litigation and its Effect on the Rails-to-Trails Program: Hearing Before Subcomm. on Commercial and Admin. Law of the H. Comm. on the Judiciary*, 107th Cong. 23 (2002) (statement of Danaya C. Wright, expert testimony).

60. See, e.g., *National & State Trail Statistics*, RAILS-TO-TRAILS CONSERVANCY, <http://www.railstotrails.org/ourWork/trailBasics/trailStats.html> (last visited Jan. 26, 2015) (estimating the current number of trails and mileage, as well as the amount and mileage of current projects).

61. Robert Meltz, *Takings Law Today: A Primer for the Perplexed*, 34 *ECOLOGICAL L.Q.* 307, 310 (2007) (noting that, although direct physical takings litigation rarely involves much dispute over the initial question of liability, in general takings cases involve “two key issues: Was the property taken, and, if so, how much compensation should the property owner receive?”).

62. *Toews v. United States*, 376 F.3d 1371, 1381 (Fed. Cir. 2004).

the taking.”⁶³ Here, at this point in the litigation process, courts factor reactivation as a value-reducing new burden placed on the aggrieved landowner. Stated differently, reactivation potential does have some bearing on the second question of *how much* the government must compensate landowners for the trails.⁶⁴ The persistent threat of reactivation serves to reduce the value of a parcel because it is now not only subject to the presence of hikers, bikers, joggers, and intra-city rail lines, but also to the possibility that freight trains could rumble through once again.⁶⁵

In exchange for just compensation, the government obtains a new easement over the land but does not receive a deed to the corridor.⁶⁶ Presumably, based on the compensation amount’s reflection of the potential for future rail resumption, this new easement includes both trails *and* rails use. The railroad company, on the other hand, retains a future right to reactivate the line, an unvested interest that itself is fully alienable.⁶⁷ Finally, the adopting entity obtains a right-of-way access to the span of the trail.⁶⁸

As discussed in detail below, that possessory right to access is fully subservient to the resumption of railroad service, and STB decisions reflect a general attitude of erring on the side of permitting reactivation.⁶⁹ The agency’s orders have delved deeper into the nuances of property law in a

63. McCann Holdings, Ltd. v. United States, 111 Fed. Cl. 608, 614 (2013).

64. See generally Childers v. United States, 112 Fed. Cl. 617 (2013) (calculating just compensation for landowners who brought Fifth Amendment taking actions against the federal government).

65. Id. at 641, 644 (granting plaintiffs efforts to consider “negatively impacted property values [resulting from] the possibility that the railroad corridor could be reactivated” because “a knowledgeable buyer would likely have considered the potential reactivation of transit on the corridor and factored that into the price he was willing to pay for the subject properties”).

66. Id. at 628 (“In a rails-to-trails case, the imposition of a recreational trail creates a new easement for a new purpose across the landowner’s property, which constitutes a taking entitling the landowners to just compensation.”); see also Jenna Greene, *Rail-to-Trails Program Costly to Taxpayers*, NAT’L L. J. (Sept. 2, 2013), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202617646798&thepage=3> (“The irony is that the U.S. doesn’t even get a deed. At the end of the day, [the claimants] still get to keep the property.”).

67. See, e.g., Owensville Terminal Co.—Abandonment Exemption—in Edwards & White Cntys., Ill., & Gibson & Posey Cntys., Ind., No. AB-477 (Sub-No. 3X), 2005 WL 2292012, at *1 (Surface Transp. Bd. Sept. 20, 2005) (“It is well settled that the abandoning carrier’s right to cut off the interim trail use arrangement and to reinstitute rail service can be conveyed to a third party.”).

68. Trail groups also have the option to unilaterally file with the STB to vacate the NITU. See, e.g., V And S Ry., Inc.—Abandonment Exemption—in Barber, Cnty., Kan., AB-603 (Sub-No. 1X), 2007 WL 1141517 (Surface Transp. Bd. Apr. 18, 2007) (granting a trail group’s request to vacate the NITU on a segment of right-of-way).

69. See, e.g., Owensville Terminal Co.—Abandonment Exemption—in Edwards & White Cntys., Ill., & Gibson & Posey Cntys., Ind., 2005 WL 2292012, at *1 (“An interim trail use arrangement is subject to being cut off at any time by the reinstitution of rail service.”); see also E-mail from Dennis Watson, *supra* note 14 (explaining how upon reactivation by the STB, some rail lines may not have actually restarted service).

select few reactivations that involved a dispute.⁷⁰ Courts, meanwhile, have yet to address disputes arising from reactivations, which are becoming increasingly more likely.

II. A FUTURE OF RAIL: USE PROJECTIONS

In 2009 Warren Buffett, widely regarded as perhaps America's savviest investor, orchestrated one of the most expensive buyouts in the history of his multi-billion-dollar investment firm, Berkshire Hathaway, when he cut a check for \$34 billion for Burlington Northern Santa Fe, a freight railroad company.⁷¹ When asked about his obvious faith in the freight-rail industry, the "Oracle of Omaha" responded, "It's a business that has real economic advantages. If you look at fuel costs, drivers' wages on the highway—as long as more goods move from place to place in this country, rails are going to get their share, and it should be a very profitable business."⁷² His gamble appears to be paying off. The company has since nearly doubled in value, thanks to ever-growing demand for freight rail transport.⁷³

Although highly uncommon throughout the first 30 years of the rail-banking program, reactivation is set to become a much more frequent occurrence as the freight-rail industry rebounds and all that soaring demand overwhelms the now-skeletal network of remaining corridors,⁷⁴ prompting the freight industry to ease bottlenecks by opening new lines.

70. See, e.g., Ga. Great S. Div., S.C. Cent. R.R.—Abandonment & Discontinuance Exemption—Between Albany & Dawson in Terrell, Lee, & Dawson Cntys., Ga., No. AB-389 (Sub-No. 1X), 2003 WL 21132515 (Surface Transp. Bd. May 16, 2003).

71. Zack O'Malley Greenburg, *Warren Buffett Is Still Bullish On Rail—And Keystone*, FORBES (Mar. 3, 2014), <http://www.forbes.com/sites/zackomalleygreenburg/2014/03/03/warren-buffett-is-still-bullish-on-rail-and-keystone/>.

72. *Id.*

73. *Id.* See also Joann Muller, Zack O'Malley Greenburg & Christopher Helman, *All Aboard: Why America's Second Rail Boom Has Plenty Of Room To Run*, FORBES (Jan. 22, 2014), <http://www.forbes.com/sites/joannmuller/2014/01/22/americas-second-rail-boom/> ("The industry, so recently an aging also-ran in the age of superhighways, is now a fountain of superlative figures: Industry wide, revenues have surged 19% from \$67.7 billion to \$80.6 billion since 2009, creating 10,000 new jobs at railroad companies and countless thousands in related industries—and paying out \$21 billion in wages last year alone, up nearly \$1 billion. As the U.S. population swells, the Federal Railroad Administration projects that the tonnage of freight shipped by the U.S. rail system will increase 22% by 2035.").

74. Lindsey Hovland, *Derailed: How Government Interference Threatens to Destroy the Rail Industry—and How to Get Back on Track*, 40 TRANSP. L.J. 49, 60 (2013) ("The most significant issue facing freight railroads today is the need for additional capacity.").

A. Rail Infrastructure Shortage on National Level

The data are unequivocal: although it fell from favor over the second half of the last century, rail—particularly freight rail—once again appears poised to play a central role in the twenty-first century. The Federal Railroad Administration expects population growth to increase the tonnage of goods shipped on American railroads by 22% between 2010 and 2035.⁷⁵ By 2050, when the United States population is projected to reach 420 million, total tons shipped will be up 35% over their 2010 levels.⁷⁶ Freight carriers shipped less than 10 billion tons of materials in 1993, but by mid-century they are expected to transport 17 billion tons annually.⁷⁷

These estimates have prompted many transportation experts to sound alarms that the nation's shrunken rail infrastructure will soon fail to meet its needs.⁷⁸ They are warning that freight rail demand is expected to exceed supply in coming decades. The Congressional Budget Office, after synthesizing a number of studies, noted that only 170,000 miles of railroad tracks remain in the United States and arrived at the following conclusion:

At the same time, the number of train-miles has grown, especially in recent years. That has led to a greater intensity of use of tracks. . . . Such growth helps explain why some tracks are becoming increasingly congested, a factor that has contributed to concern about the railroads' ability to meet future demand. As the number of trains per mile of track has increased, the average speed—a measure that experts often use as an indicator of railroads' performance—has declined; it is now lower than it has been since the early 1980s⁷⁹

B. Rail Infrastructure Shortages at the State Level

Even at the state level, projections paint a picture of a rail-heavy future, both in freight movement and, perhaps to a lesser extent, passenger service

75. FED. R.R. ADMIN., U.S. DEP'T OF TRANSP., NATIONAL RAIL PLAN: MOVING FORWARD 6 (2010) [hereinafter NATIONAL RAIL PLAN].

76. *Id.*

77. *Id.*

78. CONGRESSIONAL BUDGET OFFICE, FREIGHT RAIL TRANSPORTATION: LONG-TERM ISSUES 8 (2006), available at <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/70xx/doc7021/01-17-rail.pdf>.

79. *Id.*

between dense population centers.⁸⁰ But, again, the infrastructure will likely fail to satisfy the increased demand.

Take, for instance, Texas, home to the nation's largest railroad network.⁸¹ Approximately 11,000 miles of tracks traverse the state, representing about 8% of the national railroad infrastructure.⁸² That number represents a 37% decline from peak mileage of over 17,000 in the 1930s.⁸³ Just since 2005, Texas rail operators abandoned some 146 miles of corridor.⁸⁴ In juxtaposition, between 1991 and 2006 the amount of freight tonnage transported in Texas grew from roughly four million carloads to more than ten million, a 146% increase spurred at least in part by the creation of the North American Free Trade Agreement.⁸⁵

The Texas Department of Transportation ("TxDOT") estimates that freight and passenger rail will contribute significantly to the Texas economy, but the state is facing capacity constraints.⁸⁶ Freight demand was projected to exceed capacity beginning in 2013, and TxDOT estimates that keeping up with demand could cost more than \$600 million over the next 20 years.⁸⁷ A TxDOT report also urges state officials to drastically enhance

80. Conceivably, long-distance intercity passenger rail could also reactivate rail-banked corridors. For a general discussion of freight/passenger rail-sharing arrangements, *see, e.g.*, Justin J. Marks, Comment, *No Free Ride: Limiting Freight Railroad Liability When Granting Right-of-Way to Passenger Rail Carriers*, 36 TRANSP. L.J. 313, 316 (2009). For present purposes, passenger ridership is nonetheless somewhat outside the scope of this Comment, but passenger rail projections perhaps further demonstrate the general resurgence in the popularity of rail. Currently, roughly 15 long-distance, city-to-city passenger rail routes exist in the United States, an entirely inadequate offering for a population that appears to be awakening to the various benefits of railroad transport, particularly in comparison to air travel. MIDWEST HIGH SPEED RAIL ASS'N & NAT'L ASS'N OF R.R. PASSENGERS, LONG DISTANCE TRAINS: A FOUNDATION FOR NATIONAL MOBILITY 3 (2013). Ridership numbers comport with these assessments of a changing cultural outlook when it comes to passenger rail. In 2012, for instance, Amtrak boasted its highest ridership rates in history, or more than 31 million passengers during that fiscal year, a 3.5% increase over 2011 that drove revenues above \$2 billion. *See, e.g.*, Eric Jaffe, *Why Amtrak Keeps Breaking Ridership Records and Will Continue To Do So*, CITYLAB (Oct. 19, 2012), <http://www.citylab.com/politics/2012/10/why-amtrak-keeps-breaking-ridership-records-and-will-continue/3643/> (discussing increased ridership on Amtrak). Even the executive branch has tuned in to public demand. The White House devoted \$8 billion toward a high-speed rail network in the American Recovery and Reinvestment Act of 2009. U.S. DEP'T OF TRANSP., VISION FOR HIGH SPEED RAIL IN AMERICA 11 (2009).

81. TEX. DEP'T OF TRANSP., TEXAS RAIL PLAN 1-1 (2010), *available at* <http://www.txdot.gov/inside-txdot/division/rail/texas-rail-plan/final.html>.

82. *Id.* at 3-13 — 3-14.

83. *Id.* at 3-26.

84. *Id.* at 3-29.

85. *Id.* at 3-7.

86. *Id.* at 7-1.

87. *Id.* at 7-16.

the state's passenger inter-urban rail network, which could potentially implicate rail-banked corridors.⁸⁸

C. Energy Boom: Crude Oil Transport

Meanwhile, a surge in freight rail demand is also occurring as American energy producers, frustrated by gluts arising from inadequate pipeline capacity (assuming the infrastructure is locally available at all), are relying more and more heavily on railroad corridors to move their freshly extracted resources to Texas refineries along the Gulf of Mexico.⁸⁹ Explosive growth in Bakken Formation shale oil production in the Dakotas and to the north in Canada has sparked steep spikes in demand for freight-rail transport.⁹⁰ For instance, in 2008 freight-rail carriers transported about 9,500 carloads of oil from production sites to refineries.⁹¹ By 2012, that number rose to a staggering 233,698 carloads and in 2013, to more than 407,000.⁹² The industry transported almost 230,000 carloads of crude oil in the first six months of 2014 alone.⁹³

And even if the strained railroad infrastructure does not buckle under increased transport,⁹⁴ in terms of safety, the current routes through

88. See *id.* at 7-26 ("Passenger rail services and facilities will complement municipalities creating more livable, sustainable urban activity centers. . . . As passenger rail traffic increases, new, higher speed rail services will be launched on separated, dedicated rights-of-way.").

89. Russell Gold & Chester Dawson, *Dangers Aside, Railways Reshape Crude Market Shipping Crude by Rail Expands as New Pipelines Hit Headwinds and Train Companies Reap Revenue*, WALL ST. J., (Sept. 21, 2014), <http://online.wsj.com/articles/dangers-aside-railways-reshape-crude-market-1411353150> ("Today, about 939,000 barrels of oil a day are riding the rails, about 11% of the total pumped in the U.S., according data [sic] from the federal Surface Transportation Board, chugging across plains and over bridges, rumbling through cities and towns on their way to refineries on the coasts and along the Gulf of Mexico. If all the railcars loaded with crude on one day were hitched to a single locomotive, the resulting train would be about 17 miles long.").

90. AM. ASS'N OF R.R.S, MOVING CRUDE OIL BY RAIL 3 (2014).

91. *Id.*

92. *Id.*

93. *Id.*

94. U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-14-740, FREIGHT TRANSPORTATION: DEVELOPING NATIONAL STRATEGY WOULD BENEFIT FROM ADDED FOCUS ON COMMUNITY CONGESTION IMPACTS 19 (2014), available at <http://www.gao.gov/assets/670/665972.pdf> ("One reason for the increase in crude oil being shipped by rail is the limitation of the nation's pipeline capacity to handle current oil production. In March 2014, we found that most of the system of crude oil pipelines in the United States was designed primarily to move crude oil from the South to the North; emerging crude oil production centers in Western Canada, Texas, and North Dakota have strained the existing pipeline infrastructure, and in some areas pipeline capacity has been inadequate."); see also MOVING CRUDE, *supra* note 90, at 3 ("[I]n places like North Dakota that have seen huge increases in crude oil production, the existing pipeline network lacks the capacity to handle the higher production. Railroads have the capacity and flexibility to fill this gap.").

population centers are becoming disfavored.⁹⁵ Stirred by a string of major derailments that have killed scores of people, federal transportation officials and advocacy groups have begun urging railroad companies to reroute crude oil rail services away from population centers.⁹⁶ These requirements could divert crude oil shipments away from city centers and instead put them along the outskirts of suburban areas, where railroad companies might avail themselves of rail-banked corridors.

In a sense, the resurgence of the freight-rail industry is the result of happenstance, a fortuitous blend of economic, technological, and natural resource developments that only an oracle on par with Buffett could have predicted in 1983. Yet, Congress apparently had an inkling because this unmistakable rebirth of the industry is exactly the sort of scenario that prompted rail-banking in the first place. It stands to logic that railroad companies will take advantage of that legal mechanism to accommodate increased tonnage and frequency.

Just how, exactly, that reactivation will take place remains somewhat murky, thanks in large part to the rarity of reactivations. The STB has touched on the topic, however, in a select few decisions that require an understanding of how the rail-banked corridors were created in the first place.

III. RAIL-BANKING & REACTIVATION PROCEDURES

The rail-banking regulatory scheme limits STB's role to a ministerial one.⁹⁷ A division within the U.S. Department of Transportation, the STB oversees the rails-to-trails program as part of its broader mission to regulate and adjudicate the American railroad industry, including an active role in

95. Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains, 79 Fed. Reg. 45016-01, 45029 (proposed Aug. 1, 2014) (stating that crude oil transport authorizations must "where technically feasible, require rerouting to avoid transportation of such hazardous materials through populated and other sensitive areas."); *see also It Could Happen Here: The Exploding Threat of Crude by Rail in California*, NAT. RESOURCES DEF. COUNCIL, <http://www.nrdc.org/energy/ca-crude-oil-by-rail.asp> (last revised June 18, 2014) ("More crude oil was transported by rail in North America in 2013 than in the past five years combined, most of it extracted from the Bakken shale of North Dakota and Montana. In California, the increase in crude by rail has been particularly dramatic, from 45,000 barrels in 2009 to 6 million barrels in 2013. As 'rolling pipelines' of more than 100 rail cars haul millions of gallons of crude oil through our communities, derailments, oil spills and explosions are becoming all too common. Between March 2013 and May 2014, there were 12 significant oil train derailments in the United States and Canada. As oil companies profit, communities bear the cost.").

96. Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains, 79 Fed. Reg. at 45029.

97. *Goos v. I.C.C.*, 911 F.2d 1283, 1295 (8th Cir. 1990).

shepherding line abandonment, a core mission.⁹⁸ Its regulations extensively cover matters regarding initial rail-banking but contain no rules explicitly dealing with the reactivation of these corridors.⁹⁹

The following section explains the rail-banking process administratively, from the intent to abandon to reactivation. The process of creating the rail-banked trail is important for two reasons: first, reactivation issues are, for the most part, only understandable within the context of the initial rail-banking; second, groups seeking to adopt these corridors must understand the administrative mechanics of rail-banking if they hope to safeguard non-freight uses upon reactivation, or even thwart it after learning of reactivation proceedings. Thus, a short overview of the process follows.

A. Rail-Banking Proceedings

When a rail carrier—that is, one that sells “common carrier railroad transportation” in the “general system of rail transportation”¹⁰⁰—wishes to abandon a corridor, it must first seek approval from the STB, which is statutorily prohibited from permitting any abandonment that could inconvenience the public.¹⁰¹ Interested trail groups may then alert the STB, through a Statement of Willingness, that they are entering negotiations with the would-be-abandoning railroad.¹⁰²

98. *About STB: Overview*, SURFACE TRANSP. BD., <http://www.stb.dot.gov/stb/about/overview.html> (last visited Jan. 26, 2015).

99. This lack of reactivation regulation likely stems from the initial law’s own neglect of reactivation. *See generally* 49 U.S.C. § 10102 (noting at least how there is no definition for the word “reactivation” in the definition section). *See, e.g.*, Richard Henick, *Rails-to-Trails: Everyone Benefits, Don't They?*, 10 TEMP. ENVTL. L. & TECH. J. 75, 79–80 (1991) (“The effect of § 1247(d) today is to allow interim use of the land as recreational trails, while retaining the possibility of use for railroad purposes at some undetermined future date. In fact, under the Trails Act, there is no specific provision for the actual resumption of rail service at all, thus effectively authorizing interim trail use for an indefinite period.”).

100. 49 U.S.C. § 10102 (defining “rail carrier” as “a person providing common carrier railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation”).

101. *Id.*; *see also* Fex, *supra* note 40, at 678 (providing a background of rails-to-trails litigation and rail-banking). For a discussion of the breadth of federal authority, *see* Reed v. Meserve, 487 F.2d 646, 649 (1st Cir. 1973) (“The phrase ‘public convenience and necessity’ is not, of course, infinitely elastic. The ICC may not ignore the effects of its decisions on interstate commerce or competition for traffic. The phrase ‘must be given a scope consistent with the broad purpose of the Transportation Act of 1920 to provide the public with an efficient and nationally integrated railroad system.’”) (internal citations omitted) (quoting I.C.C. v. Ry. Labor Execs. Ass’n, 315 U.S. 373, 376 (1942)).

102. 49 C.F.R. § 1152.29(a)(2).

Upon receiving written notice of the negotiations, the STB issues a NITU.¹⁰³ The agency retains the discretion to issue the NITU only “[i]f the carrier is willing to negotiate an agreement, and the public convenience and necessity permit abandonment.”¹⁰⁴ Once issued, the NITU creates a 180-day window during which the abandonment is postponed but the railroad may proceed regardless by canceling its service and dismantling its tracks.¹⁰⁵

If the parties reach an agreement within that timeframe, the railroad and trail group then jointly file the following with the agency: (1) a copy of the NITU; (2) an express trail group acknowledgement that it assumes responsibility for the trail; (3) an express acknowledgment by the trail group that it will cede to railroad use if future reactivation is approved; and (4) the date of the trail’s transfer from the railroad to the group.¹⁰⁶ If negotiations fail, the abandonment proceeds, state property laws take hold, and the STB loses its jurisdiction over the line.¹⁰⁷

Prior to issuing a rail-banking decree, the STB’s only role in the final approval is to ensure it receives from the trail group an assurance that the agreement contains the above statutorily derived provisions. Any additional provisions within the agreement do not go to the STB for review.¹⁰⁸ Upon satisfaction of its requirements, the agency issues an order establishing interim trail use that preserves the STB’s continued jurisdiction over the trail indefinitely, thus keeping the corridor eligible for reactivation.¹⁰⁹

Notably, trail groups should be sure to finalize an agreement with a railroad company as soon as possible after the issuance of a NITU, because even though the STB is generally permissive of negotiation extensions, the STB’s loss of jurisdiction typically triggers automatic termination of the

103. *Id.* at § 1152.29(d)(2). The STB might also grant a Certificate of Interim Trail Use (“CITU”), depending on whether the railroad is seeking to abandon via traditional processes or through an expedited proceeding. The distinction is irrelevant because both filings have identical legal effect, at least in the rail-banking context, so this Comment lumps both authorizations into the NITU category. *See also* Fex, *supra* note 40, at 679–80 (“Because the CITUs are issued pursuant to petitions filed under the abandonment process, which is typically more onerous, NITUs are more common in the Trails Act takings cases.”).

104. 49 C.F.R. § 1152.29(b)(1)(ii).

105. *Id.* at § 1152.29(d)(2); *see also* Gregg H. Hirakawa, *Preserving Transportation Corridors for the Future: Another Look at Railroad Deeds in Washington State*, 25 SEATTLE U. L. REV. 481, 488–89 (2001) (providing a relatively straightforward account of the rail-banking process administratively).

106. 49 C.F.R. § 1152.29(f)(1).

107. *Id.* at § 1152.29(e)(2).

108. For an instance of the STB rightfully declining to ratify a trail agreement, *see* Md. Transit Admin. v. Surface Transp. Bd., 700 F.3d 139, 144 (4th Cir. 2012).

109. *See* Wright & Hester, *supra* note 18, at 455–56 (“[Rail-banking] is a presumptive showing of intent not to abandon.”).

easement.¹¹⁰ After all, “adverse consequences may flow from loss of ICC jurisdiction to corridor preservation efforts” because “as with the King’s horses and men in the Humpty Dumpty nursery rhyme, ICC cannot put a corridor back together again once it has been scrambled.”¹¹¹

Some commentators have speculated that the trail group presumably must in fact open a trail on the corridor, but it seems likely that the railbed left after the removal of tracks—regardless of any additional signage, fencing, etc.—alone would satisfy that requirement.¹¹² The STB has also permitted trail groups to repurpose the corridors for a variety of other uses “so long as [they] do not interfere with possible future freight rail use.”¹¹³ For trail groups, this permits a variety of “creative possibilities” like trolleys or other forms of passenger light rail so long as they parallel the trails themselves and do not interfere with preservation of rail service.¹¹⁴ As noted above, many local governments have seized these public-transit opportunities and assumed possession of corridors that are then equipped with light-rail tracks and linked to surrounding transportation networks.¹¹⁵

B. Reactivation Proceedings

When the need arises to resume rail operations along any length of the rail-banked corridor, a railroad carrier—regardless of whether it was the corridor’s original carrier—asks STB officials to vacate the NITU.¹¹⁶ In most cases, the STB promptly vacates it.¹¹⁷ Once the STB vacates the NITU, the railroad company must¹¹⁸ then rebuild tracks and resume operations.¹¹⁹

110. See Wright, *supra* note 27, at 447 (“As mentioned above, the railbanking statute serves to continue federal jurisdiction over the corridor and to prevent abandonment under state law even though the traditional elements of abandonment might be met under some states’ laws when the corridor is converted to a recreational trail.”).

111. Montange, *supra* note 20, at 156.

112. *Id.* at 155.

113. *Id.*

114. *Id.* This scenario, the addition of light passenger rail alongside the trail, is discussed more fully *infra*, Part VI.

115. Local governments are subject to the same restrictions as private groups, meaning that reactivating the corridors will force the removal of the passenger service, at least it would absent some sort of compromise or contractual agreements with the reactivating railroad company.

116. See Fex, *supra* note 40, at 678 (offering a breakdown of the regulatory process behind railbanking).

117. Owensville Terminal Co.—Abandonment Exemption—in Edwards & White Cntys., Ill., & Gibson & Posey Cntys., Ind., 2005 WL 2292012, at *2.

118. Once railroads reactivate railroad corridors connected to the national rail network, they once again become subject to federal regulation as common carriers. 49 U.S.C. § 10501(a)(2) (requiring STB oversight of any rail operations between two places within a state along corridors connected to the interstate network; between states or a state and a territory; between territories; within a territory; between states but through a foreign country; and between a state and a foreign country). Common

Trail-group input is conspicuously absent from the administrative process, even if the entities have grounds to dispute reactivation because, for instance, the railroad violated its rail-banking agreement in some aspect of reinstating service. Regardless, trail holders suddenly must relinquish a tract of land that, in the time since conversion, has cost vast sums to develop while becoming a beloved aspect of a community.¹²⁰ The coming years could see that very scenario unfold as technological gains and road congestion turn passengers' and shippers' attention to railroads, which in turn will look toward all those miles of rail-banked corridors to alleviate infrastructure bottlenecks.¹²¹

carrier status requires that railroads must resume rail service along those corridors if public demand for such service exists. *See* Gen. Foods Corp. v. Baker, 451 F. Supp. 873, 875–76 (D. Md. 1978) (holding that “[d]iscontinuation of rail service can cause great harm, and railroads are held to a higher standard of responsibility than most private enterprises. They may not, on their own authority, refuse to maintain service when it becomes inconvenient to do so or because profits are declining. A railroad may not make a unilateral decision to abandon a line, but must apply to the Interstate Commerce Commission for a certificate”) (internal citations omitted); *see also* 49 U.S.C. § 11101 (2012) (providing rules for rail carrier service and rates). If a carrier fails to apply for an abandonment proceeding, it could face STB sanctions for a host of requirements attendant to that status, ranging everywhere from employment standards to heightened tort liability, and expose itself to liability for the economic harms borne by would-be shippers caused by its refusal to reinstate rail operations. *See, e.g.*, GS Roofing Products Co. v. Surface Transp. Bd., 143 F.3d 387, 394 (8th Cir. 1998) (holding a railroad liable for damages that shippers incurred due to unavailability of rail services because the railroad “failed to restore service within a reasonable time”). Thus, railroad companies that reactivate a line must reinstate rail services, lest they face liability to surrounding businesses that might rely on their freight line. Their alternative, of course, is to again seek abandonment authorization from the STB, which could then trigger another rail-banking cycle. Railroad companies do have another option, one the STB has granted at least once in the past. BG & CM R.R.—Exemption from 49 U.S.C. Subtitle IV, BG & CM R.R.—Acquisition & Operation Exemption—Camas Prairie Railnet, Inc., No. 34399 & No. 34398, 2003 WL 22379168, at *1 (Surface Transp. Bd. Oct. 17, 2003). That option entails the company’s filing for a new NITU that would name itself as the interim trail sponsor. *Id.* The STB granted such a request in 2003 for a fifty-plus-mile stretch of Idaho trail a local company sought to reactivate only seasonally. *Id.* In doing so, the company received a right to use the right-of-way without any common-carrier obligations. *Id.*

119. 49 C.F.R. § 1152.29(a)(3) (requiring that putative trail groups “acknowledg[e] that interim trail use is subject to . . . possible future reconstruction and reactivation of the right-of-way for rail service”).

120. *See, e.g.*, THE MIDDLE GA. REG’L DEV. CTR., CENTRAL GEORGIA RAIL-TO-TRAIL FEASIBILITY STUDY 24 (2007) (estimating that the cost of constructing a 33 mile rail-trail in Georgia would average out to about \$100 per foot for a overall total cost of \$17.5 million. That figure does not include the costs of actual acquisition from the railroad.).

121. *See* Machalaba, *supra* note 7 (concluding that railroads could soon enjoy a “comeback and are poised to become busier places in the years ahead. Forecasts for freight growth are substantial, prompting railroads to plan capacity additions”); *see also* Bowman & Rosenberg, *supra* note 14, at 625 (“With the current national rail system relatively sleek and efficient, limited to a handful of major carriers, the rate of abandonments has decreased, indicating that we are unlikely to see a significant increase in the railbank. However, the slimness of the system means that we may see more reactivations as transportation pressures increase.”).

C. Who May Reactivate

The initially abandoning railroad does retain a reactivation right that it may sell to third parties with STB approval.¹²² The STB has dubbed this future interest “a residual common carrier obligation” retained when the railroad hands over the right-of-way to the trail sponsor.¹²³ Moreover, trail-to-rail reactivation may occur at the behest of *any* railroad, not just the one that initially sought to abandon or that purchased the right from the abandoning company, so long as it proves its status as a bona fide operator with the resources to actually reinstate rail service.¹²⁴ If another, non-reactivation-interest-holding carrier wishes to reactivate the line, it must first show the holder of that right has refused to do so and continued dormancy of the corridor will inconvenience the public.¹²⁵

STB officials denied such a request in 2011.¹²⁶ A railroad carrier, GNP, sought to reactivate a nine-mile stretch of rail-banked corridor in Washington that another railroad company had rail-banked years before.¹²⁷ King County, as one of several trail sponsors along the stretch slated for reactivation, had earlier acquired from the originally abandoning railroad the right to reactivate.¹²⁸ The county and other sponsors objected to GNP’s reactivation request.¹²⁹ King County ultimately defeated reactivation by showing the STB that the would-be reactivating carrier had recently entered involuntary bankruptcy proceedings and likely would have lacked the financial resources to recommence rail operations along the line.¹³⁰ The STB declared that the potential bankruptcy belied GNP’s assertions that it was a bona fide carrier.¹³¹

122. See, e.g., *Iowa Power, Inc.—Constr. Exemption—Council Bluffs, Ia.*, 8 I.C.C.2d 858, 867 (Dec. 11, 1990) (“Moreover, in this case a non-carrier (not the abandoning railroad) seeks to restore active rail service. Given the fact that the abandoning carrier voluntarily agreed to the interim trail use (and rail banking), prior to our modification of a NITU or CITU, we find that the abandoning carrier, if available, should at least concur in the non-carrier’s proposal.”).

123. *Norfolk & W. Ry. Co.—Abandonment Between St. Marys & Minster in Auglaize Cnty., Ohio*, 9 I.C.C.2d 1015, 1018 (Oct. 15, 1993).

124. *GNP Rly., Inc.—Acquisition & Operation Exemption—Redmond Spur & Woodinville Subdivision, BNSF Ry. Co.—Abandonment Exemption—in King Cnty., Wash.*, BNSF Ry. Co.—Abandonment Exemption—in King Cnty., Wash., FD 35407, 2011 WL 2421150 (Surface Transp. Bd. June 15, 2011).

125. *Id.*

126. *Id.*

127. *Id.*

128. *Id.* at *1 (“In the September 2009 Decision, the Board granted King County’s request to acquire BNSF’s rights and obligations, including the right to reinstate rail service in the future.”).

129. *Id.*

130. *Id.*

131. *Id.*

In addition to insolvency concerns, the STB also questioned GNP's assertions that several manufacturers along the stretch had expressed interest in contracting with the railroad to ship its freight.¹³² Those it cited as potential clients also lacked the necessary facilities to move their products by rail.¹³³ Also, GNP had recently entered into an agreement with local authorities that it would specifically *not* conduct freight-rail operations along the very stretch it sought to reactivate.¹³⁴

Two years later, the STB denied another proposed reactivation on that same corridor by a third-party railroad due to similar, but even less specifically documented, concerns about solvency.¹³⁵ The STB cited the unprofitability of the carrier's nearby operations, which were subsidized by other lines.¹³⁶ Moreover, high property values in the area also cast doubt on whether the operator could afford the up-front costs of acquiring additional necessary rights-of-way following the board's permission to do so.¹³⁷

Also related to reactivation processes, the STB issued a decision in 2009 that would not require that reactivating railroad companies complete an additional Environmental Impact Study, pursuant to the National Environmental Policy Act applied to the STB in 49 U.S.C. § 10901.¹³⁸ Although the STB's regulations require such a study in the case of new or extended rail corridors, it remained unclear prior to this decision whether the requirements also applied to reactivations.¹³⁹ This ruling should only further encourage future reactivation by removing the sometimes-prohibitive costs of such studies, which can exceed \$20 million.¹⁴⁰

132. *Id.*

133. *Id.*

134. *Id.*

135. Ballard Terminal R.R.—Acquisition & Operation Exemption of Woodinville Subdivision, BNSF Ry. Company—Abandonment Exemption—in King Cnty, Wash., FD 35731, 2013 WL 3962853 (Surface Transp. Bd. Aug. 1, 2013).

136. *Id.*

137. *Id.*

138. R.J. Corman R.R./Pa. Lines Inc.—Constr. & Operation Exemption—in Clearfield Cnty., Pa., No. 35116, 2009 WL 2221010, at *1 (Surface Transp. Bd. July 27, 2009); *see also* Maureen E. Eldredge, *Who's Driving the Train? Railroad Regulation and Local Control*, 75 U. COLO. L. REV. 549, 560 (2004) (explaining the National Environmental Policy Act process pursuant to 49 U.S.C. § 10901).

139. *See, e.g.*, Transcript of Public Hearing at 119–21, Twenty-Five Years of Rail Banking: A Review and Look Ahead (Surface Transp. Bd. July 8, 2009) (Ex Parte No. 690), *available at* <http://www.stb.dot.gov/TransAndStatements.nsf/transcriptsandstatements?openview> (testimony of Eric Strohmeyer, CNJ Rail Corp.) (discussing the additional costs associated with the application requirements for reactivations).

140. *Id.* at 121.

IV. TRAIL-GROUP OPPOSITION: DISPUTING REACTIVATION

Reactivation has in at least two instances prompted trail groups to dispute reactivation attempts.¹⁴¹ The popularity of the rail-banked trails—and the sometimes hefty financial investment required for trail conversion¹⁴²—suggests opposition could become common in future reactivations.¹⁴³ But judging from the language and tone of STB decisions on the matter, trail groups may want to take heed that the agency is highly deferential to the reactivation of rail service and will ardently refuse to address what, if anything, the railroad must convey to the trail group in compensation for the now-defunct trail.¹⁴⁴ Trail groups thus may want to be careful to create contractual, private remedies for themselves during initial negotiations with the railroads prior to the establishment of the trail. Even the non-fulfillment of those, however, will not weigh at all in the STB's consideration of whether to vacate the interim use.¹⁴⁵

The STB drove home the point in resolving a dispute out of Georgia in 2003.¹⁴⁶ A trail group petitioned the agency seeking an order forcing the reactivating railroad, Georgia Great Southern, to compensate it for the fair-market value of the roughly 14-mile corridor the company sought to reactivate.¹⁴⁷ The group claimed that it had purchased the right-of-way through an outright sale seven years earlier and thus the railroad, which

141. Ga. Great S. Div., S.C. Cent. R.R.—Abandonment & Discontinuance Exemption—Between Albany & Dawson in Terrell, Lee, & Dawson Cntys., Ga., 2003 WL 21132515, at *3 (“In short, an interim trail use arrangement is subject to being cut off at any time by the reinstitution of rail service. If and when the railroad wishes to restore rail service on all or part of the property, it has the right to do so, and the trail user must step aside.”).

142. See, e.g., THE MIDDLE GA. REG’L DEV. CTR., *supra* note 120, at 24 (estimating that the cost of constructing a 33 mile rail-trail in Georgia would average out to about \$100 per foot for an overall total cost of \$17.5 million. That figure does not include the costs of actual acquisition from the railroad).

143. Bowman & Rosenberg, *supra* note 14, at 594 (discussing how “there are those instances when a railroad wants to reactivate, and the trail group opposes it, that their interests diverge. Although this has not occurred often, it can be a bitter and expensive process if the parties do not understand the rights that each possesses”).

144. The STB takes a straightforward, almost mechanical, approach to reactivation. See, e.g., Owensville Terminal Co.—Abandonment Exemption—in Edwards & White Cntys., Ill., & Gibson & Posey Cntys., Ind., 2005 WL 2292012, at *1 (“Where an application to construct (or acquire as is the case here) and operate a rail line over the right-of-way is authorized [under STB regulations] the Board will reopen the abandonment proceeding and vacate the NITU. BG&P has complied with the requirements . . . regarding a request to vacate the NITU. Therefore, vacation of the NITU will be granted so that rail service can be restored on the line.”).

145. Ga. Great S. Div., S.C. Cent. R.R.—Abandonment & Discontinuance Exemption—Between Albany & Dawson in Terrell, Lee, & Dawson Cntys., Ga., 2003 WL 21132515, at *4.

146. See generally *id.* (discussing how the STB will not consider a private, contractual arrangement for a trail group to buy a right-of-way in their decision to reactivate the rail line).

147. *Id.* at *4.

sold it at a discount and claimed the sale as a tax write-off, owed it market value for seizing the group's interest in the land.¹⁴⁸

The agency demurred, refusing to dictate anything about the terms of the reactivation because “the Trails Act does not speak to compensation, either by a railroad to an interim trail sponsor for reactivation of rail service, or by an interim trail sponsor to a railroad to use the property on an interim basis as a trail.”¹⁴⁹ Any terms beyond the limited specific provisions of the statute—or, specifically, that trail sponsors assume certain liabilities for the corridor and that they acknowledge the potential for reactivation—exist only in the “voluntary agreement of the parties,” and the STB does not “oversee, review, approve, or interpret the terms of the parties’ trail use agreements. Such issues are for a court to address.”¹⁵⁰

For trail groups, perhaps the most stirring takeaway from this decision is the fragility of their default interest in the corridor. Even groups that *purchase* rights-of-way from railroads at rail-banking do not have any absolute rights to indefinite use of the trail.¹⁵¹ Thus, prospective trail sponsors should secure certain guarantees from the railroad before expending time and money in the creation of trails.¹⁵² The Rails-to-Trails Conservancy, the nation’s most ardent rail-banking advocacy group, admonishes prospective trail groups to do exactly that.¹⁵³ Specifically, the nonprofit counsels:

[P]rudent trail managers must anticipate that contingency in order to protect their substantial investment in the acquisition and

148. *Id.*

149. *Id.* at *5.

150. *Id.*

151. See, e.g., Transcript of Public Hearing at 121–22, Twenty-Five Years of Rail Banking: A Review and Look Ahead (Surface Transp. Bd. July 8, 2009) (Ex Parte No. 690), available at <http://www.stb.dot.gov/TransAndStatements.nsf/transcriptsandstatements?openview> (testimony of Eric Strohmeyer, CNJ Rail Corp.) (discussing with STB officials a case in which a right-of-way was conveyed to a city “in its entirety” and “what isn’t clear in that particular case is how do you reactivate rail service? . . . But the question had always come up of, ‘How do I get the service back if I want to get the service back?’” Strohmeyer went on to note that the STB has historically restored the line regardless in those situations).

152. The Association of American Railroads urges the STB to encourage such provisions within the agreements. Its CEO, Edward R. Hamberger, has asked the board to “informally encourage, but not require, parties in their agreements to identify potential issues that may arise.” He went on to note that one of these included issues is reactivation and whether the railroad should compensate trail groups upon restoring rail service. Transcript of Public Hearing at 111, Twenty-Five Years of Rail Banking: A Review and Look Ahead (Surface Transp. Bd. July 8, 2009) (Ex Parte No. 690), available at <http://www.stb.dot.gov/TransAndStatements.nsf/transcriptsandstatements?openview> (testimony of Edward Hamberger, Ass’n of Amer. R.R.).

153. See Ferster, *supra* note 29, at 6 (noting that conservancy groups should secure guarantees from railroads before expanding their trails and incurring expenses).

development of the trail and associated facilities in the event of rail service reactivation. Of particular importance is the need to establish terms and conditions such as compensation and future rights to railbank, since the STB regards its role in the event of a petition to vacate a railbanking order as being ministerial in nature.¹⁵⁴

Even in circumstances where the railroad is in breach of those private agreements, at least in the STB's eyes, the railroad may reactivate the line regardless of its obligations to the trail groups.¹⁵⁵

Railroad companies' vacation requests are of growing concern for small entities that have acquired railroad rights-of-way and, especially when those entities are city and county governments, plan to use their newly acquired corridors to build light rail transportation routes.¹⁵⁶ This potential conflict places the burden on courts to "take into account the dual purposes of the federal statute and attempt to devise a solution that serves both ends."¹⁵⁷ Railroad companies, under this more pro-trail approach, should be required to pay fair market value of the trail or, at the very least, reimburse the trail groups for the costs incurred in the conversion.

These sorts of issues are likely to arise in disputed future reactivations. Opposition to reactivation might be fierce. So, too, might be those on the other side calling for expanded railroad use. As one study points out, the complexity of reactivation battles only grow more dizzying when one considers the additional interest groups that might enter the fray, including mass transportation or environmental activists with their own stake in the new lines.¹⁵⁸ After all, "rail line service restorations do not take place in a vacuum. Environmental and recreation groups are often among the more vocal supporters of the rail mode, given its environmental and fuel consumption advantages."¹⁵⁹ The study suggests a compromise: rails-with-trails.¹⁶⁰

154. *Id.*

155. Ga. Great S. Div., S.C. Cent. R.R.—Abandonment & Discontinuance Exemption—Between Albany & Dawson in Terrell, Lee, & Dawson Cntys., Ga., 2003 WL 21132515, at *5.

156. Montange, *supra* note 20, at 153 n. 76.

157. Bowman & Rosenberg, *supra* note 14, at 594.

158. NAT'L COOP. HIGHWAY RESEARCH PROGRAM, TRANSP. RESEARCH BD., NCHRP SYNTHESIS 374: PRESERVING FREIGHT AND PASSENGER RAIL CORRIDORS AND SERVICE 11 (2007).

159. *Id.*

160. *Id.*

V. RAILS-WITH-TRAILS: A GRAND COMPROMISE

Trail groups might have another option: the reestablishment of rail service parallel to the trails, both remaining on the right-of-way after reactivation, a simultaneous use of the land called rails-with-trails.¹⁶¹ According to the Rails-to-Trails Conservancy (“RTC”), the model has gained significant popularity beginning in the early 2000s.¹⁶² By 2013, these types of trails represented nearly 10% of rail-trails, and their prevalence was “growing rapidly.”¹⁶³ That same year, the RTC catalogued some 161 rails-with-trails across 41 states, a “significant increase” over a similar count ten years earlier when 100 fewer were in existence across 20 states.¹⁶⁴ Another 60 rail-with-trail projects across the country were in various stages of development at the time of this Comment’s writing.¹⁶⁵

Nevertheless, rails-with-trails remains a viable option for reactivated freight lines (or even interstate passenger lines thereon). This section begins with a discussion of rails-with-trails in the rail-banking context, arguing that trail groups should, at the very least, seek to preserve the trails alongside reactivated lines in the event they fail to stave off reactivation entirely.

The need for sound right-of-way agreements in rail-banking discussions, however, is just as—or even more—acute in the rails-with-trails context. Rail operators are particularly “hostile” to proposed rails-with-trails reactivations “because they seldom generate revenue, may carry significant liability risks, and may serve to limit or at least complicate future efforts to add rail capacity through new, parallel second main tracks, or passing sidings.”¹⁶⁶ Long-range carriers, in particular, oppose the retention of trails paralleling the rail lines after reactivation.¹⁶⁷ Some have gone so far as to issue “public policy or guidance documents that explicitly discourage rail-with-trail development in their corridors.”¹⁶⁸ These

161. *Balt. & Ohio R.R., Metro. S. R.R. & Washington & W. Md. Ry. Co.—Abandonment & Discontinuance of Serv.—in Montgomery Cnty., Md., & D.C.*, 1990 WL 287371, at *2 (“The reuse of a right-of-way for a public purpose concurrently with a trail use has previously been found consistent with the Trails Act.”).

162. RAILS-TO-TRAILS CONSERVANCY, AMERICA’S RAILS-WITH-TRAILS: A RESOURCE FOR PLANNERS, AGENCIES AND ADVOCATES ON TRAILS ALONG ACTIVE RAILROAD CORRIDORS 4 (2013).

163. *Id.*

164. *Id.*

165. *Id.*

166. NAT’L COOP. HIGHWAY RESEARCH PROGRAM, *supra* note 158, at 12.

167. *Id.*

168. RAILS-TO-TRAILS CONSERVANCY, AMERICA’S RAILS-WITH-TRAILS, *supra* note 161, at

companies base their rail-with-trail aversion to possible interference with “future expansion,” safety hazards, trespass, and tort liability.¹⁶⁹

Short line carriers, although still wary, have appeared more amenable to the continuation of trail activities along the corridors.¹⁷⁰ However, many have adopted standardized requirements that trail sponsors must meet before these carriers agree to permit continued trail use.¹⁷¹ The line in question must be a low-frequency, low-speed operation.¹⁷² Most salient for trail groups who hope to negotiate for such a scenario, these requirements include a statutory scheme that is “compatible with joint use between trails and railroads.”¹⁷³ Moreover, trail operators—in addition to compensating the carrier through sale or lease for the continued trail—must pay the necessary costs to maintain liability insurance.¹⁷⁴

The takeaway is similar to that of standard, trail-abolishing reactivations: rails-with-trails proponents should negotiate for these provisions when their leverage is highest—that is, when the railroad company is eager to disentangle itself from tax and tort liability without having to permanently surrender a corridor that could prove useful in the future. Additionally, trail groups should heed the advice of the United States Department of Transportation and, in the event a rail-with-trail is authorized, ensure that railroad officials are intimately involved at every stage of the design and implementation process. As one North Texas trail builder reported, the railroad industry is “formal” and is keen to play an active role in the trail’s creation.¹⁷⁵

VI. THE REGULATORY & STATUTORY VOID

Efforts to expand rails-with-trails will lose momentum if state and federal laws fail to address the challenges that most frequently frustrate them—not least of which being the lack of incentive for railroads to agree to the trails—and continue to treat reactivation in general as though it were nothing more than a congressional subterfuge to promote more parks.¹⁷⁶ These initiatives are the best option to serve the greatest number of

169. U.S. DEPT. OF TRANSP., RAILS-WITH-TRAILS: LESSONS LEARNED: LITERATURE REVIEW, CURRENT PRACTICES, CONCLUSIONS 28 (2002), available at https://www.fhwa.dot.gov/environment/recreational_trails/publications/rwt/railswithtrails.pdf.

170. *Id.* at v.

171. *Id.* at 29.

172. *Id.*

173. *Id.*

174. NAT’L COOP. HIGHWAY RESEARCH PROGRAM, *supra* note 158, at 12.

175. U.S. DEPT. OF TRANSP., *supra* note 169, at 28.

176. *See, e.g.,* DELONG, *supra* note 56, at 268 (discussing state and federal court responses to challenges to rails-with-trails initiatives).

interests, whether economics, environmentalism, or recreation. All parties benefit from rails-with-trails, but the silence about them on the state and federal levels could prove deleterious to their continued adoption.

Following a general discussion of states' roles in rail-banking, this section argues that rails-*to*-trails are sometimes statutorily addressed by the states, but those same states have failed to fill in the legislative gap by ignoring reactivation, particularly as rails-*with*-trails, where they have the most authority to act. Lastly, this section then goes on to argue that the STB (if it has the authority, which is arguable) or Congress should implement a second regulatory scheme to accommodate the coexistence of light passenger rail-with-trail and freight rail on reactivated railroad corridors.

A. Rail-Banked, Jr.

Many states have officially embraced rail-banking as an alluring means toward both recreational and economic goals. Some have enacted statutes specifically endorsing and regulating the program. Pennsylvania,¹⁷⁷ Minnesota,¹⁷⁸ Tennessee,¹⁷⁹ Indiana,¹⁸⁰ California,¹⁸¹ Louisiana,¹⁸² and Maryland¹⁸³, for example, have all enacted statutes aimed at promoting the establishment of new trails. Altogether, roughly 30 states have passed "mini-rail-banking" statutes, though few of these laws explicitly name railroad corridor preservation as their purpose.¹⁸⁴

These state statutes take a variety of forms. Some promote trail growth, such as Wisconsin's statute that authorizes the state's parks department to acquire would-be abandoned railroads directly, regardless of whether a

177. 32 PA. STAT. ANN. § 5614 (West) (authorizing state parks department "to participate in abandonment proceedings with the Interstate Commerce Commission for the purposes of acquiring available railroad rights-of-way for use as interim trails or railbanking as set forth in section 8(d) of the National Trails System Act").

178. MINN. STAT. ANN. § 222.63 (West) ("A state rail bank shall be established for the acquisition and preservation of abandoned rail lines and rights-of-way, and of rail lines and rights-of-way proposed for abandonment in a railroad company's system diagram map, for future public use including trail use[.]").

179. TENN. CODE ANN. § 11-11-111 (West) ("The department shall review all formal declarations of railroad right-of-way abandonments by the interstate commerce commission, for possible inclusion into the state trails system.").

180. IND. CODE ANN. § 8-4.5-6-1 (West) ("A recreational trail may be authorized under this chapter on any part of a corridor that has rail traffic with the consent of the rail traffic operator and owner after consideration of appropriate and safe design and operation.").

181. CAL. PUB. RES. CODE §§ 5070–5077.8 (West)

182. LA. REV. STAT. ANN. § 56:1781.

183. MD. CODE ANN., NAT. RES. § 5–1010 (West) (authorizing state transportation officials to acquire corridors and "request interim use of the property for public recreational use").

184. RICHARD R. POWELL & MICHAEL ALLAN WOLF, POWELL ON REAL PROPERTY, § 78A.11[3] (Michael Allan Wolf ed., LexisNexis Matthew Bender 2014).

private entity has stepped forward.¹⁸⁵ A Michigan law grants volunteer trail builders “the same immunity from civil liability as a [parks] department employee” during work outings.¹⁸⁶ Others protect the interests of adjacent landowners, such as Kentucky’s statute creating a presumption that individuals working on or using the trail, but who stray onto the landowner’s property, are trespassers, shielding landowners from tort liability for errant trail users entering their property.¹⁸⁷

Generally speaking, according to one scholar, state rail-banking falls into five categories: (1) statutes hailing rail preservation as an opportunity to create linear parks and providing for it in master plans; (2) statutes permitting trail conversions, including some that make abandoned corridors the preferred site of new trails; (3) statutes forcing abandoning railroad companies to give a certain amount of notice so that putative trail groups have time to file for rail-banking; (4) statutes authorizing state departments to acquire rail-banked corridors; and (5) statutes providing the framework for government acquisition while also securing, or tweaking, state private property rights.¹⁸⁸

Although the STB’s plenary authority to regulate reactivations largely preempts any interfering state attempts to do the same, states nonetheless have a variety of avenues to better safeguard their own converted trails in the event of reactivation. Most notably, states stand in a particularly unique position to further rails-with-trails programs, yet all but a small handful of states have failed to legislate the matter—even though STB officials have explicitly left it to state capitols to establish guidelines ensuring the safety of rail-with-trail corridors, noting that the agency “do[es] not police trail use agreements. The appropriate remedy for safety problems lies with State and local authorities.”¹⁸⁹

Once again, Texas serves a fitting example of the state-level disconnect between policy and law. On the one hand, the Texas Parks & Wildlife Department expressly committed, among other trail initiatives, in its strategic plan¹⁹⁰ to “[p]ursue funding for acquisition of land, conservation

185. WIS. STAT. ANN. § 85.09 (West).

186. MICH. COMP. LAWS ANN. § 324.72105a (West).

187. KY. REV. STAT. ANN. § 511.090 (West).

188. POWELL & WOLF, *supra* note 184, at § 78A.11[4].

189. Balt. & Ohio R.R., Metro. S. R.R. & Washington & W. Md. Ry. Co.—Abandonment & Discontinuance of Serv.—in *Montgomery Cnty., Md., & D.C.*, 1990 WL 287371, at *3.

190. See TEX. PARKS & WILDLIFE DEP’T, LAND AND WATER RESOURCES: CONSERVATION AND RECREATION PLAN 24 (2013), available at https://tpwd.texas.gov/publications/pwdpubs/media/pwd_pl_e0100_0687_2013.pdf (explaining how Texas Parks & Wildlife Department will “maintain, restore and protect healthy terrestrial ecosystems on public lands”).

easements, and the purchase of development rights from willing sellers.”¹⁹¹ Texas, on the other hand, is calling for the continued conversion of railroad tracks that it—as home to the nation’s most railroad miles and end-destination oil refineries—will likely need in the coming years, but it has failed to enact any statutes pertaining to the establishment of rails-with-trails. Although rails-with-trails initiatives can and have gone forward without state statutory oversight, these local laws help smooth such efforts.¹⁹² In addition to the five broad categories of identified state laws that promote rail-banking in the first place, another category is warranted but lacking: those that provide guidance for the implementation of rails-with-trails.

B. Rails-with-Trails: Increasing State Involvement

The RTC is calling on states to pass new laws that preserve, or at least provide guidelines for, nature trails on rail-banked lines upon their reactivation.¹⁹³ The group is also calling for more research into safety guidelines for rails-with-trails designs.¹⁹⁴ Such guidelines are lacking, leaving trail groups and already-reluctant railroads in the lurch.¹⁹⁵ But safety guidelines should only be a small first step. More assertive, more sweeping, and more innovative rails-with-trails legislation is needed at the state level. Some states, however, are already leading the way.

Such legislation would likely include, in part, rather straightforward provisions, such as the rails-with-trails language in Pennsylvania’s own local rails-to-trails statutory scheme with multiple provisions aimed at augmenting and working in tandem with federal rails-to-trails initiatives, even going so far as to establish an entire office within its parks department devoted to coordinating the program’s statewide success.¹⁹⁶ The rails-with-trails portion of the law directs the state’s transportation department to

191. *Id.*

192. Texas, for instance, has already seen the creation of a rail-with-trail. *See, e.g.,* Jake Lynch, *Rail-Trail Sparks Bike Boom in Denton, Tex.*, RAILS-TO-TRAILS CONSERVANCY (Dec. 9, 2011) (“A rarity in the field of corridor abandonments, but not without precedent, rail service was reactivated in June of this year. . . . The rail-to-trail has now become a rail-with-trail.”).

193. RAILS-TO-TRAILS CONSERVANCY, AMERICA’S RAILS-WITH-TRAILS, *supra* note 162, at 9–10.

194. *Id.* at 9.

195. *Id.*

196. 32 PA. STAT. ANN. § 5613 (West); *see also* IND. CODE ANN. § 8-4.5-6-1 (West) (providing that “[a] recreational trail may be authorized under this chapter on any part of a corridor that has rail traffic with the consent of the rail traffic operator and owner after consideration of appropriate and safe design and operation”).

contemplate the feasibility of leaving trails intact after reactivation and that it must do so if “feasible as determined by the department.”¹⁹⁷

Rail-with-trail-specific Recreational Use Statutes (“RUS”) offer another trail-group-friendly option for states. RUS provisions, which exist in some form in every state, all but completely shield from liability certain types of private individuals who open their land to the public.¹⁹⁸ Maine specifically provides in its RUS that applicable premises “includes railroad property, railroad rights-of-way and utility corridors to which public access is permitted.”¹⁹⁹ In 2010, Virginia similarly included railroad rights-of-way into the scope of its RUS.²⁰⁰ Part of the elegance of this tactic is its breadth. These statutes not only protect the railroad companies—thus thawing their cool-heeled approach to rails-with-trails—but they also might protect trail groups. Maine’s RUS, for instance, applies to “holder[s] of an easement or occupant[s] of premises.”²⁰¹

Even absent language applying the statute to both railroads and trail groups, courts have interpreted them to apply to both.²⁰² A Washington appellate court held in 2012 that a city, equivalent to a trail operator in present context, stood immune from a wrongful death suit under a RUS worded to include “owner and possessors.”²⁰³ The plaintiff, the estate of a bicyclist struck dead by a train at the intersection of a city trail and a freight line, claimed the statute did not shield the city because it did not “own” the crossing.²⁰⁴ Although not the dispositive issue in the end, the court reasoned that the statute’s language barred unintentional tort liability “arising out of use of the land.”²⁰⁵

Moreover, state action need not come from lawmakers. Policymakers can also promote rail-with-trail efforts through simple decrees, such as the 2013 policy pivot at the Massachusetts Department of Transportation (“MassDOT”). Responding to a municipal official seeking to implement a rail-with-trail, the department’s director announced:

197. 32 PA. STAT. ANN. § 5619 (West).

198. RAILS-TO-TRAILS CONSERVANCY, AMERICA’S RAILS-WITH-TRAILS, *supra* note 161, at 13.

199. ME. REV. STAT. tit. 14, § 159-A (West); *but cf., e.g.,* WYO. STAT. ANN. § 1-39-106 (West) (“A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation or maintenance of any building, recreation area or public park.”).

200. VA. CODE ANN. § 29.1-509 (West).

201. ME. REV. STAT. tit. 14, § 159-A.

202. Estate of Haykin v. City of Bellingham, No. 67713–6–I, slip op. at 4 (Wash. App. Oct. 15, 2012).

203. *Id.*

204. *Id.* at 4–5.

205. *Id.* at 4.

While MassDOT has consistently supported the appropriate development of rails with trails, we have considered their implementation on a case-by-case basis. This method of analysis has, unfortunately, caused unnecessary difficulties and tended to result in little to no progress for proposed rails with trails. Going forward, therefore, MassDOT will as a matter of policy permit the construction of shared-use paths along active or planned railroad rights-of-way provided appropriate fencing separates the two uses.²⁰⁶

These sorts of state-backed decisions benefit rails-with-trails in three ways: (1) they facially permit more rails-with-trails projects; (2) they convey to the public an official state imprimatur on the construction of new trails; and (3) they send to railroad companies a message of strong official state trail endorsement.

At the very least, local lawmakers should open state-owned corridors to trail use. The state-owned Alaska Railroad Corporation is expressly authorized to open its routes to parallel trails so long as the proposed trails will meet safety standards and not interfere with nearby utilities.²⁰⁷ As a balancing measure, the statute also requires that a trail group indemnify the corporation.²⁰⁸

The vast majority of states, thus far silent on the matter, could learn from these examples of trail-friendly laws. Such legislation is indispensable in the preservation of trails upon railroad reactivation. Trail groups may still grouse about reactivation, but at least they keep the trail.

C. Rails-with-Trails: A Call to the STB—or Congress

More trail-friendly guidance must come from the federal level as well, because the STB's limited ministerial role in rail-banking and reactivation leaves it without authority to go much beyond its current regulatory scheme, other than to unofficially encourage railroads to take a more pliable stance on rails-with-trails proposals.

The more important and more directly trail-preserving task before the agency is the preservation of rail-banked corridors put to light-rail use,

206. Letter from Richard A. Davey, Mass. Dep't of Transp. Secretary and CEO, to Stephen Smith, Exec. Dir. of Se. Reg'l Planning & Dev. Dist. (April 3, 2013), *available at* <https://www.railstotrails.org/resourcehandler.ashx?id=4419>.

207. ALASKA STAT. ANN. § 42.40.420 (West).

208. *Id.*

which remain subjected to freight-rail reactivation at any time.²⁰⁹ An urban planner outlined the problem to the STB in 2009 when asked by commissioners if the agency should require the rail-banking of *all* proposed abandonments. He responded:

Right now the issue of mandatory-ness is almost moot. I go back to my point that the horse is out of the barn. Someone was late to close the door. Honestly, my concern right now is to preserve corridors that are already being preserved I think that if reactivation-type issues are not handled properly, there will be a tremendous incentive on the part of the entity I'm representing here today, and many other agencies that are acquiring these and using them with an eye toward using them for light rail or putting in an expensive trail investment in, not to do that. Why would they invest if they're going to lose all of their money? . . . [T]he fear I have and where I think if I were to make a recommendation . . . is to look at reactivation and think in terms of what the interest holders on the rail-bankers side of the fence are looking at, as opposed to rail abandonments.²¹⁰

This solution would presumably entail a separate regulatory scheme for interim trail use that includes light passenger rail. Such a new scheme might push the limits of the STB's authority and thus would necessarily fall on congressional shoulders in the form of another NTSA amendment. Such an amendment might grant the agency authority to not only administer rail-banking but also to subsequently remove reactivation eligibility from a corridor targeted for light-rail service.

But, some believe, such a scheme could remain within the STB's purview.²¹¹ The STB has already held that light-rail interim use is consistent with rail-banking—that is, it does not interfere with preservation for returning freight rail—but light rail tracks could actually, in some circumstances, be compatible with freight rail cars.²¹² A “time separation of the two uses” whereby passengers travel by day and freight by night, would

209. Montange, *supra* note 20, at 153 n. 76.

210. Transcript of Public Hearing at 77–78, Twenty-Five Years of Rail Banking: A Review and Look Ahead (Surface Transp. Bd. July 8, 2009) (Ex Parte No. 690), available at <http://www.stb.dot.gov/TransAndStatements.nsf/transcriptsandstatements?openview> (testimony of Charles Montange, Ass'n of Amer. R.R.).

211. *Id.* at 89.

212. *Id.* at 87.

further help make the two uses compatible.²¹³ If compatible, and assuming the STB would have the authority to coordinate mixed-use passenger-freight on the reactivated lines, the agency might have the authority to do so within the rail-banking law's broad directive that the program facilitate the "restoration or reconstruction for railroad purposes."²¹⁴

If the STB would have to overstep its authority in regulating rails-with-trails, Congress should act instead, adding a clause to the NTSA granting the STB authority to exempt reactivations involving passenger rail. Both passenger and freight rail have gained policy relevance in recent years and will likely continue to do so.²¹⁵ From the local perspective, not everyone will be satisfied with rails-with-trails, but it remains the most attractive compromise.

CONCLUSION

When Congress conceived rail-banking, it did so amidst a frantic struggle to save the rapidly declining railroad infrastructure. Perhaps lawmakers then would not have predicted that, only a generation later, the railroad industry would have rebounded. Congress, however, foresaw such a scenario and acted accordingly, even at great expense in the form of landowner compensation.²¹⁶

Thousands of miles of rights-of-way now sit securely within federal protection under the stewardship of trail groups. Over the past 30 years, local communities have come to embrace their trails and passenger light-rail lines, so they likely will not forfeit them without a fight—or at the very

213. *Id.* Shared use is compatible in the long-distance intercity passenger rail context. Marks, *supra* note 80, at 315 ("There are four categories of freight/passenger property sharing. First, is 'Shared Track and Mixed Operation: transit trains and freight trains are separated by headway intervals measured in minutes in an operating schedule.' The second type is 'Shared Track and Time-Separated Operations: both transit and freight trains utilize the same track but are separated by time windows.' The final two types of sharing arrangements are shared right-of-way and shared corridor. The term 'shared right-of-way' means that the freight and passenger tracks are less than twenty-five feet apart from one another. If the tracks are more than twenty-five feet, but less than 200 feet, apart, then the term of art is a 'shared corridor.'"). In some cases, like a network in Denver, Colorado, light rail is also apparently compatible with freight operations. *Id.* at 320–21.

214. 16 U.S.C. § 1247(d).

215. Transcript of Public Hearing at 112, Twenty-Five Years of Rail Banking: A Review and Look Ahead (Surface Transp. Bd. July 8, 2009) (Ex Parte No. 690), available at <http://www.stb.dot.gov/TransAndStatements.nsf/transcriptsandstatements?openview> (testimony of Charles Montange, Ass'n of Amer. R.R.) ("The changes in shipping patterns and demand for various products change, and therefore the potential for the need for rail banking opportunities is there, and we believe that the public interest is well served by providing the opportunity for the economic and environment benefits of rail transportation to be provided for a time when it might be needed in the future.").

216. *Litigation and its Effect on the Rails-to-Trails Program: Hearing Before Subcomm. on Commercial and Admin. Law of the H. Comm. on the Judiciary*, *supra* note 59, at 23.

least a protest. The writing is on the wall: the trains are coming and reactivation legally will be no quieter than the initial rail-banking.

Lawsuits will ensue. Tempers will flare. Pro-recreation and pro-mass-transportation policies will conflict with economic realities.

But there is still time for prophylactic measures. With the right laws passed by lawmakers and the right steps taken now by trail groups to secure their interests in the corridors, compromise will ease the tension and appease most interest groups. In other words, local motives can indeed be furthered as America re-embraces locomotives.

Emails received between 02/03/21 – 03/23/21

From: Rick Avra <rick@avras.com>

Sent: Thursday, February 25, 2021 11:04 AM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: Comments regarding trail vs. train use of the rail corridor

I would like to state my opposition to the consideration, plans, and expense of a train on the rail corridor down to Watsonville. It is clear that a bike/pedestrian-only trail would get tremendous use, providing people with a safe, beautiful, and unique passageway along the coast. It would be a gem not only locally and to the state but to the country. Trying to somehow combine this clearly wonderful use with a train, for which no viable use has been demonstrated, will continue to delay achieving this trail for years to come. That has been, and will be, a shame.

-Rick Avra
Watsonville, CA

From: jennifer harris-anderson <buzznjen@comcast.net>

Sent: Saturday, February 27, 2021 7:12 AM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: Public Input Letter

Dear RTC Staff and Commission,

Please note the following letter about improving public transportation in the county. The information in the fourth paragraph is from an article by Garrett and Taylor in the Berkeley Planning Journal entitled "Public Transit Planning and Social Equity". Also, the figure quoted for the average salary of a SMART Train user comes from SMART's own demographic study. My name is Frank Anderson. I have lived in the Mid County area for over sixty years. I am part owner of a business that has a location in both in the City of Santa Cruz and the City of Watsonville. Thank you for your time.

Regards,

Frank Anderson
212 16th Ave
Santa Cruz, Ca. 95062
buzznjen@comcast.net. 831-566-2100

Emails received between 02/03/21 – 03/23/21

How to Improve Public Transit in Santa Cruz County

Most everyone agrees that Santa Cruz County needs to improve its transportation. We've all observed large, virtually empty buses, the lack of a safe bike network, and a rail corridor that has sat unused for decades. All the while, thousands of cars clog our streets and highway. Why? For one, people from all walks of life like cars and rely on them, and our system of roads has been constructed to accommodate the convenience, mobility and privacy that an automobile provides. Ninety-five percent of households own cars. Eighty-five percent of people get to work by car. No one seems to want to ride the bus, unless they have to out of necessity.

The bottom line is this—the more public transportation mimics the advantages of cars the more successful it will be. We can access our cars in our driveways and drive them anywhere in the county where there is a road. A train fails miserably in this regard. One needs to get to the train station, park a car, then take a fixed-rail ride to another station where further transport is needed to get to one's final destination. A bus can do a better job of getting from a departure point to an end point because it travels on existing roads. And bus fares in the USA typically are a third less than train fares.

So how does a community get people to take the bus? How do we improve this vital public transit resource that can provide access to jobs, school, medical care, food and other necessities? For starters, we cannot continue to cut routes and lengthen the time between stops. Routes need to be expanded and frequency increased. The only way to increase bus ridership is to invest in them. Stop spending vital public and Measure D funds on train studies, track maintenance, rail crossings and staff time. We need to go "all in" on our buses! Only then can we begin to see the benefits of improved public transit.

Social equity is a big concern for any public transportation system. Policy should always strive for greater geographical mobility and improved accessibility. It is a fact that trains fall short when it comes to social equity. Middle and upper class people ride trains. The average income of a SMART train rider in Sonoma and Marin is \$97,000 per year. The typical Southern California rail commuter is a white male earning \$65,000 with a monthly parking subsidy from his employer and ready access to alternative transportation for his first mile/last mile journey. Where commuter train lines are installed, housing costs go up, suburbs are created, and lower

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income residents are displaced. And, bus service deteriorates. Recent planners with an objective of social equity have started to oppose rail transit options serving suburban communities. They now argue for lower bus fares and expanded service. New fixed rail systems do not increase accessibility and draw resources away from suitable bus services. Rail funding decreases social equity.

Social equity is gained when people of all demographics ride the bus. And the only way to accomplish this is to make bus use more attractive. Some steps are now being taken in Santa Cruz County to help. Bus on Shoulder, basically a dedicated Highway One lane for buses only, has been approved and will cut commute times between Watsonville and Santa Cruz. Adaptive Signal Control has also been approved, enabling buses to avoid traffic congestion at lights. Another strategy for increasing bus usage is remote ticket purchasing, which allows for quick entry into either the front or rear of a bus. Free Wi-Fi, improved seating and less operating noise is achievable. We can make riding the bus a better experience.

Of course, it really comes down to how well a bus can compete with an automobile. The more a bus does the things a car can do, the more riders it will attract. We must prioritize bus service for the people who need it most. Neighborhoods need to be serviced on a frequent basis. Bus stops need to be near jobs and services. Fares need to be cheap, or free. Travel times need to be as short as possible. Public outreach through civic organizations and community engagement must be optimized. Let's decide as a community to put our public investment into improving our bus system, rather than spending resources on an unfunded billion-dollar train system that would benefit the privileged few.

From: Jack Brown <jack.b.brown@gmail.com>
Sent: Tuesday, March 2, 2021 5:09 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Please proceed with railbanking the corridor north of Lee Road

To Whom It May Concern,

As we know, Progressive Rail is wishing to pull out of their contract due to there being no financially viable reason for them to continue with the running of the rail line past Lee road, and the line south of Lee road does not support enough customers to make that section profitable.

Unfortunately rail's time has come and gone and the business plan next month will further prove there is no financial or economic viability in the line. As Progressive pulls out, please do the right thing and railbank the

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line so we can at least preserve the corridor and replace the rails with a full width multi-modal trail.

We can then focus on real transportation solutions for the community. Bus on Shoulder, Bus Rapid Transit, Door to Door Paratransit with TAAS responsiveness, Affordable Housing Initiatives and Economic Development for South County so people no longer have to commute.

The rail folks had their chance, and nothing they are working has the track record, sustainability and the ability to impact climate change in a timely manner.

Let's move forward with something better.

Respectfully,

Jack Brown
Aptos

From: Santa Cruz County Greenway <info@sccgreenway.org>

Sent: Wednesday, March 03, 2021 10:54 AM

To: Randy Johnson <rlj12@comcast.net>; Aurelio Gonzalez <aurelio.gonzalez@cityofwatsonville.org>; Sandy Brown <sbrown@cityofsantacruz.com>; Ryan Coonerty <Ryan.Coonerty@santacruzcounty.us>; Bruce McPherson <Bruce.McPherson@santacruzcounty.us>; Manu Koenig <Manu.Koenig@santacruzcounty.us>; Zach Friend <Zach.Friend@santacruzcounty.us>; Greg Caput <Greg.Caput@santacruzcounty.us>; jbertrand@ci.capitola.ca.us; Michael Rotkin <openup@ucsc.edu>; eduardo.montesino@cityofwatsonville.org; Tim_gubbins@dot.ca.gov

Cc: Donna Lind <dindslind@earthlink.net>; Donna Meyers <dmeyers@cityofsantacruz.com>; Dan Rothwell <darothwe@cabrillo.edu>; Renee Golder <rgolder@cityofsantacruz.com>; Lowell Hurst <lowell.hurst@cityofwatsonville.org>; Tony Gregorio <Tony.Gregorio@santacruzcounty.us>; Andy Schiffrin <Andy.Schiffrin@santacruzcounty.us>; Gine Johnson <Gine.Johnson@santacruzcounty.us>; Patrick Mulhearn <Patrick.Mulhearn@santacruzcounty.us>; Derek Timm <dtimm@scottsville.org>; samforcapitola@yahoo.com; scott.eades@dot.ca.gov; Guy Preston <gpreston@sccrtc.org>; Ginger Dykaar <gdykaar@sccrtc.org>; Regional Transportation Commission <info@sccrtc.org>

Subject: Railbanking is the viable path forward

March 3, 2021

Emails received between 02/03/21 – 03/23/21

Santa Cruz County Regional Transportation Commission
523 Pacific Avenue
Santa Cruz, CA 95060

Re: Railbanking

Chair Gonzales, Commissioners, Commissioner Alternates, Guy Preston
and Staff:

The February 25 letter from Friends of the Rail and Trail (FORT) presents a list of things that “may” happen with railbanking while offering **no** evidence that they **will** happen. This is classic fear mongering. In fact, as you are well aware, our rail corridor is a perfect example of why the railbanking law was created: to preserve the right-of-way on rail corridors that are no longer financially viable.

Instead of referring to the hundreds of real world examples of successful railbanking, FORT uses an article, written by a law student at Texas A & M University. The article deals with potentially viable freight lines that have been railbanked or are under consideration for railbanking. The article discusses in depth the situation in Texas, which has a rail infrastructure that is heavily used for transporting oil. With the boom in fracking in Texas, the author wonders if more railroads will seek to reactivate rail lines that have been railbanked, which is their right under the National Trail Systems Act.

A comparable situation **does not exist** in Santa Cruz County. Three rail operators over the course of nine years have terminated their contracts with the county. **The evidence is overwhelming that there is no viable freight business for railroads north of Watsonville.** Do not listen to such scare tactics when there is hard evidence of failed freight and passenger operations over the last nine years.

While the evidence is clear that reactivation is possible, it should be noted that it rarely happens **not** because it is impossible but because the rail lines were no longer viable **before** they were railbanked. According to the Rails to Trails Conservancy, there are now over 2,000 rails-to-trails comprising over 24,000 miles of trails in all 50 states. Many states have passed laws to complement federal legislation to support such activity. Your actions to support railbanking protect the continuity of the corridor and reduce local liability from easement lawsuits and other hazards.

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FORT's February 25 letter can be added to previous misinformation they have provided to the Commission. The track record of an organization is important, and FORT has been consistently wrong on issues before the Commission, from cost estimates for passenger rail and its trail, timelines for completion of its trail, the Progressive Rail contract, railbanking, SMART as a model for Santa Cruz County, its latest diversionary tactic of TIG/M, and much more.

It's time to turn the page on misinformation and scare tactics and look at empirical evidence of the thousands of successful rail-to-trail conversions nationwide. We are no different than other communities, and have a great opportunity to emulate those that have been successful in bringing active transportation to their residents.

Sincerely,

Greenway Board of Directors

Emails received between 02/03/21 – 03/23/21

From: Liz <eruggles@gmail.com>
Sent: Saturday, March 6, 2021 10:21 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Trail only, remove the rail

Good morning,

I see the new mock up for the rail with trail idea which I have attached. Please stop this madness, remove the old single track rail line & install a trail only. Please listen to us.

Please remember that as a public commission you work for us, the tax payers. You are not paying attention to what the people of the county want. Put it to a vote instead of paying more and more in consulting fees for studies on a solution that the taxpayers don't want and won't work for us.

Expand highway 1 to include a dedicated bus/auxiliary lane and give is a bike/walking trail.

The time is now, we need that safe dedicated trail from Watsonville to Santa Cruz. The additions of this would be life changing for those of us to travel by foot & bike. Look at towns like Davis that have done this successfully. The health benefits would be great. Getting people out safely to travel from town to town via their bikes or walking/running would be the best use of space and a treasure for the county.

What are you afraid of? Trains are old technology - there are not enough people that work in the county to justify such an expense. The majority of people traveling our stretch of hwy 1 during commute times head to Scott's Valley, UCSC & over the hill. A coastal train won't help that situation as shuttles and busses will still be needed to get folks from the train stops to their destinations. So now you have someone on a train for 50 minutes from Watsonville to downtown SC transferring to a street bus/shuttle to sit i traffic? This is not a feasible solution and won't be used.

Please stop this and just rail bank the line and install a coastal bike/walking trail now!

Kind Regards,

Emails received between 02/03/21 – 03/23/21

Liz Ruggles

Wasting millions on substandard trail



From: catherinmiller@everyactioncustom.com
<catherinmiller@everyactioncustom.com>
Sent: Saturday, March 6, 2021 2:43 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Public Hearing: I Support Electric Rail for the Locally Preferred Alternative

Dear RTC Commissioners,

My name is Catherine Miller and I'm writing today to urge you to choose rail transit as the Locally Preferred Alternative.

Every study has found passenger rail service to be the best for our community and the environment. Please choose rail transit as the Locally Preferred Alternative. I also ask you to authorize the RTC staff to develop a passenger rail business plan without any further delay.

To reiterate, please consider me, Catherine Miller, a supporter of rail transit in Santa Cruz.

Emails received between 02/03/21 – 03/23/21

Thank you.

Sincerely,
Catherine Miller
307 Village Creek Rd Aptos, CA 95003-3956 catherinmiller@gmail.com

From: Bob F <bobfif@hotmail.com>
Sent: Monday, March 8, 2021 9:58 AM
To: Regional Transportation Commission <info@sccrtc.org>
Cc: Manu.Koenig@santacruzcounty.us; bruce.mcpherson@co.santa-cruz.ca.us; aurelio.gonzalez@cityofwatsonville.org; jbertrand@ci.capitola.ca.us; sbrown@cityofsantacruz.com; greg.caput@co.santa-cruz.ca.us; ryan.coonerty@santacruzcounty.us; trina.coffman@cityofwatsonville.org; Zach Friend <Zach.Friend@santacruzcounty.us>; ebottorff167@yahoo.com; rlj12@comcast.net; openup@ucsc.edu; eduardo.montesino@cityofwatsonville.org; tim_gubbins@dot.ca.gov; Yesenia Parra <yparra@sccrtc.org>
Subject: Please Don't Let Us Get Railroaded! (part 1)

Don't Be Deceived or Sell Out to Greed! Implementing Rail-Trail will be a forever money pit that will not benefit residents of Santa Cruz County.

The most glaring problem with the proposed Rail-Trail is that it is only one track forever limited to a linear configuration. It will always cater to slow-moving freight train organizations and tourist trains, resulting in even more of us being able to jog faster than the "Progress" of traffic.

This single-track configuration was intended over 100 years ago for only a slow-moving freight train a few times a day. Attempts to make it more than that will present tradeoffs that will require sacrifices. Common sense can come up with three schemes to provide means to convert such a limited single track linear configuration to handle commuting demands for passenger trains that need to arrive every 15 minutes (or preferably better intervals – note my Letter in the Santa Cruz Good Times on 11/28/18 – they changed my title and cut much of my lengthy letter, but the intent is there).

<1> the most obvious = side outs (sidings)

<2> stockpile multiple trains at the ends of the runs (Watsonville <-> Santa Cruz)

<3> Provide another track

Emails received between 02/03/21 – 03/23/21

The Rail-Trail “experts” came up with what first comes to mind and is the most dangerous (<1>). As an engineer with a thorough understanding of basic high school level physics as well as interlock failures, I would feel safer being a passenger on the “unsinkable” Titanic than a passenger on a commuter train on the Rail-Trail that has recklessly implemented <1>.

Just allowing an opening for any possibility of a head-on passenger train collision will open a can of worms. Every passing train upon the native single track presents the possibility of an inexcusable collision risking lives while constantly depending on tricks to override such a disaster every single instance. Anyone supporting a Railroad upon the Santa Cruz single track line fantasizing that it will solve traffic woes, needs to face reality. What can go wrong, will go wrong despite the most thorough of preventions. (And unfortunately, the latest Challenger disaster revealed that reality WILL find any flaw!) After the first accident, no one aware of this irresponsibility would ever take public transportation. The Rail aspect of Rail-Trail would then have slow-moving freight trains and tourist trains running only a few times a day or be totally shut down.

Much safer is <2>, but probably more costly. This would work in the Santa Cruz County Corridor application better than <1> because it is much safer and could properly integrate with the characteristics of Highway 1 (anyone can witness Highway 1 congestion in one direction during the morning commute and the opposite during the evening commute). Unfortunately, reverse commuters would be very heavily penalized, so they would probably take other means of transportation. I wrote “Public Transportation: If You Build it (properly), They Will Come” and proposed a system that would take advantage of this Highway 1 characteristic without incurring this penalty. (This was before I was aware of Bus-On-Shoulder, so both of those concepts could be even further improved.)

The standard practice throughout the world <3> eliminates any possibility of head-on train collisions and doesn’t penalize reverse commuters, but in the case of Santa Cruz County will sacrifice the Trail and incur costs even beyond what is being projected. (With two tracks, one for safe travel in each direction, my patented All-Express Passenger Train System could then be a possibility. In this case, it could be a tourist train zipping through Santa Cruz County that could selfishly benefit me. However, since I understand the importance of the Trail which is vital to the Corridor for those now and for so many generations into the future, I feel that All-Express is better suited to another environment like the Central Valley where there is more room. Such an efficient transportation system will encourage proper development to also help meet housing concerns.)

Emails received between 02/03/21 – 03/23/21

We need to acknowledge that Watsonville and the rest of Santa Cruz County is presently one of the most dangerous in the country for pedestrians and bicyclists. Anyone who has tried to safely bicycle across this county may presently feel safest bicycling Highway 1 despite being in danger for loss of life and limb in another one of the many areas where the car is king. Why are we continuing to waste such a useful Corridor that is right in our own backyard that everyone knows will provide safe transportation to help solve this problem? This is a gem that provides a safe LEVEL path across much of Santa Cruz County with a serene environment with views that should be shared by all!!!

Let's get real! Which is it ... Rail-Only or Trail-Only because that's what Rail-Trail vs Trail-Only will become??? On the other hand, a rubber-wheeled vehicle like a bus could travel one-way upon the corridor and then return safely the other way via Highway 1 and leave the Trail intact! Those who seek the ideals of Rail-Trail should consider Bus-Trail. While Bus-Trail can duplicate any of the limited contortions that the proposed Rail-Trail can do, it can actually meet the ideals of Rail-Trail (other than appeasing freight train organizations). This includes the potential to accommodate more bicycles and a better guidance system. Another insight is that Bus-Trail can be built upon the solid foundation of Trail-Only.

High Speed transportation belongs on the freeway, not through residential areas where children are playing. A key component of Bus-Trail has already been proven that allows safe travel of averaging ~60 MPH over a stretch from Watsonville to Aptos upon Highway 1 (before being allowed to share segments of the Corridor at a slower speed with families of bicyclists and those on foot). A dedicated lane could safely increase that 60 MPH to 80 MPH with better electric buses. Until flying cars become practical and cars can "leap-frog" trains let's put forth our best implementation that will best meet present needs and the range of likely future needs of Santa Cruz County residents, not outside interests. Rather than constantly hindering viable transportation year after year, why not help make Trail-Only happen on the way to a Bus-Trail that can satisfy all???

Bob Fifield
Aptos

BobFif@Hotmain.com

Emails received between 02/03/21 – 03/23/21

From: Jaakko Mella <jaakko831@gmail.com>
Sent: Friday, March 12, 2021 9:13 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail and trail

Dear SCCRTC,

I am a huge rail and trail advocate and truly believe that rail and trail is the only way to move forward.

This plan helps everybody and especially those who are not able to use just the trail. We need to think about population need in 20,30 and 40 years from now.

Please continue with the rail and trail plan. We need it.

Sincerely,
Jaakko Mella
831-588-9516
Aptos

From: Joel Z <zkrpofkwlrty@gmail.com>
Sent: Saturday, March 13, 2021 5:16 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail transit

I live in Aptos and I'd rather have rail transit than a bus corridor. But the most important thing is bicycle trail, which I'm hoping is part of the rail road?

From: pete@everyactioncustom.com <pete@everyactioncustom.com>
Sent: Monday, March 15, 2021 8:05 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Public Hearing: I Support Electric Rail for the Locally Preferred Alternative

Dear RTC Commissioners,

My name is Peter Eubank and I'm writing today to urge you to choose rail transit as the Locally Preferred Alternative.

I'm a realtor throughout our county and now live in Watsonville. I dream of the day when I can use rail transit for my work showing homes and not have to sit in highway 1 traffic everyday. I dream of a day when I can use the transit to get to and from the beach, I dream of a day when I can use transit to effectively grocery shop without a car.

Emails received between 02/03/21 – 03/23/21

If everyone tried using international light rail transit like you can find in Portland, Vancouver Canada, and New York City they would agree that light rail transit is fantastic at making large places small again and is the true answer to congestion and community connectivity.

Every study has found passenger rail service to be the best for our community and the environment. Please choose rail transit as the Locally Preferred Alternative. I also ask you to authorize the RTC staff to develop a passenger rail business plan without any further delay.

To reiterate, please consider me, Peter Eubank, a supporter of rail transit in Santa Cruz.

Thank you.

Sincerely,
Peter Eubank

972 Mckenzie Ave Watsonville, CA 95076-3528 pete@roomsantacruz.com

From: Madeline Britton <madelinebritton@gmail.com>

Sent: Tuesday, March 16, 2021 11:43 AM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: Rail trail

Hello,

Please count my vote for a Rail/Trail. The tracks are there, let's use them. Please! Our house is right across the street from the tracks. thank you!

Madeline Britton

415 Hillcrest Dr, Aptos, CA 95003

From: david allen <dav_allen@hotmail.com>

Sent: Wednesday, March 17, 2021 8:59 AM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: RTC Passenger Train / Greenway

Hi,

As a longtime resident of Santa Cruz County, i want to voice my opinion about not wanting a passenger (or any other kind) of train.

It will be way too expensive, dangerous to pedestrians (many of which are children on bikes), and bad for the environment.

Emails received between 02/03/21 – 03/23/21

I just don't see how this is even still being considered.

Please do the right thing and make this for pedestrians and cyclists only.

Thanks,
David Allen
831-239-4842

From: Ken Winters <winters@comcast.net>

Sent: Wednesday, March 17, 2021 9:27 AM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: will I die before something actually gets done?

I have owned property in Live Oak next to the tracks since 1993. My desire for a trail only solution has grown over the years from a "wouldn't it be nice?" in the 90s to "this is needed" in the 00s then "why is the obvious not getting done?" in the 10s to "will I die before something actually gets done?" here in the 20s. Please fulfil your role as public servants and do what the vast majority wants: rail bank and trail only. I know there are Engineers and Construction companies who very much want a huge never-ending public works project but this is not the time or the place. We have plenty here to draw tourists, this "train" won't make a measurable impact on tourism yes/no visit decisions. And it can't be for commuters as there are not parking lots to service arrivals in... and EVEN IF THERE WERE PARKING LOTS is a worker going to have two cars: one to drive to the lot in Watsonville and one parked in SC to make the final leg of their trip to work up at Dominican/UC/etc? No trades could use it as they have to transport tools, yard equipment, cleaning supplies, etc.

Several have said we need the rails to support us in a catastrophic earthquake... so the highways are damaged but the tracks are magically spared? We have a crisis RIGHT NOW with a building supplies shortage (due to fires) and the existing tracks are doing nothing.

Support for a train is blind to a perfect case study, Monterey County, and you all know they are thrilled with their trail only. Connect ours with theirs and that would make a measurable impact to tourism.

If you are going to spend more \$ on yet another study, just do an unbiased deep opinion poll that is a tight +/-3 and take the results as a proxy for a vote and move forward with whatever the result is.

Ken Winters

Emails received between 02/03/21 – 03/23/21

913 Paget Ave

From: Liz <eruggles@gmail.com>

Sent: Wednesday, March 17, 2021 9:37 AM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: County Wide Vote

Good Morning,

I am writing to ask that the decision regarding whether or not to continue with a plan to keep the outdated rail line in SC County be put to a vote. The recent survey put in the field by the FORT organization does not accurately reflect our county with only 618 residents responding. Many of us were not aware there was a survey until its results were published. That leads me to believe that the survey was skewed toward the residents who would like to keep the rail in place.

This survey does not speak for our county. Please put this to a vote, county wide, and we will let the residents of the county decide how to spend our tax money. We are for pulling up the tracks and creating a biking/walking trail only.

Thank you,

Liz Ruggles
Aptos, CA

From: Michele Goodwin-Hooks <mommyhooks@hotmail.com>

Sent: Wednesday, March 17, 2021 9:50 AM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: The Train

No. Just no. The train is an expensive boon doggle. I don't care about the train. I don't want the train.

What I do want is a safe way to ride my bike from the Westside to the Eastside without being in the street with the cars. I want a bike path. I don't want a train.

Sincerely,
Michele Goodwin-Hooks
222 Surfside Ave.
Santa Cruz, CA 95060

Emails received between 02/03/21 – 03/23/21

From: g_sultana <g_sultana@yahoo.com>
Sent: Wednesday, March 17, 2021 9:51 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Pedestrian and Cycle ROW

I support a right of way without a rail line. Peaceful and quiet. I support improving our countywide bus service to meet the needs of mass transit for all residents: more electric buses and H1 shoulder bus right of way.

Sincerely,
Gary Sultana

From: kennyshelden1@netzero.net <kennyshelden1@netzero.net>
Sent: Wednesday, March 17, 2021 10:03 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: NO to the train

I am against funding or construction of a commuter train. It's time for a bike/hike path--that's the only thing we need or can afford.
Ken Shelden 2435 Felt #15 Santa Cruz

From: Jennifer Hoeting <jennifer.hoeting@gmail.com>
Sent: Wednesday, March 17, 2021 10:05 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: train

Please convert the old train tracks through Santa Cruz to a bike/walking path. A path is economically feasible and can be done quickly. I am against putting a train on that track. It doesn't make sense given the population size of the county. And it would be so expensive that it would never be built.

Trains are noisy and dangerous. Our county doesn't have the population density that you need to support a passenger train. Bike/hiking paths are cheap, healthy and eco-friendly.

Please don't delay any longer: please build the residents of Santa Cruz county the bike/walking path that they deserve. Replace the old train tracks with a bike/walking path ASAP.

Regards,
Jennifer Hoeting
195 Moran Way

Emails received between 02/03/21 – 03/23/21

From: Andrea Miller <831alm@gmail.com>
Sent: Wednesday, March 17, 2021 10:17 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: A Train is not Fiscally Feasible for Santa Cruz County

Dear Wonderful RTC,

You have important decisions to make for Santa Cruz County.

Will our future hold a long wait for an expensive train and a seriously compromised TRAIL? Or can we move forward NOW on a World Class, affordable, Trail?

I have bicycled the completed trail in Santa Cruz. I was disappointed to have to cross many streets while the rails sat idle and avoided intersections. I had to slow down to avoid oncoming traffic (other cyclists and pedestrians).

A wide trail using the existing rail bed and all trestles would avoid these problems.

Please make the smart decision for Santa Cruz County now and for future generations! Build the Trail only and soon.

Best regards,

Andrea Miller
(831) 359-8738
Seacliff

From: Kenneth Miller <kmiller@cutthroatrobotics.com>
Sent: Wednesday, March 17, 2021 10:37 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Trail Only - NO TRAIN

NO TRAIN

From: James Brudnick <jamesbrudnick@gmail.com>
Sent: Wednesday, March 17, 2021 10:59 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Greenway Response

Dear People,

Emails received between 02/03/21 – 03/23/21

I have lived in Santa Cruz for 43 years, a transplant from New Jersey. My three children and six grandchildren were born here and live here or nearby.

I always thought that the intention of the Greenway was a healthy lifestyle, physical activity, and a means to safely crisscross the county by bike or foot.

I also thought it would also be a way to indulge in the naturistic beauty of our geographical riches and that it would harken back to a simpler outdoor life.

I imagined couples walking and running with strollers, athletes exercising, activity mitigating a lifestyle of opulence and consumerism and the chronic diseases associated.

For me personally, motorized vehicles, trains, and the like are antithetical to all of the above. It would save a ton of money and offer a simpler solution to nix any idea of vehicular transportation on the Greenway. All the fuss about a train, in my opinion, has to do with tourism and of course, money. We have already wasted too much money on consultants and those who would profit from it.

"They paved paradise and put up a parking lot.....and we've got to get back to the garden."

Thank you. A train is not feasible,

James Brudnick
3370 Pine Flat Road
Santa Cruz, CA 95060

From: Ann Whitlock <whitlock.as@gmail.com>
Sent: Wednesday, March 17, 2021 11:14 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Trail, please!

A train, cutting through the county, making few scheduled stops, is not a help. We already have a good bus system in place that makes lots of stops and, for a fair price, can get you right where you want to be. Any money spent should be to beef up that already existing system (the bus currently comes to my Seascapes neighborhood only twice a day!!). Please, take up

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the tracks and give our county a beautiful trail. It will be used more than a train.

Ann Whitlock

From: Mark Whitney <mark_whitney2000@yahoo.com>
Sent: Wednesday, March 17, 2021 11:16 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: tracks to bike trail

To whom it may concern!

I want to advocate for converting the dilapidated train tracks into a bike path. I grew up in Amherst MA where almost 40 years ago they did exactly that. It is such a popular and well used feature of the area. It connects Amherst with Hadley, Northampton and Belchertown over 12 miles. It has reduced road traffic and bicycle accidents in the area and spurred small businesses along the way. Santa Cruz county is missing a great opportunity if it turns away from this. It is the most affordable, most rational, most accessible, lowering carbon foot print, promoting better local health, reducing car traffic, and will do the greatest good for the greatest amount of people. This is a win win win win win win win win win opportunity. Please do it. ACT!

Sincerely, Mark L Whitney

From: tutti hacking <tutthacking@gmail.com>
Sent: Wednesday, March 17, 2021 11:45 AM
To: Regional Transportation Commission <info@sccrtc.org>;
greenway@sccgreenway.org
Subject: re: Please, No TRAIN!

Dear RTC Commissioners,
Please stop with the train plans. The train is NOT financially feasible. Have any of you actually walked the entire length of track?? It is too narrow for a train and bike path. There are too few people who would ride it, other than as an amusement train and we already have Roaring Camp. Our citizens, our CYCLING COMMUNITY, desperately needs this thoroughfare NOW. Insisting on continued train studies deprives our community of what it needs NOW - pulled tracks and bike/pedestrian access. So many other cities have built world class cycling paths through their cities - WHY CAN'T SANTA CRUZ?

HOW MANY MORE CYCLISTS NEED TO DIE??

Emails received between 02/03/21 – 03/23/21

My late husband was killed while riding his bike over the Santa Cruz harbor bridge - a very narrow and dangerous thoroughfare for cyclists. He was struck head-on by a car. Motorcycles regularly use the bike lane! You can see this in the photo the Sentinel put on the front page after my husband's accident: <https://www.santacruzsentinel.com/2018/07/13/longtime-cyclist-dies-after-being-struck-on-murray-street-bridge/>

Right next to the Murray St. car bridge is the bridge for the train, long unused. PLEASE, let's get pedestrians and cyclists off the Murray St. Bridge and on to the other bridge the train used to use.

WE CAN DO THIS!

Thank you for your kind consideration.
Tutti Hacking

From: Bill Gray <graybil@gmail.com>
Sent: Wednesday, March 17, 2021 12:34 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject:

Look, I am an urban economist with decades of experience. There is simply no way that the old RR can pencil out under even the most favorable demographic assumptions for the next 75 years as an urban carrier. It is just not possible. Please, let's get back to transportation reality. We have a street system for moving vehicles. Use it. Develop a Monterey-like trail system in the urban areas. Then if you have money to burn and want to play RR engineer, do it in Watsonville.

Bill Gray, PhD
509/9919292

From: Bud Colligan <bud@colligans.com>
Sent: Wednesday, March 17, 2021 12:47 PM
To: Guy Preston <gpreston@sccrtc.org>; Ginger Dykaar <gdyykaar@sccrtc.org>; Regional Transportation Commission <info@sccrtc.org>; Shannon Munz <smunz@sccrtc.org>; Patrick Mulhearn <Patrick.Mulhearn@santacruzcounty.us>; Andy Schiffrin <Andy.Schiffrin@santacruzcounty.us>; Randy Johnson <rlj12@comcast.net>; Aurelio Gonzalez <aurelio.gonzalez@cityofwatsonville.org>; Sandy Brown <sbrown@cityofsantacruz.com>; Ryan Coonerty <Ryan.Coonerty@santacruzcounty.us>; Bruce McPherson <Bruce.McPherson@santacruzcounty.us>; Manu Koenig

Emails received between 02/03/21 – 03/23/21

<Manu.Koenig@santacruzcounty.us>; Zach Friend
<Zach.Friend@santacruzcounty.us>; Greg Caput
<Greg.Caput@santacruzcounty.us>; Jacques
<jbertrand@ci.capitola.ca.us>; Michael Rotkin <openup@ucsc.edu>;
eduardo.montesino@cityofwatsonville.org; Gine Johnson
<Gine.Johnson@santacruzcounty.us>; Petersen, Kristen
<ladykpetersen@gmail.com>

Subject: Fwd: Survey Results: Public Transportation With Rail Comes Out on Top

Dear Commissioners,

Greenway welcomes the latest pseudo study from FORT. With such optimism in the belief that the voters support rail and trail, they will welcome a vote of the people to validate that point of view.

In the primary in the 1st District, John Leopold won 46% of the vote to 31% for Manu Koenig. Once voters were educated, Manu Koenig won 57% to 43%.

When you don't tell survey recipients that there is no money for a train, that it will require a new tax, will take 25 years, and effectively destroy the current look and feel of the corridor, voters respond very differently.

Greenway plans to give voters ALL the information and then let them decide. It appears FORT should welcome a vote of the people, so for once, we can all agree!

Sincerely,

Greenway

----- Forwarded message -----

From: **Jessica, Friends of the Rail & Trail** <info@railandtrail.org>

Date: Wed, Mar 17, 2021 at 8:30 AM

Subject: Survey Results: Public Transportation With Rail Comes Out on Top

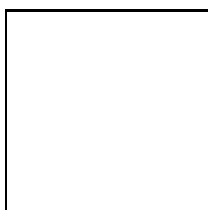
We have some exciting news to share. Over the past years despite negative messaging from public transportation opponents we continued to believe that Santa Cruz County residents favor improving public transportation and would support adding passenger

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rail. Now that the RTC has officially chosen electric passenger rail for transit in the rail corridor and is developing a business plan, we thought it was important to **hear from voters county-wide** to find out whether the public will support this plan. Well, the results are in, and they blew us away. It turns out that when asked, **74% of active voters in Santa Cruz County support electric passenger rail service.**

We knew that Santa Cruz County supports reducing pollution and that the need for better transportation options is clear to everyone. Despite that, we were surprised by both the depth and breadth of support for the current RTC plan. **The results are overwhelmingly positive across all five Supervisorial Districts.** Depending on the district, 68% to 86% of survey respondents said they are in favor of the plan to provide electric passenger between Watsonville and Santa Cruz. This county-wide result is a watershed moment for transportation planning in Santa Cruz County.

(Having trouble viewing the Survey Results image? To read this article on the Coast Connect website, click [here](#).)



The idea to tear out the track and replace them with only a trail is unpopular, as is the notion of pausing rail service planning. Faced with a direct choice among continuing with the current plan for both the trail and passenger rail, continuing to build the trail but pausing the plan for passenger rail, or removing the tracks and converting the entire corridor to trail only, the survey found just 17% are in favor of tearing out the track and only 19% support a pause in planning. **The majority of the county prefers continuing with the current plan for both trail and passenger rail.**

Who Did the Research?

To conduct the survey, we chose California-based FM3 Research, a highly respected **independent public opinion research firm** with

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a nearly 40-year track record of accurate, statistically valid research for state and national non-profit organizations and local governments. They conducted 618 interviews in mid-February.

Participants were a randomly selected representative sample of our county's active voters. They were contacted via email and/or phone numbers provided by the Santa Cruz County Registrar of Voters. The composition of the sample aligned with the characteristics of local voters including political party, age, gender, race/ethnicity and Supervisorial District. According to FM3, a sample of this size is commonly used for **accurate analysis of the opinions of residents** in an area like Santa Cruz County and is consistent with research the firm did before the successful passage of Measure D in Santa Cruz County in 2016.

We're so excited to share this news with you. We're pleased to know that transforming public transportation in Santa Cruz County has such overwhelming public support. **Thank you to our donors both large and small. It was your support that enabled us to fund this research.**

What's Next and How to Help

Our 2021 mission is clear. We must step up our efforts to reach out to **all the residents of the county** and to share the Coast Connect vision for public transportation: building the Rail Trail, adding clean energy light rail, and improving neighborhood streets for biking and walking. We didn't plan it out this way, but like a great transit connection, this good news synchronizes beautifully with our **Spring Fundraising Challenge**. This means that right now is a great time to celebrate the survey results and help us get ready for our 2021 effort by making a donation. If you would like to support our work, please click [here](#) and have your donation of any amount doubled until we reach our \$40,000 match challenge.

To learn more about the Coast Connect vision and to get involved, click [here](#).

Coast Connect is a project of Friends of the Rail and Trail

[Donate](#)

Santa Cruz County Regional Transportation Commission
Transit Corridor Alternatives Analysis – Business Plan

Emails received between 02/03/21 – 03/23/21

Fiscally sponsored by Social Good Fund (EIN) TAX ID: 46-1323531
Santa Cruz County Friends of the Rail and Trail
P.O. Box 1652
Capitola, CA 95010
United States
[unsubscribe](#)

From: Dave Montgomery <bykerscott@yahoo.com>
Sent: Wednesday, March 17, 2021 3:09 PM
To: manu.koenig@santacruzcounty.us;
patrick.mulhearn@santacruzcounty.us;
bruce.mcpherson@santacruzcounty.us; jacques.bertrand@sbcglobal.net;
ladykpetersen@gmail.com; openup@cats.ucsc.edu;
sbrown@cityofsantacruz.com; rlj12@comcast.net;
aurelio.gonzalez@cityofwatsonville.org;
eduardo.montesino@cityofwatsonville.org; Regional Transportation
Commission <info@sccrtc.org>
Subject: Train to Nowhere

March 17, 2021

Please stop wasting my tax dollars on such a ludicrous project! First of all, our roads are in terrible shape. If the county can't maintain what we already have how on earth will you be able to run a train system? I live on Spring Valley Road in La Selva and I have written and called for 31 years to have our flooded road fixed. The answer is always "we don't have the money".

Pajaro to Davenport? The sign on highway 1 says there are 450 people in Davenport, virtually no jobs other than a handful of farm and restaurant employees. Pajaro.... mostly hispanic and the majority are farm workers who will not pay to ride a train to the nearby farms. Estimates for the train are now over \$1,000,000,000!!! That's way too many zeroes! Other peoples money. But that money is hard earned tax dollars that we the people will have to pay. We did not vote on this mega infrastructure concept and that should be our right.

IF the train were ever completed it would hemorrhage money to run. I was told this a decade ago by a local railroad executive who retired from Southern Pacific. Logistically there are way too many road crossings and only one track. Have you really considered how slow this train would run? And to go nowhere. PLEASE stop this insanity. Get a world class walking and biking system in now and the citizens and businesses of Santa Cruz County will benefit infinitely more.

Most Sincerely,

Emails received between 02/03/21 – 03/23/21

David J Montgomery DDS

From: WILLIAM PHILIPPS <philipps99@comcast.net>
Sent: Wednesday, March 17, 2021 3:12 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: passenger train?

Dear Commission,

I want to state that I stand with the group that opposes passenger trains on the Santa Cruz branch line.

As a resident of Live Oak, I do not see how there is enough space for trains and trails in Live Oak, in particular.

There will be a lot of costly repairs to the tracks and trestles.

I do not see how the passenger train will be financially feasible. I would have to walk to a station (will there be parking lots?) and then walk to my final destination after arriving downtown.

Not a fan,

William Philipps

From: Lennox Smith <lennox@seacliffconst.com>
Sent: Wednesday, March 17, 2021 3:38 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: regarding the use of the rail corridor in Santa Cruz

To whom it may concern –

My name is Lennox Smith and I have lived in Santa Cruz County for over 30 years. I used to ride my bike on the streets when I first moved to Aptos until my neighbor was hit by a car while riding his bike in the mid 90's and never fully recovered. He was an avid bicyclist and was in fantastic shape for a man in his 70's. To see him fight so hard in such a diminished state and ultimately die without ever riding a bike again left an indelible impression on me. He did everything he could to take care of himself and I always thought of him as a model for living my later years.

Our family lives in Aptos and our kids love to ride bikes! We do ride often but only on trails near the house or where we have to drive to gain access. They would love to ride to the beach at Seacliff or Capitola but that is just too scary with the unsafe road conditions in our county (not to mention the distracted drivers). It is really sad to think that we have this wonderful unused rail line that could be transformed easily into a trail and provide a low impact way for people to commute, exercise, take trips to the store, go to the beach, interact with Capitola, the Boardwalk, etc., all

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while reducing street traffic! Why would we rebuild this corridor for a railroad that will never be self-sustaining, further burdening our community resources when those resources could be used for so many other worthwhile causes. Why would we want a train that interrupts the flow of traffic on surface streets at critical intersections that are already overburdened? I can just imagine the disaster of State Park Drive in the summer, or trying to get to the post office, or shop or live by the new Aptos village with trains and cars competing on these already cramped surface conditions. A multi-use trail would provide thousands of local users a resource to interact with busy parts of our county without having to drive! Perfect! Low environmental impact, promoting a healthy lifestyle, easing congestion, etc!

I love our community and I want a sustainable future for our children and grandchildren. Having been through college at UCSB and riding the bike trails through Santa Barbara, as well as the bike trails in Monterey and Cannery row, I know that the best thing for our community is a wide trail that is not rerouted in sections onto surface streets but a continuous wide trail that is level and easy for users of all ages and ability to use safely. That can only happen if we tear up the tracks now and install a trail. I keep hearing ads and some of you say that “most” people are for a train and trail, and yet almost everyone that I know that lives here that is a business owner, or has children, or wants to retire here wants a trail that provides easy access to retail and our beaches and doesn’t care about a train. Furthermore, no one really wants to bear the burden of the cost of building and continually maintaining train service that is not efficient for our area when those resources are so greatly needed in other areas of our community.

Please let’s move on and get going with the trail!

Thank you for listening,
Lennox
Lennox Smith
Seacliff Construction & Design
831-227-1974
<http://www.seacliffconst.com>

From: Don Hoernschemeyer <dh1618meyer@cruzio.com>
Sent: Wednesday, March 17, 2021 5:01 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: train service along 1 corridor

Emails received between 02/03/21 – 03/23/21

Every study and poll of the public has given one answer: Train service is not needed!

From: Martin Engel <martinengel@sbcglobal.net>

Sent: Wednesday, March 17, 2021 10:35 PM

To: greg.caput@santacruzcounty.us; ryan.coonerty@santacruzcounty.us; manu.koenig@santacruzcounty.us; patrick.mulhearn@santacruzcounty.us; bruce.mcpherson@santacruzcounty.us; jacques.bertrand@sbcglobal.net; ladykpetersen@gmail.com; openup@cats.ucsc.edu; sbrown@cityofsantacruz.com; rlj12@comcast.net; aurelio.gonzalez@cityofwatsonville.org; eduardo.montesino@cityofwatsonville.org; Regional Transportation Commission <info@sccrtc.org>

Cc: Brian Peoples <brian@trailnow.org>; Santa Cruz County Greenway <greenway@sccgreenway.org>

Subject: RTC Meeting on April 1

Ladies and Gentlemen of the Santa Cruz County Regional Transportation Commission.

With all due respect, your experience and collective intelligence are well established. I'm sure that you are, by now, familiar with all the public concerns regarding your determination to bring urban transit rail service back to the defunct and deteriorated coastal rail corridor.

As you well know, there are overwhelming amounts of factual evidence that such a project will far, far exceed any current cost projections, both for development of such a project, and its subsequent operation. While urban mass transit rail does continue to make sense in high-density urban settings (say, between San Diego and Los Angeles), Santa Cruz County comes nowhere near the population density necessary or appropriate for such a service.

It is doomed, from before its start, to fail on several counts:

1. It will be extremely costly to make operational. Well beyond any current forecast. (Look at the cost escalation of the California High-Speed Rail project.)
2. There is nowhere near the adequate population/consumer base necessary for its justification. (Santa Cruz County is nothing like the contiguous San Francisco, San Mateo and Santa Clara Counties.)

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3. There has yet to be a comprehensive analysis, mile by mile, of what appropriate restoration of the corridor entails. (For example, what will be the construction costs of track relocation at the Manresa/La Selva Beach Bluffs?)
4. There has yet to be an honest description of the realistic, full-cost-accounting financial dimensions of this projected project.
5. And such a description of a project this large has yet to be brought before the voters of Santa Cruz County, as it must.
6. There have yet to be established procedures for comprehensive and continuous accountability and transparency. (The same problem still facing the high-speed rail project.)
7. The transit problems this projected rail service is intended to solve, can be solved far more appropriately based on a cost/ benefit analysis of this and alternative options.

There are more concerns, of course. But, as I say, you all understand all this only too well. Where does this leave us, the residents, workers, tax-payers of this County, since you appear to be determined to persist in your pursuit of a railroad agenda? The above partial list of issues warrant much further illumination and clarification to justify a infrastructure project of such magnitude. Certainly you can appreciate that my fellow citizens and I would be grateful for your explanation of your intentions which fly in the face of such a volume of extensive empirical and critical evidence.

Cordially and respectfully submitted,

Martin Engel
404 Arbolado Drive
La Selva Beach

WORLD

MEXICO

New gondola line in capital serves poorer residents

By Diego Delgado

MEXICO CITY — Mexico City has opened the first of what it hopes will be several aerial cable-car lines serving the poorer outskirts of the city of 9 million.

Last week's inauguration of the first leg of the Cablebus line marks the latest chapter in Latin America's love affair with cable cars, which are used in much of the world mainly for tourists and ski slopes.

The neighboring State of Mexico already has a cable car serving one northern Mexico City suburb, and the city's own first line was also built on the poor, crowded north side.

Cable cars are seen as a cheaper, quicker way to bring public transport to poor communities located high up hillsides. Since they're airborne,

the car lines also don't have as many difficulties with Latin America's notoriously chaotic development, bad traffic and lack of rights-of-way.

By June, the line will run almost 6 miles from Cuauhtepac, a working class neighborhood on the northern edge of Mexico City, to the nearest subway and bus station. The stretch inaugurated Thursday covers just 1.06 miles of that route, to the neighborhood of Tlalpexco.

At present, officials explained, residents at the top of the hill in Tlalpexco have to board crowded, small vans that travel much more slowly. Plus, they don't have the nice view the cable cars offer from their big windowed cars that can seat 10 passengers at a time. The cars run on electricity and can travel about 13 mph, far faster than most

traffic in the city.

"There are nearly a million inhabitants living in the area around the Cablebus, and they make their trips in small vans that descend through narrow streets, and that may take, from the highest point ... as long as 55 minutes or an hour," said Guillermo Calderon, director of the electrical transportation system.

Traditional transport solu-

tions like bus or subway lines are almost impossible here, both because there are no rights of way in the densely packed slums and residents are crowded along hillsides on steep slopes.

Mayor Claudia Sheinbaum said a second cable car line is being built in Iztapalapa, another working class neighborhood, to the east. "Having the best transportation for the

poorest parts of the city reduces inequality," Sheinbaum said.

The city of Medellin, Colombia, launched its cable cars in 2004. Since then, many other Latin American cities have followed suit, ranging from Rio de Janeiro to La Paz, Bolivia.

Diego Delgado is an Associated Press writer.



Rebecca Blackwell / Associated Press

The new "Cablebus" line will eventually run almost 6 miles from Cuauhtepac, a working class neighborhood on the northern edge of Mexico City, to the nearest subway and bus station.

Emails received between 02/03/21 – 03/23/21

From: Robert Hogan <hoganrp@earthlink.net>
Sent: Thursday, March 18, 2021 2:03 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Opinion regarding Santa Cruz Passenger Train

Dear Commissioners,

I have used high speed rail lines in Germany, France, Spain, and Italy; and I believe that modern trains are the future. However, installing conventional, slow-speed rail is repeating the past, are not the solution for Santa Cruz and the region. The proposed line would back up traffic, be noisy, and it would be slow. Therefore, I therefore do not support the current proposal.

Alternative Solution: Monorail

I suggest that the Commissioners think bigger, and plan for the future. Why not be a model for California rail transportation. Forget about the trains of your childhood. For example, a monorail would increase property values, attract business, and facilitate travel. Such a system could be built using the existing railroad lines and highways to continue to link San Jose and the airport with Santa Cruz. Furthermore, elevated lines would create bike lanes and walking paths.

Santa Cruz has the opportunity to demonstrate its future planning and apply for state and federal financial support.



<https://allears.net/2020/06/15/the-storied-history-of-walt-disney-worlds-innovative-monorail-system/>

Thank you for the opportunity to share my input,

Emails received between 02/03/21 – 03/23/21

Dr. Robert Hogan
Professor of Education

From: Craig Wilson <crwilson1225@icloud.com>
Sent: Thursday, March 18, 2021 6:23 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Public Comment Rail Financial Feasibility RTC Meeting on April 1

RTC Commissioners and Staff,

Rail is not financially feasible in Santa Cruz County.

Twelve years have passed. No more studies are necessary.

Please rail-bank and open the coastal trail for pedestrian and bicycle use.

Craig Wilson
Soquel

From: Janet Starr <featuretile@gmail.com>
Sent: Thursday, March 18, 2021 9:21 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Train is not viable

A passenger train is not financially viable. The train track does not go to the places where people need to go and would require additional transportation at the stops. Furthermore, there are too many trestles required that would cost large sums of money to support the weight of a train.

Please stop these futile efforts and build a bike path. It would be much quicker and cost far less.

The train in Marin is highly subsidized and even though they have a greater population, it still does not make money. My understanding is that, at first, the train would only be used for freight. What freight do we have (if any) that needs to go from Watsonville to Davenport? The cement plant is closed.

My question is: who is going to make money from this train project and are they the people who are pushing this? It is certainly not the residents who live here,

Emails received between 02/03/21 – 03/23/21

Sincerely,
Janet Starr

From: Sandi <efftoo@yahoo.com>
Sent: Thursday, March 18, 2021 10:08 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail to trail

While I love train travel, the reality is nobody is going to use an expensive rail system to get from Watsonville to Santa Cruz. However, many will use a safe bike trail in their neighborhood. I am envious of so many other communities with a dedicated walking/biking trail. Santa Cruz County should be at the forefront of green space use!

Please ditch the rail idea and get the trail going before I get too old to be able to use one in my own community.

~Sandi Moore

From: Rick Krakowski <rick.krakowski@gmail.com>
Sent: Thursday, March 18, 2021 10:22 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: I want a great trail for Santa Cruz

Hi,

I am a homeowner in La Selva Beach and I support the trail-only option.

I have become very highly informed and have read every publication on this issue put out over the last 5 years. It has become very clear to me that a train is not an affordable option, nor will it solve our congestion issues.

The issue with train + trail is that we will get a mediocre trail with unsafe divergences -- and ultimately likely no train -- rather than a first class trail in a short period of time.

Living in La Selva, this is particularly true as it is my understanding that with trail only we would have a beautiful route over the trestle versus a somewhat unclear divergence (potentially along San Andreas which is unsafe and hilly).

I have responded to all the RTC surveys. In the last one, no trail only option was provided and therefore I chose the best of the train options, electric light rail. I will say that utilizing that survey to communicate

Emails received between 02/03/21 – 03/23/21

community support for light rail is outright misleading if not communicated in the context of the preferred community option among the train options. It would have been wise to continue to offer 'trail only' option for people like myself to answer as I believe this is the right way to go.

Thanks for your time and consideration.

Rick Krakowski
51 Asta Drive, La Selva Beach

From: richard klevins <rklevins@outlook.com>
Sent: Thursday, March 18, 2021 11:58 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: rail trail

Please do bike trail

No rail

We need safe biking in Santa Cruz county NOW
Not 25 more years and half a BILLION in the toilet.
PLEASE

Sent from [Mail](#) for Windows 10

From: johnd35@aol.com <johnd35@aol.com>
Sent: Thursday, March 18, 2021 12:26 PM
To: '• Greg Caput,' <greg.caput@santacruzcounty.us>; '• Ryan Coonerty,' <ryan.coonerty@santacruzcounty.us>; '• Manu Koenig,' <manu.koenig@santacruzcounty.us>; '• Patrick Mulhearn,' <patrick.mulhearn@santacruzcounty.us>; '• Bruce McPherson,' <bruce.mcpherson@santacruzcounty.us>; '• Jacques Bertrand,' <jacques.bertrand@sbcglobal.net>; '• Kristen Petersen,' <ladykpetersen@gmail.com>; '• Mike Rotkin,' <openup@cats.ucsc.edu>; '• Sandy Brown,' <sbrown@cityofsantacruz.com>; '• Randy Johnson,' <rlj12@comcast.net>; '• Aurelio Gonzalez,' <aurelio.gonzalez@cityofwatsonville.org>; '• Eduardo Montesino,' <eduardo.montesino@cityofwatsonville.org>; Regional Transportation Commission <info@sccrtc.org>
Subject: Vote "NO" on Passenger Train Proposal

For the reasons listed below, this is a horrible idea. Vote NO!

- widespread public opposition,
- no money,

Emails received between 02/03/21 – 03/23/21

- a pandemic,
- increasing declines in public transit ridership,
- a teetering METRO system due to underinvestment,
- environmental obstacles,
- safety concerns,
- insufficient population to support a train

From: Santa Cruz County Greenway <greenway@sccgreenway.org>

Sent: Thursday, March 18, 2021 9:04 AM

To: John Distefano <johnd35@aol.com>

Subject: RTC Meeting on April 1 — State Your Opinion!

RTC Meeting on April 1 — State Your Opinion!

The next RTC meeting is Thursday, April 1 at 9 am. At that time the Commissioners will consider whether a passenger train is “financially feasible” in Santa Cruz County. Unfortunately, they have known the answer to that question from multiple studies since 2015, but refuse to give up on the fantasy despite widespread public opposition, no money, a pandemic, increasing declines in public transit ridership, a teetering METRO system due to underinvestment, environmental obstacles, safety concerns, insufficient population to support a train, and much more.

The answer is consistently no, a train is not financially feasible.

Please write to the RTC at info@sccrtc.org prior to March 25 and/or come prepared to make a public comment at the Zoom meeting on April 1 (Zoom details will be published in a subsequent Greenway newsletter). You can find specific email addresses of the

Emails received between 02/03/21 – 03/23/21

Commissioners at the end of this newsletter.

New Greenway Videos on Social Media

Greenway has recently released three videos where county residents talk about the corridor and Greenway.

The first video shows [Chad Price, Category Leader at Specialized Bikes](#), filmed above Manresa Beach, where environmentally sensitive cliffs are eroding/collapsing and heavy infrastructure like trains should not be located. Chad is also on the board of the national organization People for Bikes which helps cities and towns nationwide with their bike infrastructure. He has seen and ridden many trails across the country and emphasizes how communities are benefitting from their rail to trail conversions.

The second video shows [Dave McNussen, a 37 year engineer at Southern Pacific RR and the Santa Cruz Branch Line](#). As someone who has actually operated a train on the Branch Line, Dave let us know that he was driving trains as slow as 10 MPH because of the dilapidated tracks, narrowness of the corridor, and safety issues going through neighborhoods (and that was 15 years ago!). As someone who has spent years navigating the Branch Line, his common sense remarks show that a train is simply a boondoggle in Santa Cruz County.

Emails received between 02/03/21 – 03/23/21

The third video shows [the Dawson family of Capitola](#)—Dwayne, Maya, Anika and Elise talking about the need for safer routes to schools in our neighborhoods and more bike paths for active transportation and recreation.

Email Addresses of RTC Commissioners and Staff

- Greg Caput, greg.caput@santacruzcounty.us
- Ryan Coonerty, ryan.coonerty@santacruzcounty.us
- Manu Koenig, manu.koenig@santacruzcounty.us
- Patrick Mulhearn, patrick.mulhearn@santacruzcounty.us
- Bruce McPherson, bruce.mcpherson@santacruzcounty.us
- Jacques Bertrand, jacques.bertrand@sbcglobal.net
- Kristen Petersen, ladykpetersen@gmail.com
- Mike Rotkin, openup@cats.ucsc.edu
- Sandy Brown, sbrown@cityofsantacruz.com
- Randy Johnson, rlj12@comcast.net
- Aurelio Gonzalez, aurelio.gonzalez@cityofwatsonville.org
- Eduardo Montesino,
eduardo.montesino@cityofwatsonville.org
- RTC Staff, info@sccrtc.org

Emails received between 02/03/21 – 03/23/21

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NOTE: As a 501(c)4 nonprofit, Santa Cruz County Greenway can endorse political candidates.

Our mailing address is:

Santa Cruz County Greenway
849 Almar Ave, Suite 247
Santa Cruz, CA 95060
Website: sccgreenway.org

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You can [update your preferences](#) or [unsubscribe from this list](#).

From: Peter Emanuel <peter@sistreaming.com>
Sent: Thursday, March 18, 2021 12:28 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Cost feasibility comment

Thanks for entertaining comments on the next phase of the RTC plans on the rail/trail debate addressing the financial feasibility of deploying the train solution. The rubber is about to hit the road and in my opinion we are all about to wake up and smell the coffee. It has been clear from day one that the 8% of measure D dedicated to the trail will not even make a dent in the overall cost of a train. In theory, I do believe that the majority of voters sympathize with the notion of a train. Furthermore, they also do sympathize with the concept of "transportation justice" in order to integrate a train solution with the METRO to support the more needy in our county. They would also in theory support the good paying union jobs for the bus drivers at the expense of autonomous buses.

The reality of the situation is a whole other matter and the voters know

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that sympathy cannot win the day here. We don't have the population center nor do we have the employment base to support a cost effective commuter train into Santa Cruz. At the same time, it should be noted that a freight solution from Watsonville to join Amtrak to enable the transport of our fresh produce industry to the midwest is a more feasible standalone train solution and is consistent with a viable climate change short term solution. I think we are deluding ourselves as a county that the state of California will step in to fund a commuter train based upon any cost/benefit analysis compared to other more populous needy counties in the state. It is also clear that costs to build a track with all the bridges, retaining walls, stations and other expenses specifically associated with a train make the financial feasibility out of reach forever.

It is heartening to recognize that the RTC has finally accepted railbanking followed up with a trail only solution as a potential future use for the rail corridor. However, the majority of commissioners are not on board with this solution. I believe that the electorate is 100% on board with it. I also believe we have an "electoral college" type decision making system process at play here with historical vested interests deciding against the actual will of the majority. As mentioned, I understand the sentiment of marrying METRO to rail but also do not think this can ever practically happen on a long term financial business proposition using the train as being the missing link. What is missing in the big picture is the rapidly changing electric transportation infrastructures becoming available and soon to be practical for our own corridor and to address real climate change solutions. If the financial feasibility of a train is not practical, I urge the commissioners to at least open up the discussion to newer transportation solutions for the corridor. This should include a low cost study of a trail-only solution and also a ballot initiative to settle the will of the people once and for all.

In my opinion, it isn't difficult to imagine the center of the corridor dedicated to e-type transit including autonomous small buses to support the lower income families as well as e-bikes and e-scooters. This can easily integrate into the METRO transit system too. The outer lanes can still be for regular bikes, wheelchairs and pedestrians. The infrastructure improvements to support such a solution is a fraction of the costs of a train and can probably be attained within the existing Measure D budget. The electrification will be passed down to the consumer, no new stations or switchover tracks to support 2-way traffic will be needed, no major retaining walls to support a mega-ton train, no major bridges or moving of tracks in existing floodplain areas will be required. We can even imagine affordable rainbow bridges over major intersections to allow the

Emails received between 02/03/21 – 03/23/21

continuous flow of e-transit vehicles as an alternate to Highway 1 traffic. Furthermore, this type of solution can be built long before 2035 which is the current train timeline.

Sincerely,

Peter Emanuel
Capitola

From: Ed Hopkins <chantala@comcast.net>
Sent: Thursday, March 18, 2021 12:44 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: no to railway

Thank you for your updates about the proposed railway in Santa Cruz County.

NOOOOOOOOOOO we are 100% opposed as we 100% believe locals prefer and want a path for walking, biking, jogging, strolling instead and since the costs involved show to be significantly less, let's move forward with a "pathway" **PLEASE!**

Santa Cruz County is "green" so let's proceed with Project Greenway.
Chantal and John Hopkins
2807 Casa de Vida Drive
Aptos, CA 95003

From: pjlsb@att.net <pjlsb@att.net>
Sent: Thursday, March 18, 2021 1:17 PM
To: Regional Transportation Commission <info@sccrtc.org>;
aurelio.gonzalez@cityofwatsonville.org; Patrick Mulhearn
<patrick.mulhearn@santacruzcounty.us>;
eduardo.montesino@cityofwatsonville.org; greg.caput@santacruzcounty.us
Cc: Jules M. <cyclewats@gmail.com>
Subject: this makes no sense

Hi Aurelio, Eduardo, Greg, Patrick,

I'm all for connecting Lee Road to Harkin Slough Road with a pedestrian/bicycle bridge (so students can get in/out of P.V.High) and for connecting the two pieces of Harkins Slough Road with a pedestrian/bicycle bridge (so students at the farm labor camp can get to P.V.High, Rolling Hills Middle, and Freedom Elementary schools). A much safer, continuous route from Watsonville to all points in Central and North County would be a huge leap forward for everyone.

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But, shown here is the photo I took on Monday on the Segment 18 of the MBSST. What the heck! The new pavement runs only a hundred feet from the existing Watsonville Slough trail. And the new pavement doesn't even connect to Walker Street. I remember just a couple years ago doing a Friday night ride starting at Watsonville Cyclery with Felipe Hernandez leading everyone to the corner of West Beach Street at Walker Street and pointing toward stored catering trucks and announcing that soon a trail would connect us from there to Lee Road.

On the Ohlone Parkway end of the trail there's no street crossing or signage to alert motorists to the need for cyclists or pedestrians to cross the roadway. And, ironically, this very unsafe civil engineering project is only feet from a traffic-slowing roundabout that would have provided a safer trail-to-road interface.

What the heck! Why was it so darn important to the SCCRTC to waste funds on a redundant trail to NOWHERE and create a safety hazard, instead of connecting students to their schools, and communities to communities.

The idea of a passenger train is unfeasible and has led the SCCRTC to exactly such nonsensical actions.

STOP THE TRAIN, and build a trail.

Respectfully,

Peter Stanger
19 Escuela Road
Watsonville, CA 95076

[Download all attachments as a zip file](#)

Emails received between 02/03/21 – 03/23/21



[begining.jpg](#)

[92.4kB](#)

Emails received between 02/03/21 – 03/23/21



[end.jpg](#)

From: B. Fuller <brigidfuller@gmail.com>
Sent: Thursday, March 18, 2021 2:20 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: We need a safe bike path now, not a train later

Dear RTC Commissioners,

I've lived in Santa Cruz County for over 40 years and I've also lived in Holland where bicycles are a clean, safe, popular and efficient mode of transportation. People take trains there for longer commutes, but for manageable distances and for recreation, they always ride their bikes. It's a wonderful system.

Emails received between 02/03/21 – 03/23/21

I've been waiting for 40 years for our enlightened community to wake up to the benefits of safe bicycle paths as a way to ease commuter traffic, enjoy a free and fun form of exercise, but most importantly to encourage and enable safe biking.

While some in our community are clinging to the idea that train travel is feasible here, the reality of soaring costs, limited access, and a host of unsolvable challenges belies that fantasy.

What are we waiting for? Why hasn't a world-class bike path already been installed? We have the ability to quickly and affordably open a greenway alongside or over the rail lines for long stretches of the county. Let's get going and do the right thing for county residents. If a train becomes feasible in the future, we can revisit the idea down the road. For now, a greenway creates a clean, safe way to experience our beautiful county. Let's not waste more time and money to reach the obvious conclusion.

Sincerely,

Brigid Fuller
Bonny Doon, CA

From: mandy spitzer <mandyspit@yahoo.com>

Sent: Thursday, March 18, 2021 6:12 PM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: No Train - Greenway now

Santa Cruz County needs to stop with the studies and get going on the Greenway.

I want a trail I can walk and ride my bike on before I die. I don't want my County government spending all our precious dollars on a train bound for failure. We have one tourist train. We don't need or want another. I worked for years in Watsonville and if this train was going to be useful; traveling at commute hours, with stops useful to working folk, and cost effective, then let's do it! I would have been the first in line. But that's not what is being planned. And in the ensuing years of committees and studies and dollars wasted I retired.

We could have a trail, a Greenway, as 2000 other communities around the country have done and all of us breathing the fresh air, getting exercise, and enjoying our natural beauty.

Emails received between 02/03/21 – 03/23/21

Let's go Greenway ASAP.

Thanks for taking my opinion into consideration.

Mandy Spitzer
153 Hagemann Ave
Santa Cruz, Ca 95062

From: Trevor Paque <trevorpaque@gmail.com>
Sent: Friday, March 19, 2021 10:56 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail Corridor

To whom it may concern:

I support Greenway of Santa Cruz County and their vision to remove the metal rails from the rail corridor and to turn it into a bicycle and pedestrian path. I do not want a train or any kind of rail transportation. I do want a bicycle and pedestrian path. I live, work, and raise children in Santa Cruz.

Best regards,

Trevor Paque
149 Palisades Ave
Santa Cruz, CA 95062

From: twosailors@cs.com <twosailors@cs.com>
Sent: Friday, March 19, 2021 11:39 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail Trail

Dear Sirs,

When will we get a cost comparison for building the Rail /Trail vs. the Trail only and how it will be financed?

What we would like to have and what we can afford are two different considerations. Until a costing analysis is complete, a decision cannot be made.

Joseph Altmann
Santa Cruz

Santa Cruz County Regional Transportation Commission
Transit Corridor Alternatives Analysis – Business Plan

Emails received between 02/03/21 – 03/23/21

From: Board Chair Friends of the Rail Trail <executive@railandtrail.org>

Sent: Friday, March 19, 2021 5:48 PM

To: Randy Johnson <rlj12@comcast.net>; Aurelio Gonzalez <aurelio.gonzalez@cityofwatsonville.org>; Sandy Brown <sbrown@cityofsantacruz.com>; Ryan Coonerty <Ryan.Coonerty@santacruzcounty.us>; bruce.mcpherson@co.santa-cruz.ca.us; manu.koenig@santacruzcounty.us; Zach Friend <zach.friend@santacruzcounty.us>; Greg Caput <greg.caput@co.santa-cruz.ca.us>; jbertrand@ci.capitola.ca.us; Michael Rotkin <openup@ucsc.edu>; eduardo.montesino@cityofwatsonville.org; ladykpetersen@gmail.com; Tim_gubbins@dot.ca.gov

Cc: Donna Lind <dlindslind@earthlink.net>; Donna Meyers <dmeyers@cityofsantacruz.com>; Andy Schiffrin <Andy.Schiffrin@santacruzcounty.us>; Gine Johnson <Gine.Johnson@santacruzcounty.us>; Patrick Mulhearn <patrick.mulhearn@santacruzcounty.us>; Guy Preston <gpreston@sccrtc.org>; Ginger Dykaar <gdykaar@sccrtc.org>

Subject: A Good Week for Public Transit - 74% of Active Voters Support Passenger Rail

Dear RTC Commissioners and Staff,

I wanted to end the week with a big thank you for all your hard work and partnership in improving the transportation in our county.

I've attached a sneak peak at some more details of the survey released this week, we'd love to set some time to discuss further if we haven't already.

Please don't hesitate to reach out if you're interested in learning more.

Thanks again,

Faina Segal
Board Chair
Santa Cruz County Friends of the Rail & Trail
P.O.Box 1652, Capitola, CA 95010-1652
www.railandtrail.org and coastconnect.org
Cell: 831-331-6432

Opinions on Plans for the Santa Cruz County Coastal Rail Corridor

Highlights of a Survey of Santa Cruz County Active Voters





Survey Conducted by FM3 Research







FAIRBANK, MASLIN,
MAULLIN, METZ
& ASSOCIATES

- FM3 Research is a CA-based, independent public opinion research firm with a nearly 40-year track record of statistically-valid research for non-profit organizations and local governments across California and the U.S., including in Santa Cruz County.
- Participants were chosen at random and contacted via email and/or phone numbers provided by the Registrar of Voters.
- The composition of the sample aligns with the characteristics of local voters including political party, age, gender, race/ethnicity and Supervisorial District.



Survey Specifics & Methodology

Dates	February 18 th -25 th , 2021	
Survey Type	Dual-mode Voter Survey	
Research Population	Santa Cruz County Voters who Voted in the November 2020 General Election	
Total Interviews	618	
Margin of Sampling Error	±4.0% at the 95% Confidence Level	
Contact Methods	 Telephone Calls	 Email Invitations
Data Collection Modes	 Telephone Interviews	 Online Survey
Language	English	



We are highly confident that the representative sample of active local voters used provides a very high level of statistical reliability.

Our sample size aligns with the industry standard for Santa Cruz County. It's also the same size that was used by FM3 Research for polling done for the 2016 transportation ballot measure (Measure D), results of which exactly mirrored the results of the election:

68%

Favorability in the polling

68%

Election result

There should be zero doubt as to the validity of these survey results.



The science of statistics tells us that a survey of approximately 600 respondents will accurately reflect the opinions of the entire population of Santa Cruz County voters to within $\pm 4.0\%$ in 95 out of 100 cases.

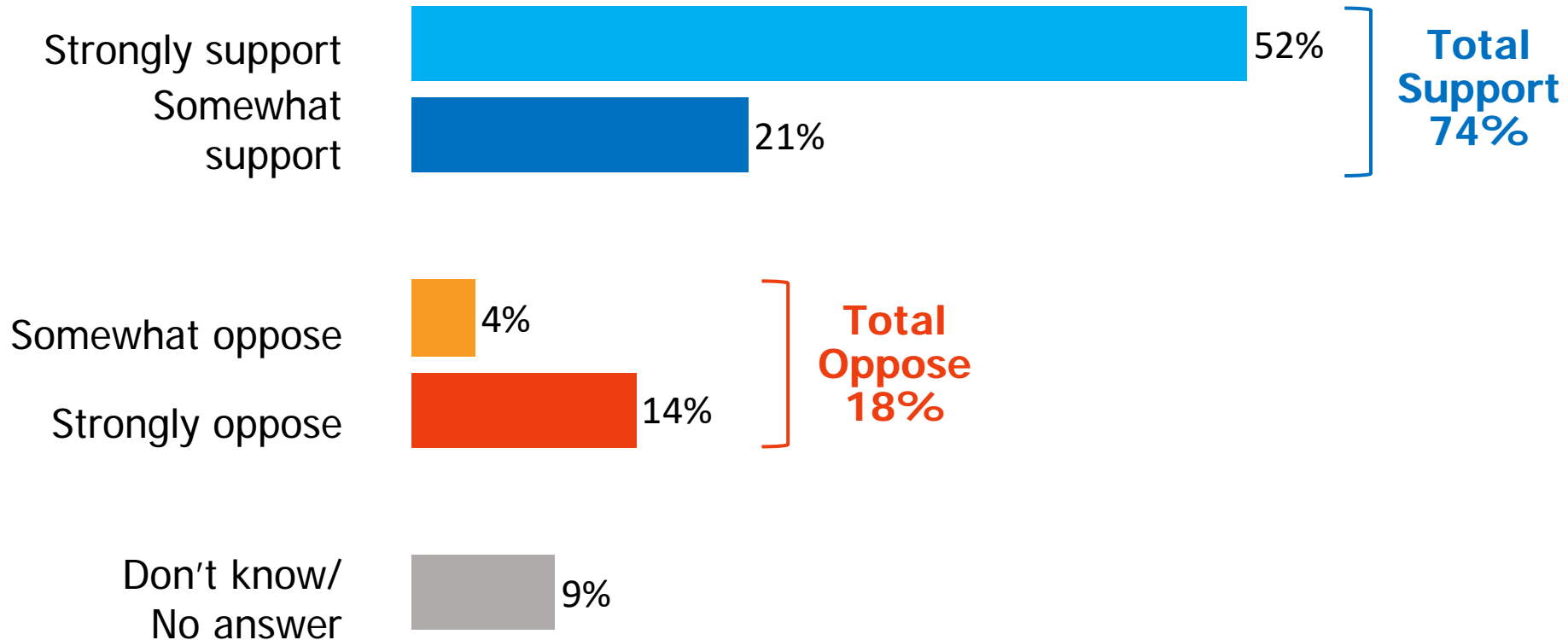
- Many accurate statewide surveys in California have sample sizes of 800 or 1000 people, so it follows that a sample size of 600 would be reasonable for Santa Cruz County.
- Current polling for President Biden's COVID rescue plan that shows nationwide support of 73% is based on a sample size of approx. 1,400, which reflects standard practice for national polls.



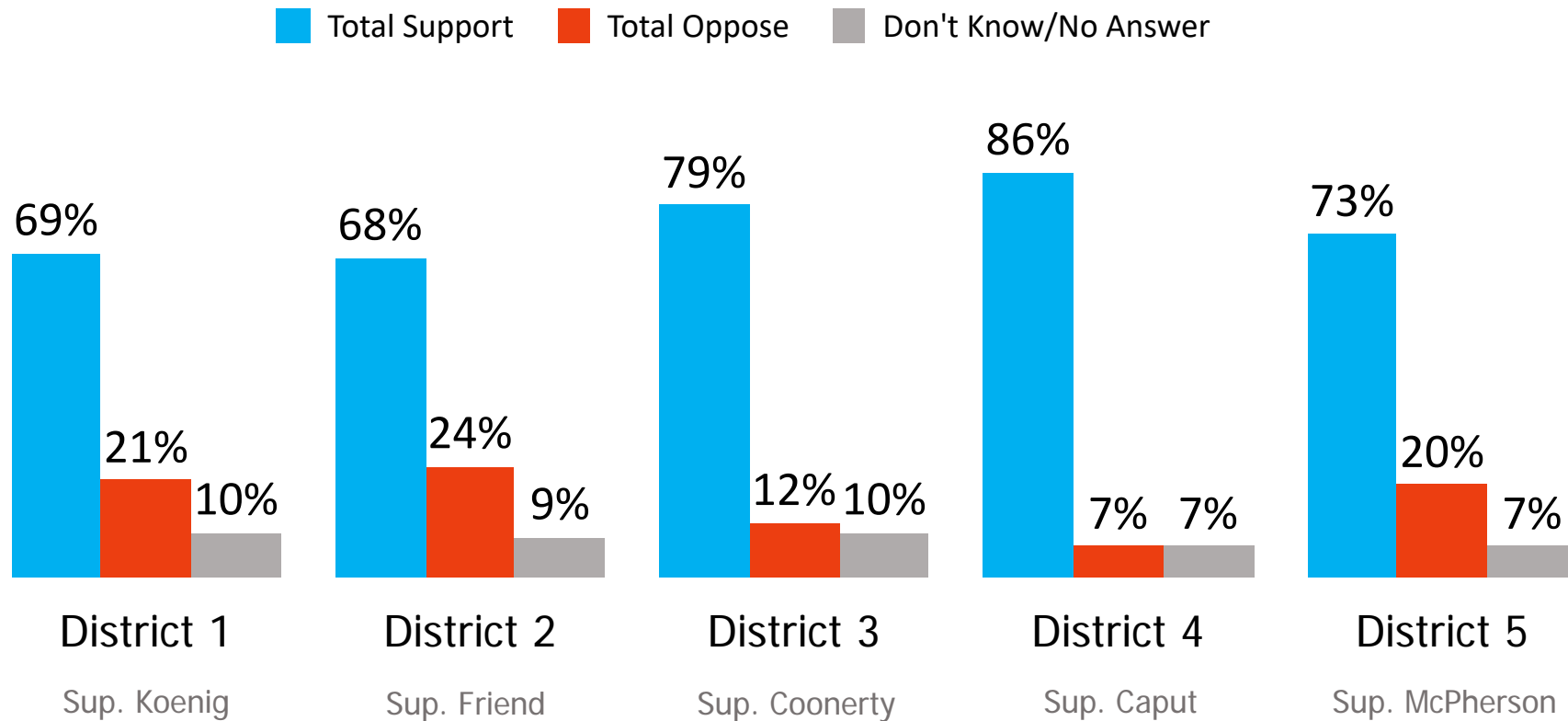
Rail Trail Project Description Provided to All Respondents

"As you may know, the Santa Cruz Coastal Rail and Trail project would repurpose a 32-mile stretch of train tracks along the Santa Cruz County coast and use it for light-rail passenger train service with the area next to the tracks used for a paved trail for walking and biking. The light-rail passenger service would run between Watsonville and the City of Santa Cruz with several stops along the route and it would connect to other regional public transportation options to the north and south. The project is being led by the Santa Cruz County Regional Transportation Commission with the majority of the funding coming from the state and federal governments, along with a small amount of County matching funds. The construction of the trail has already begun."

Three-quarters of active voters support continuing with the plan for light-rail passenger train service.



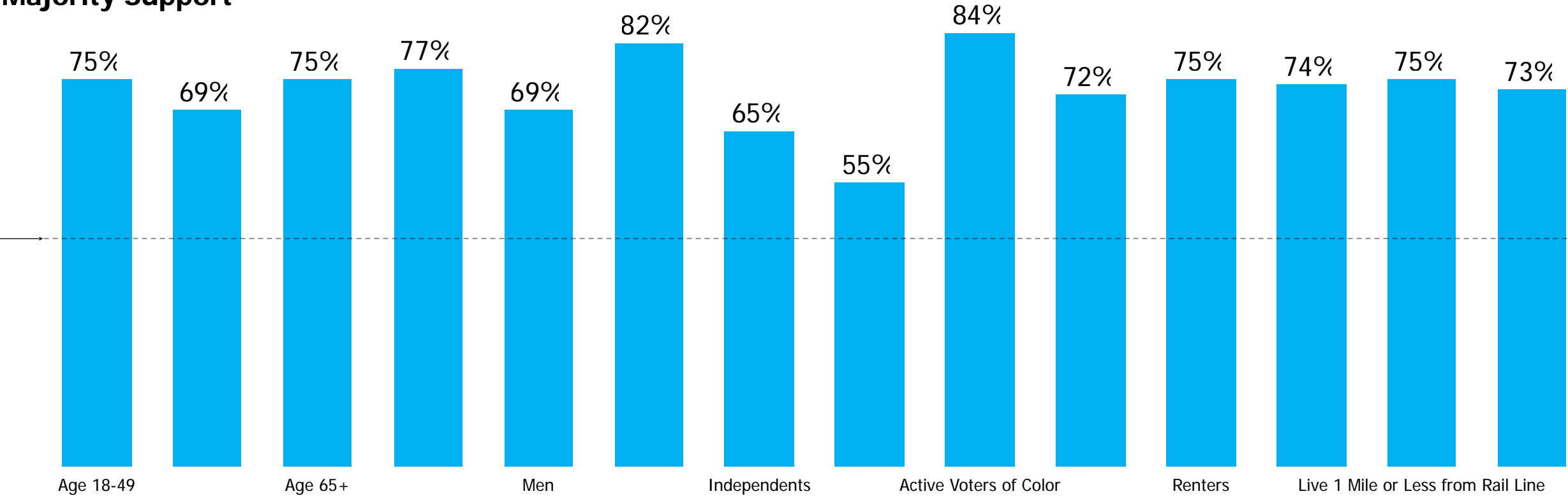
Support for the Rail & Trail plan is strong in all Supervisorial Districts.





Majority Support is Very Strong Across All Demographic Categories

50%
Majority Support





Faced with a direct choice among the Rail & Trail plan, trail-only idea, and pausing the rail for the future, a majority of active voters prefer to continue with the Rail & Trail plan.

Pausing Rail is Unpopular: 19%

Continue building the trail, but pause on the plan for electric, light-rail passenger train service and leave the tracks in place for future public transportation options

Trail-Only is Unpopular: 17%

Remove the train tracks so no current or future public transportation is included in the corridor and convert the entire corridor to a trail for walking, biking and other personal transportation

Emails received between 02/03/21 – 03/23/21

From: David Giannini <davidgiannini@yahoo.com>
Sent: Saturday, March 20, 2021 7:59 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail vs Trail

Dear Commissioners,

Please consider using the old freight train corridor for a public transportation trail only option.

Using the full width of the right of way would provide a contiguous trail with lanes for fast moving new electric transportation vehicles, and a separate set of lanes for slow moving dog walkers etc.

A trail only option is the most equatable and affordable option for the corridor especially when combined with a revamping of the metro bus system and adding "Bus on Shoulder".

Sincerely,

David Giannini

From: Phillip Rupp <ruppebay@hotmail.com>
Sent: Saturday, March 20, 2021 9:52 AM
To: Regional Transportation Commission <info@sccrtc.org>
Cc: greg.caput@santacruzcounty.us; ryan.coonerty@santacruzcounty.us; Supervisor Manu Koenig <manu.koenig@santacruzcounty.us>; patrick.mulhearn@santacruzcounty.us; bruce.mcpherson@santacruzcounty.us; jacques.bertrand@sbcglobal.net; ladykpetersen@gmail.com; openup@cats.ucsc.edu; rlj12@comcast.net; aurelio.gonzalez@cityofwatsonville.org; eduardo.montesino@cityofwatsonville.org
Subject: Train line through Santa Cruz County

RTC Commissioners;

My humble opinion:

1. A passenger train through Santa Cruz County is NOT financially feasible.
2. The train corridor is too narrow in many places for both the train line and a public trail.
3. I favor removing the rail line and building a public trail.

Emails received between 02/03/21 – 03/23/21

At the RTC meeting on April 1, 2021 please vote to stop the planning for the rail line and move to build a public trail instead.

Thank you,

Phillip Rupp
825 Monterey Ave.
Capitola, CA 95010

From: glin <224glin@gmail.com>
Sent: Saturday, March 20, 2021 11:51 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: passenger train boondoggle

Dear board members,

As a long time residence of Santa Cruz County, 52 years, and a general contractor for 45 of those years I have some experience and knowledge of the area and the obstacles of trying to construct such a massive undertaking to make the train tracks useable for train traffic. The costs of engineering and construction to make the tracks structurally sound and earthquake proof to todays standards is exorbitant when compared to turning the tracks into pathways for bikes and pedestrians, which would be simple compared to train usage. I have walked or biked pretty much the length of the corridor and from a construction standpoint to make the tracks bike and pedestrian ready would be simple and straightforward. Also this option will not saddle the County of Santa Cruz with decades of debt that will never be repaid along with the lack of any real ridership of the train itself (I just can not figure out who believes any studies out there that says otherwise).

For the sake of the County's financial long term security along with the Counties overwhelming opposition to the project please step up and finally put a stop to the train option and spend the taxpayers, money on the option they want, bike and pedestrian pathways.

Sincerely ,

Gary Lindeke

From: Evacyclassf@Yahoo.com <Evacyclassf@Yahoo.com>
Sent: Saturday, March 20, 2021 4:47 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: No train!

Emails received between 02/03/21 – 03/23/21

Dear RTC Board,

The train proposal is not financially feasible.

Use the money for additional pedestrian and bicycle multiuse greenways.

Eva Sherman
Property owner and voter
146 Francis Court
Santa Cruz, CA 95062

From: lisadswaim@everyactioncustom.com

<lisadswaim@everyactioncustom.com>

Sent: Sunday, March 21, 2021 1:00 AM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: Public Hearing: I Support Electric Rail for the Locally Preferred Alternative

Dear RTC Commissioners,

My name is Lisa Swaim and I'm writing today to urge you to choose rail transit as the Locally Preferred Alternative.

I live in Capitola and work at UCSC. I would love to have a safe rail option to commute across town alongside a protected bike lane so I can ride to work. And more than for myself, I would like my kids to have a way to safely travel to Cabrillo College and to UCSC along the rail and trail. We would ride to Watsonville to shop or eat as well as the Aptos/Capitola/Santa Cruz corridor.

Every study has found passenger rail service to be the best for our community and the environment. Please choose rail transit as the Locally Preferred Alternative. I also ask you to authorize the RTC staff to develop a passenger rail business plan without any further delay.

To reiterate, please consider me, Lisa Swaim, a supporter of rail transit in Santa Cruz.

Thank you.

Sincerely,
Lisa Swaim
1925 46th Ave Apt 62 Capitola, CA 95010-2627 lisadswaim@yahoo.com

Emails received between 02/03/21 – 03/23/21

From: Cynthia Gelke <cynthia.gelke@gmail.com>
Sent: Sunday, March 21, 2021 7:57 AM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: April 1 RTC meeting feedback

Dear Commissioners,

Since I am unable to attend the next RTC meeting on April 1st, I wanted to give feedback as you are considering whether a passenger train is “financially feasible” in Santa Cruz County.

I continue to be confused as to why this is still being discussed since we already know that the answer to this is a resounding No. You all have known from multiple studies since 2015, that there is no money and there is widespread public opposition to support the train.

The answer is consistently no, a train is not financially feasible.

Thank you for taking the time to read my feedback.

Cynthia Gelke
Aptos, CA

From: Tim Brattan <timbrattan@yahoo.com>
Sent: Sunday, March 21, 2021 10:18 AM
To: Regional Transportation Commission <info@sccrtc.org>
Cc: greg.caput@santacruzcounty.us; ryan.coonerty@santacruzcounty.us; manu.koenig@santacruzcounty.us; patrick.mulhearn@santacruzcounty.us; bruce.mcpherson@santacruzcounty.us; jacques.bertrand@sbcglobal.net; ladykpetersen@gmail.com; openup@cats.ucsc.edu; sbrown@cityofsantacruz.com; rlj12@comcast.net; aurelio.gonzalez@cityofwatsonville.org; eduardo.montesino@cityofwatsonville.org; Suzi Mahler <suzimahler@gmail.com>
Subject: Invest in Metro and trail

Dear Commissioners,

We know how difficult, and how important it is for you as leaders to be open to facts, data and evidence on transportation decisions - including the rail corridor that is so polarized. There is so much at stake given the impacts of [local climate change](#) and natural disasters, current and future pandemics, work-at-home, and changing/aging demographics all adding to the complexity of your analysis.

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We agree with Frank Anderson in his 3/12/21 Pajaronian op-ed, "[How to improve public transit](#)," and support the following recommendations:

- 1) Invest in Metro. Continue to replace the aging fleet with smaller, more efficient electric buses with bike racks.
- 2) Bus frequency. More buses running on more routes more frequently will move more people. Run the buses in their own dedicated bus on shoulder lanes on Hwy 1 and eventually on Soquel getting people where they need to go at low/free fares.
- 3) Agree on a common set of facts. Waiting to use the corridor and building expensive, fragmented sections of trail with tracks framed with dangerous steel fencing is not a smart or viable option. Let's all agree on facts: increasing declines in public transit ridership, environmental obstacles, safety concerns, climate, and insufficient population must all be considered in this discussion.
- 4) Safety. We know the number one reason people don't bike or walk for errands, school, work or recreationally is streets are dangerous and our county is one of the most unsafe in the state. We know this personally as bike commuters: vehicles moving faster and faster do not abide by the 3-foot rule around cyclists cramped in narrow, unsafe bike lanes and gutters. Active transit separated from traffic ASAP is a must.
- 5) Railbank the corridor. Build a wide trail we can afford quickly with Measure D funds. The trail will move the most people using COVID-proof technologically advanced micro-transit and existing bridges and trestles. A wide corridor with separate lanes for faster cyclists/commuters, and slower-moving pedestrians yields 10 times the corridor's movement capacity.
- 6) Finally, to our South County commissioners: everyone supports Hwy 1 traffic congestion relief. A train will not achieve this. Your own RTC studies show that the number of projected riders to/from Watsonville would be negligible and have zero impact on this goal. As Mr. Anderson writes: "New fixed rail systems do not increase accessibility and draw resources away from suitable bus services. Rail funding decreases social equity." Every RTC study concludes the cost per passenger mile of rail does not justify its exorbitant, unsustainable cost.

Sincerely,

Emails received between 02/03/21 – 03/23/21

Tim Brattan
Suzi Mahler
Santa Cruz residents

From: Alice Schmidt <alicecs@aol.com>
Sent: Sunday, March 21, 2021 4:06 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail/Trail Input for April 1st Meeting

Please consider this email as one more Santa Cruz County resident who is opposed to spending our time and money for a passenger train. The studies I have read, and discussions I have been involved with over the years have convinced me that a passenger train is too costly, will not provide an appropriate return on investment and will not solve our overcrowded Highway 1 congestion.

We must not delay any further the development of a trail that will provide a safe bicycle and pedestrian corridor for our county residents and visitors alike.

Thank you for your consideration.

Alice Schmidt

La Selva Beach, CA
831-332-7212
alicecs@aol.com

From: Scott Roseman <scott8popcorn@gmail.com>
Sent: Sunday, March 21, 2021 6:39 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: train feasibility

To all members of the Santa Cruz Regional Transportation Commission:

Thank you for your service on the RTC. Our community is more than challenged by transportation issues and your involvement in coming up with viable solutions is essential.

When we consider transportation issues, the one thing that always comes up is the challenge of moving between South, Mid, and North Counties, especially at rush hour. It is almost always inevitable that people will be

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stuck in traffic during these hours, and this includes the techies on their way to and from Silicon Valley, as well as the essential working class folks working at the County building, in hotels, at our health care facilities, etc. While widening transit corridors might provide temporary relief - at very high cost - we know that it's just that, temporary. Unless, of course, they are dedicated to a purpose such as bus-on-shoulder or other multi-passenger vehicles.

And, as you know, we need to provide alternatives to people commuting by automobile. This is why the idea of using the transit corridor where RR tracks currently lie for some form of train is being considered. Unfortunately, as you and I already know, and the latest report to you will undoubtedly tell you again, the cost to purchase, install, and operate a train in that corridor is prohibitive. As in unfeasible. Honestly folks, I wish it wasn't so. I wish that it was financially feasible. I would love to see a train on that corridor even if meant that other forms of active transportation would be compromised (as they will be based on the current "rail/trail" concept), so that those people I referenced above would have a viable and affordable option to driving their motor vehicles. I would personally love being able to ride my bikes over to the tracks at 30th, or even 41st, and be able to jump on that train and take it to Watsonville or Downtown Santa Cruz. But, it ain't gonna happen. Not now, not in 5 years, not in 10, and most likely not ever.

Of course, we do have other options to put our community's energy into that could, at varying degrees, improve, and even transform, our traffic woes.

Right now, Santa Cruz County, progressive icon that it is, environmentally-conscious as they come, is one of the worst places in the WORLD to ride a bike. As in incredibly dangerous. We have horrid bike lanes, where we indeed actually have them, and I could take you on a tour to show you the absolutely horrendous places that we actually have lines drawn in the road that one might call a bike lane.

Of course, every motorist on the road is going to honor the sharrows that designate that bikes have just as much right to use that lane as motorists. NOT!

You all know how we have had a disproportionate number of injuries and deaths to cyclists riding in this county. Just think about what this means for our children and their safety.

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So, we need to put dollars into creating safe, protected bike lanes and stop making motor vehicles the priority for our roads. We need to prioritize the safety of cyclists over automobile parking, so that we don't have a bike lane terminate on Soquel Drive as it is heading south just outside Soquel village in front of the antique dealer, requiring bikes to move into the car traffic lane, putting their lives in jeopardy. Just ONE example of many places where parking is prioritized over the safety of cyclists!

And we need to create safe passageways for bikes, as well as other forms of active transportation that are separate from automobile traffic, such as on what was (that's past tense) the rail corridor. We need to do that now, not in 5 or 10 or more years from now, and not with dozens of detours into traffic, as the current plan to accommodate the fantasy of rail requires. And we need to do that without having to build retaining walls, without having to build new bridges, without having to take down trees, and without it costing us millions and millions of dollars more that it would if it was where the tracks currently are, so that the tracks are preserved for a train that we will never see.

With the dollars that you save from not having to build a trail that would be multiple times more expensive to build if it was required to be NEXT to the tracks and the money that you would have to come up with to build out, purchase, and operate a train, you would have plenty of dollars to spend on choices that will actually have an impact on our horrid transportation system: bus-on-shoulder, replacing buses with new, clean-air more efficient people-movers, making such transit FREE, etc. Regarding the latter, this is something that should happen right now. Make riding the buses FREE. You have plenty of evidence with our student populations that not having to pay to ride the bus moves people out of their cars and on to the buses.

You're about to see a report that will tell you that the train is not feasible. You can keep us in this transportation gridlock by protecting the tracks that will never be used or you can move on to creating a fantastic alternative for active transportation on the corridor, that, while not solving the north/south rush hour traffic woes, will get at least some people out of cars and into using such active transportation to go to and from work. You can then focus your intelligent minds and our financial resources on using buses and other forms of multi-passenger transport to move people more quickly, get people out of cars, and ease our transportation woes at a much quicker and more efficient pace.

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Finally, let's talk politics. The FORT folks have announced that they have done a survey that indicates widespread support for rail plus trail. Now, if I was Joe/Jane Voter, and you asked me if I liked the idea of rail plus trail more than trail only, and I didn't have the information that you and I have about the economic feasibility of the train, as well as the astounding additional cost to build a severely compromised trail, I would likely have said, yes, I like the idea of rail plus trail more. So, let's not be confused by that! In two actual elections, one regarding the Capitola trestle and the other, the recent election in the 1st District, the voters spoke clearly about what they preferred. Moreover, if you decide to plow on down the current path and then, when the time comes that you have to ask the voters to pay additional sales tax for the train, you all KNOW that the voters here will never approve that. (See Marin County.)

Let's get real here, folks. We can all love the idea that we will one day have a train that will get people out of their cars and provide a more ecological, a more pleasant, and easier way to move north and south during rush hour every day. It ain't gonna happen, and you owe it to our community to do what's best for our community and put to rest this train fantasy and get to work on a trail and more viable solutions to our transportation woes.

Thank you.

Scott Roseman

2330 Antonelli Court
Santa Cruz, CA 95062
MB 831.334.2444

scott8popcorn@gmail.com

From: Dave King <peoplesbeverage@gmail.com>

Sent: Sunday, March 21, 2021 9:27 PM

To: Regional Transportation Commission <info@sccrtc.org>

Subject: Please No Trains

Good Evening,

I am writing the RTC to ask that we stop the charade. Everyone knows the train doesn't honestly help alleviate any traffic, cannot be done under any budget proposed and if it could be done it would be horribly expensive and time consuming. Oh wait, it already has. Please do something good for the community and give us what we ask for, something affordable and long lasting. Give us something that shows Santa Cruz is a leader in the Green Revolution. We are not L.A. and don't have to follow the old ways of failed

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public transportation. Something beautiful for the environment, something innovative and clean, something for everyone. This is the Santa Cruz we should be persuing.

Thank you for doing what's right,
David King

Santa Cruz, CA 95060
Cell: (831) 316-4587

From: jeremy <jeremy@orvik.com>
Sent: Monday, March 22, 2021 11:48 AM
To: greg.caput@santacruzcounty.us
Cc: ryan.coonerty@santacruzcounty.us; manu.koenig@santacruzcounty.us; patrick.mulhearn@santacruzcounty.us; bruce.mcpherson@santacruzcounty.us; jacques.bertrand@sbcglobal.net; ladykpetersen@gmail.com; rlj12@comcast.net; aurelio.gonzalez@cityofwatsonville.org; eduardo.montesino@cityofwatsonville.org; Regional Transportation Commission <info@sccrtc.org>; openup@cats.ucsc.edu; sbrown@cityofsantacruz.com
Subject: Train feasibility in SC County

RTC Commissioners and staff,

My name is Dr. Jeremy Orvik- I am a local ER doctor, father,husband and surfer.

In thinking on the struggles our community has undertaken regarding the issue of a potential train - when I ponder the money spent, the studies undertaken.... the heated arguments, elections lost- I find it impossible to summarize.

We have been struggling with this for years now.

I imagine each of you feels the same- how fraught and contentious and tiresome this issue has become.

I imagine we may also find shared sentiment when we walk upon the existing tracks in our neighborhoods. We all agree that it can be more. That it SHOULD be more. We agree that we want safe transportation for our children, and our communities.

I imagine some of you, as I- feel heartbreak when you walk on the tracks. I dream of a bike trail that connects our community. I see live music, taco

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trucks on the trail, my daughter on her Elsa bike. I see a vibrant, unique opportunity for connection that at present lies idle, wasted and frankly disgraceful. Waste of potential is so hard to bear, is it not?

We have debated and stalled and studied for years.

One more point of consensus- we can all agree that it is the voters and taxpayers of this county who should decide what to do with the railway corridor.

Let us set aside all other debates and agree that it is the voters- not the RTC, not Greenway, not any single entity that should decide the endpoint of this endlessly contentious issue.

Our community. Our tax dollars. Our vote. Our decision.

You SHOULD be OUR representatives and enacting our will.

If we can come to accord on these terms- then let us put it up for a vote and be, finally -done.

If we vote for a train- then let's make it the best one to ever exist.

If however, your voters vote against it- then let us build a contiguous, safe bike trail that unites our neighborhoods, akin to those in Half Moon Bay or Monterey. But better. Safer. More beautiful.

Let us all drop all pretense, and let the community speak. Put this issue up to a public, accountable, single issue vote. Afterwards- let us move forward united in cause, whatever the outcome may be- our voices having finally been heard and recognized as the rightful bearers and beneficiaries of this decision.

But please- stop the endless studies, the endless spending and debate.

You waste time, you waste taxpayer dollars, you forestall a potential boon to our entire County. Do your jobs, let the public decide, then enact the voted-upon will of your community decisively. End this disgraceful, wasteful debate and get it done- or move aside for those who will.

Thank you.

Most sincerely,
Dr. Jeremy Orvik
and bike riding daughter,
Any Sue Orvik

Emails received between 02/03/21 – 03/23/21

From: Bud Colligan <bud@colligans.com>
Sent: Monday, March 22, 2021 7:43 PM
To: Randy Johnson <rlj12@comcast.net>; Aurelio Gonzalez <aurelio.gonzalez@cityofwatsonville.org>; Sandy Brown <sbrown@cityofsantacruz.com>; Ryan Coonerty <Ryan.Coonerty@santacruzcounty.us>; Bruce McPherson <Bruce.McPherson@santacruzcounty.us>; Manu Koenig <Manu.Koenig@santacruzcounty.us>; Zach Friend <Zach.Friend@santacruzcounty.us>; Greg Caput <Greg.Caput@santacruzcounty.us>; Bertrand, Jacques <jbertrand@ci.capitola.ca.us>; Michael Rotkin <openup@ucsc.edu>; eduardo.montesino@cityofwatsonville.org; Petersen, Kristen <ladykpetersen@gmail.com>; Tim_gubbins@dot.ca.gov
Cc: Donna Lind <dlindsind@earthlink.net>; Donna Meyers <dmeyers@cityofsantacruz.com>; Andy Schiffrin <Andy.Schiffrin@santacruzcounty.us>; Gine Johnson <Gine.Johnson@santacruzcounty.us>; Patrick Mulhearn <Patrick.Mulhearn@santacruzcounty.us>; Guy Preston <gpreston@sccrtc.org>; Ginger Dykaar <gdykaar@sccrtc.org>
Subject: Greenway Poll Results - Voters Support Greenway and Reject Train Tax

Dear RTC Commissioners and Staff,

Greenway recently completed a poll of likely voters in Santa Cruz County and the results affirmed voters' support for Greenway and opposition to any train tax to fund future passenger rail. Voters want to see the real transportation solutions promised to them in 2016 when they voted for Measure D to "get people moving."

The poll of 800 likely voters March 10 - 17 with an error rate of +/- 3.5% had the following results on two important questions:

In order to reduce traffic congestion and air pollution, and provide safe routes to schools and active transportation, shall Santa Cruz County voters adopt an ordinance amending the General Plan to designate an existing rail line between Davenport and Watsonville as a trail and recreation corridor and remove the rail tracks to allow use of the entire corridor, including use of existing bridges and infrastructure, for pedestrians, bicyclists, and other forms of human-powered transportation?

If the election were held today, would you vote yes to approve or no to reject this measure?

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> > Decisive Majority Voted YES

In order to construct and operate a passenger rail line along an existing rail corridor between Davenport and Watsonville, shall Santa Cruz County voters adopt an ordinance establishing a thirty-year one-half cent sales tax, generating \$17 million annually in revenues, and preventing the County from removing the railroad tracks?
If the election were held today, would you vote yes to approve or no to reject this measure?

> > Decisive Majority Voted NO

You are probably wondering why the Greenway poll had such different results from the FORT poll? The answer is quite simple: FORT's poll provided inaccurate and misleading information to poll respondents in order to bias its results to favor the answers it wanted. Examples (actual poll questions attached):

- **FORT poll:** "majority of funding coming from state and federal governments..."

* **REALITY:** False; NO funding is guaranteed; all state and federal funds would be subject to a competitive process with other states and counties; most federal and state funds apply to capital, not operations.

- **FORT poll:** "only need a small amount of county matching funds..."

* **REALITY:** False; a new tax will be required--even Commissioners who are train supporters agree!

- **FORT poll:** "small local share of funding equal to \$20 per person annually..."

* **REALITY:** False; a half cent sales tax will generate \$17M - \$20M annually. Divide \$17M by:

> Total SCC Population of 275K = \$62/person per year

> Total SCC Households of 98K = \$173/household per year

- **FORT poll:** "if the current rail and trail plan is cancelled, our county will lose out on state and federal matching funds, and they will go to other CA counties"

* **REALITY:** See above. In addition, county transportation strategy should NOT be driven by *potential* grants.

- **FORT poll:** "rail will provide connectivity to the rest of the state..."

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* **REALITY:** public transit connectivity options are available *today*--take a bus to San Jose or Salinas and connect to AMTRAK. Why aren't more people doing it?

- **FORT poll:** "any change in the rail and trail plan will delay ANY trail for 10 years and cost \$50M"

* **REALITY:** This statement has been discredited many times. <https://files.sccgreenway.org/2016-Greenway-Rebuttal-to-RTC-12-08-16-Memo.pdf>
<https://files.sccgreenway.org/2016-Colligan-Response-to-RTC-12-08-16-Memo.pdf>

Even if there were minor costs associated with "changing direction," those costs are tiny compared to wasting \$1.3 billion!

FORT poll: "remove the train tracks so no current *or future* public transportation is included in the corridor..."

REALITY: False; hundreds of communities across the nation have railbanked their rail corridors, thus preserving *future* transportation options.

Garbage in, garbage out. It's unfortunate that FORT's poll is simply a public relations exercise. At this point, we can all agree that a county-wide vote is the best way to resolve this issue once and for all. We intend to seek that verdict from the people.

Regards,
Board of Directors of Greenway

Santa Cruz Voter Survey

Thank you for participating in this important research. All responses will be completely anonymous and we will NOT add your name to any sales, marketing or solicitation lists.

If you are currently driving or otherwise occupied, please return to the survey when it is safe to do so. Please click below to acknowledge that it is safe for you to continue take the survey.

Next

19%

✳ To start, would you say things in Santa Cruz County are going in the right direction or are they off on the wrong track?

- ☐ Right direction
- ☐ Wrong track
- ☐ Don't know

Next



20%

* Next, would you say things in your community are going in the right direction or are they off on the wrong track?

- ☐ Right direction
- ☐ Wrong track
- ☐ Don't know

Next

* Now, the next question is about your impressions of some organizations in public life. For each name below, please indicate whether your impression of that organization is generally favorable or unfavorable. If you do not recognize a name or if you have heard about the organization but do not have enough information to offer an opinion, please select that instead.

	Very Favorable	Somewhat Favorable	Somewhat Unfavorable	Very Unfavorable	Heard Of/Can't Rate	Never Heard Of/No Answer
The Sierra Club	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Friends of the Rail and Trail	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Santa Cruz County Board of Supervisors	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
County Supervisor Ryan Coonerty	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Santa Cruz County Regional Transportation Commission, or RTC	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Bike Santa Cruz County	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Santa Cruz County's public transit system	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Greenway	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Your local city council	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Trail Now	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Next

22%

* Are you familiar with the Santa Cruz County Coastal Rail and Trail project?

- ☐ Yes
- ☐ No
- ☐ Don't know

Next

22%

* Would you say you know a lot about the project or just a little?

- ☐ Know a lot
- ☐ Know just a little

Next

23%

* Is your opinion of the Coastal Rail and Trail project generally positive or negative? If you do not have an opinion about it one way or another, you can choose that instead.

- ☐ Very positive
- ☐ Somewhat positive
- ☐ No opinion
- ☐ Somewhat negative
- ☐ Very negative
- ☐ Don't know

Next

24%

✱ As you may know, the Santa Cruz Coastal Rail and Trail project would repurpose a 32-mile stretch of train tracks along the Santa Cruz County coast and use it for light-rail passenger train service with the area next to the tracks used for a paved trail for walking and biking. The light-rail passenger service would run between Watsonville and the City of Santa Cruz with several stops along the route and it would connect to other regional public transportation options to the north and south. The project is being led by the Santa Cruz County Regional Transportation Commission with the majority of the funding coming from the state and federal governments, along with a small amount of County matching funds. The construction of the trail has already begun.

Next

25%

✱ Based on this description or what you already know, do you support or oppose continuing to plan for light-rail passenger train service and an accompanying trail for the publicly owned rail corridor along the coast of Santa Cruz County?

- ☐ Support
- ☐ Oppose
- ☐ Don't know

* Next, below you will find some different words and phrases. You will not be asked to define or explain them, but just to choose whether you have a positive or negative reaction to each one. Please use a scale of 1 to 7, where 1 means you have a **VERY NEGATIVE** reaction to that word or phrase and 7 means you have a **VERY POSITIVE** reaction to it. You may choose any number from one to seven, and a four on this scale means neither positive nor negative.

	1 - Very Negative	2	3	4 - Neu- tral	5	6	7 - Very Positive	Don't Know
Zero emissions train	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Light-rail passenger train	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Streetcar	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Electric light-rail	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Light-rail passenger service	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Train	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Public transportation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Passenger rail	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hydrogen-powered train	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Light rail	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Next

* Next, below is a list of some specific aspects of the Coastal Rail and Trail plan to build both light rail service and a biking and walking trail, as well as potential outcomes of the plan. For each one, please indicate how important that aspect or outcome of the plan is to you: extremely important, very important, somewhat important, or not too important.

	Extremely Important	Very Important	Somewhat Important	Not Too Important	Don't Know
Investing in transportation projects that ensure local growth is environmentally and economically sustainable	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Encouraging new housing near public transportation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Improving the walkability and bike safety of neighborhoods up and down the rail corridor	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Investing in transportation projects that reduce pollution and improve air quality	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Preserving future public transportation options along the coastal rail line	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Funding the light-rail passenger service with a mix of federal funding, state funding and a local share of approximately \$20 annually per household	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Building the Coastal Rail Trail from Davenport to Watsonville	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reducing traffic congestion on neighborhood streets	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing passenger rail service for essential workers in South County to get to work in North County	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

33%

Next, here are some statements from people who support the light-rail and trail plan and other people who want the trail only with no light rail. To start, here are some statements from people who support both light rail and a walking and biking trail for the rail corridor. For each statement, please indicate whether it is a very convincing, somewhat convincing, or not at all convincing reason to support both light rail and a trail. If you don't believe the statement, you can indicate that instead.

Next

* "The people who commute from less affluent communities in the southern part of our County often spend 90 minutes in their cars each way every day. Many of them are essential workers who lose out on precious hours with their families and have to spend thousands of dollars on cars that they cannot afford. Light rail would help South County residents by cutting commute times nearly in half and providing a fast, reliable way to get from their homes to their jobs and back."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to support both light rail and a trail. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

35%

* "Plans for light-rail passenger service and a wide trail has the support of a far-reaching coalition including our local County Regional Transportation Commission, the Cities of Watsonville and Santa Cruz, Bike Santa Cruz County, the Land Trust of Santa Cruz County, Regeneration - Pájaro Valley Climate Action, the Sierra Club, Friends of the Rail and Trail, dozens of local businesses and thousands of local residents."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to support both light rail and a trail. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

36%

* "The majority of the funding for this project will come from tens of millions of dollars in state and federal funds, with a small local share that is equal to \$20 annually per person. If the train is cancelled, our county will lose out on these state and federal matching funds, which will instead go to other counties in California."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to support both light rail and a trail. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

37%

* "The light-rail passenger train service will connect Santa Cruz County to rail service that goes all the way to the Bay Area, LA, and most of the rest of the state. This will greatly improve our transportation options and mobility, allowing local residents to travel beyond our county and for visitors to arrive without a car."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to support both light rail and a trail. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

41%

✱ "Many of us want better options for getting around our community without a car. A new light rail line connecting Watsonville and the City of Santa Cruz means we can spend less time in cars and in traffic and spend less money on owning cars. It will be easier for many residents to get to work, run errands, visit friends and take advantage of all our coastal communities have to offer."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to support both light rail and a trail. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

42%

* "Traffic congestion on Highway 1 makes driving in the County frustrating and unpredictable, often increasing traffic in local neighborhoods. This plan for light-rail passenger service will address traffic by providing a commuting alternative, and make it easier to get around our County, both for the people who take the train and for the people who still drive."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to support both light rail and a trail. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

44%

* "The walking and biking trail will be completed faster if we continue with the plan for light rail. The project has already gone through extensive legal and environmental review for public transportation with a trail next to it and has even completed parts of the trail. Canceling plans for light rail and pulling out the tracks sends that whole process back to the drawing board, stops all of the progress that has been made and would delay the trail by as much as seven to ten years and cost County taxpayers at least \$50 million.

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to support both light rail and a trail. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

53%

* Now that you have learned more about this issue, do you support or oppose continuing to plan for light-rail passenger service and an accompanying trail for the publicly-owned rail corridor along the coast of Santa Cruz County?

- ☐ Strongly support
- ☐ Somewhat support
- ☐ Somewhat oppose
- ☐ Strongly oppose
- ☐ Don't know

Next

54%

Next, here are some statements from people who want the corridor to be used only for a walking and biking trail and oppose including any public transportation as part of the plan. After you read each statement, please indicate whether it is a very convincing, somewhat convincing, or not at all convincing reason to oppose including any public transportation as part of the plan for the coastal corridor. If you don't believe the statement, you can indicate that instead.

Next

55%

✱ “The fantasy of a train line is a billion-dollar boondoggle. We need to change direction now before we end up sinking more money into a fantasy plan that will never come to reality. The Santa Cruz County Regional Transportation Commission has owned the property for a decade and their train plan is preventing the construction of the trail. This property could produce one of the greatest and most beautiful riding and walking trails in our nation, but we need to act now.”

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to oppose including any public transportation as part of the plan for the coastal corridor. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

56%

* "A new train is not the only way to give low-income communities from Watsonville to Santa Cruz equal access to safe, affordable transportation options. Without the train, we can invest in our bus system and create a high-quality trail that connects directly to neighborhoods allowing people to safely bike or scooter to work and appointments without needing a car."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to oppose including any public transportation as part of the plan for the coastal corridor. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

57%

*“The current plan prioritizes a train at the expense of a trail that could truly meet its potential. The flawed plan would require building over 20 brand new bridges, clear-cutting trees to make room for the train, and installing miles of fencing that will block neighborhood access. And because the trail will be too narrow, it will provide no separation for pedestrians from bicycle and electric scooter riders, and will force people off the trail and on to unsafe surface streets at several sections.”

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to oppose including any public transportation as part of the plan for the coastal corridor. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

58%

* "When push comes to shove, the money for this train is going to come from a quarter-cent sales tax on all of us for nearly everything we buy, whether we ever ride the train or not. Taxes are already out of control; we cannot afford higher taxes, especially for things we do not even need."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to oppose including any public transportation as part of the plan for the coastal corridor. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

59%

* "The rail corridor goes right next to thousands of homes. A loud train clanking down the tracks day and night will be incredibly disruptive for people who live near the train and also will make it unpleasant to walk or bike on the trail."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to oppose including any public transportation as part of the plan for the coastal corridor. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

61%

* "It makes no sense to spend a billion dollars on a train when public transit ridership is down across the whole country, and more people are using Uber, Lyft, bike-shares, and other modes of transportation. And if we build a high-quality, 32-mile bike and pedestrian path that connects communities, there will be even less need for a train."

Please indicate if you think this statement is a very convincing, somewhat convincing, or a not at all convincing reason to oppose including any public transportation as part of the plan for the coastal corridor. If you don't believe the statement, you can indicate that instead.

- ☐ Very Convincing
- ☐ Somewhat Convincing
- ☐ Not Convincing
- ☐ Don't Believe
- ☐ Don't Know

Next

92%

* Sometimes over the course of a survey like this, people change their minds, and sometimes they do not. So please think again, do you support or oppose continuing to plan for light-rail passenger service and an accompanying trail for the publicly-owned rail corridor along the coast of Santa Cruz County?

- ☐ Strongly support
- ☐ Somewhat support
- ☐ Somewhat oppose
- ☐ Strongly oppose
- ☐ Don't know/No answer

Next

93%

* Next, below you will find a description of some of the other choices that are available for the rail corridor. Please indicate which of the options you prefer.

- ☐ Continue with the current plan for both the trail and electric light-rail passenger train service on the existing tracks
- ☐ Continue building the trail, but pause on the plan for electric, light-rail passenger train service and leave the tracks in place for future public transportation options
- ☐ Remove the train tracks so no current or future public transportation is included in the corridor and convert the entire corridor to a trail for walking, biking and other personal transportation
- ☐ Don't know

Next

94%

✱ And which option would be your second choice?

- ☐ Continue building the trail, but pause on the plan for electric, light-rail passenger train service and leave the tracks in place for future public transportation options
- ☐ Continue with the current plan for both the trail and electric light-rail passenger train service on the existing tracks
- ☐ Don't know

Next

96%

✱ Here are the last questions. They are for statistical purposes only.

Next

97%

* What is your gender?

- ☐ Male
- ☐ Female
- ☐ Other
- ☐ Prefer not to answer

Next

98%

* Do you own your home or do you rent it?

- ☐ Own a single-family home
- ☐ Own a condominium
- ☐ Rent an apartment or home
- ☐ Prefer not to answer

Next

99%

* With which racial or ethnic group do you most identify yourself?

- ☐ Hispanic or Latino
- ☐ African American or Black
- ☐ White or Caucasian
- ☐ Asian or Pacific Islander
- ☐ Another racial or ethnic background/Mixed
- ☐ Prefer not to answer

Submit

Thank you!

Your survey responses have been recorded.

Emails received between 02/03/21 – 03/23/21

From: Sara Dunne <sarawdunne@yahoo.com>
Sent: Monday, March 22, 2021 4:39 PM
To: Regional Transportation Commission <info@sccrtc.org>
Cc: news@lookoutlocal.com; newsroom@santacruzsentinel.com;
news@ksbw.com
Subject: Safety and the Proposed Rail

Hi,

I will not support the rail until those involved with the project publish something about how they are planning on incorporating safety services and design features that address women's safety concerns. Women aren't going to feel safe traveling during certain hours, especially when no consideration for our safety has been publicly acknowledged. Women have been taught to "protect themselves" (for example: don't use things after a certain hour like utilizing public rails that our taxpayer money funds). Making women feel safe, especially when planning expensive projects, is important (in part) bc the likelihood they'll utilize it increases.

Growing up in the East Bay we were taught that BART wasn't safe for women after a certain hour. Teachers, parents, and coaches told us this- and they were right. I've been sexually harassed while using BART and it got to the point that when I lived in SF I started using taxis which was way more expensive. It personally felt like it cost more to just exist as a woman when it came to safe transportation. [Bart's attitude](#) to rape and sexual assault has been [historically dismissive](#) and the fact that I cannot find one report, paper, or plan that addresses how our rail will be different than the one over the hill is a huge problem.

Please let me know if there have been conversations or plans around the above and whether or not they have been published somewhere.

Best,

Sara
Capitola Resident

From: david cooper <hartcooperd@gmail.com>
Sent: Monday, March 22, 2021 6:01 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail Trail Issue

RTC staff and board

Emails received between 02/03/21 – 03/23/21

I recently moved back to the area after a career as an urban planning consultant, most recently for AECOM, one of the premier global transportation, engineering and planning firms in the world. I have worked on urban planning and transit studies throughout the country and internationally. I now live in Aptos within walking distance of the abandoned railway and have used it to walk to Aptos Village (trespassing I assume). We walk whenever we can, drive a hybrid and our next car will be electric.

My gut tells me that holding out for a rail transit does not make any sense. We simply do not have the density, employment centers, and working population that might use the train. We all like to talk about public transit but almost all of us do not use it. In addition, the Covid-fueled work from home phenomenon is radically changing commuter patterns, especially in Santa Cruz County. Passenger rail in Santa Cruz County is a consultant and staff fantasy that we taxpayers are paying for. It won't happen in my lifetime, unless we are willing to go bankrupt trying to make it happen.

While driving, walking, or riding my bike I see empty buses on Rio del Mar Blvd. travelling between Watsonville and Santa Cruz. Will building a railroad change that? I don't think so. Land use patterns are too dispersed to justify a fixed rail system. The north south commute will continue to be in single occupancy vehicles, gradually including more shared vehicles. A recreational train might be attractive for tourists, but we already have a train between Santa Cruz and Ben Lomond. People come to Santa Cruz for the beaches, weather, mountains, food and great neighbors. They do not come to Santa Cruz to sit on a commuter train.

Furthermore, the cost of a rail system is astronomical. If the price tag over time is \$1B that works out to \$40,000/person. That is money we don't have (despite the hope for matching funds, etc.). Our scarce resources should be focused on fixing the streets or building safe and connected bike paths.

I would hate to waste the next ten years trying to construct small parts of a money-losing rail system when, for a fraction of the cost, we can build out the entire corridor as a pedestrian bike trail. As this area continues to trend toward recreation and retirement, you will see more people on bikes, especially the new e-bikes. There is growing interest in "green streets" and getting people to walk and ride bikes as a public health measure. You don't get Covid walking or riding a bike.

Emails received between 02/03/21 – 03/23/21

Based on my experience in other communities, Santa Cruz County has lousy bike infrastructure. There are few trails separate from autos and in general, bike riding is not safe. On the other hand, Santa Cruz is an area where people will actually ride for recreation or transportation - if they can do it safely within a connected system. If the railroad were developed exclusively for pedestrians and cyclists I guarantee that use would skyrocket.

I strongly urge you to stop wasting our time and our money on the train, and focus your efforts on a healthy and sustainable bike and pedestrian future.

David Cooper, AICP, LEED AP
217 Rio del Mar Blvd.
Aptos, CA 95003

From: rdshedden@yahoo.com <rdshedden@yahoo.com>
Sent: Monday, March 22, 2021 6:18 PM
To: Regional Transportation Commission <info@sccrtc.org>
Cc: zach.friend@santacruzcounty.us; Supervisor Manu Koenig <manu.koenig@santacruzcounty.us>
Subject: Rail to Trail Conversion

To Commissioners of RTC,

We support Greenway and advocate removing the existing antiquated rails and building a wide multi-use trail down the center of the corridor using existing bridges. This trail could be built in the relative near term with Measure D funds. Widespread public support for the expensive, unsafe and environmentally damaging train is non-existent. A passenger train is not financially feasible in Santa Cruz County, with an insufficient population to support such a train. Voters will never approve an increased sales tax to fund a train that would serve only a tiny portion of the local community. A safe, multi-use trail would be used by many people of all ages. Placing a train right next to bikers and hikers in the narrow corridor is simply unsafe. It is an unconscionable waste of a public resource to allow the existing right-of-way to remain unused while the unrealistic fantasy of a passenger "commuter" train continues on in the dreams of a few.

Thank you for the opportunity to provide input on this important issue.

Emails received between 02/03/21 – 03/23/21

Richard Shedden
Brenda Morris
311 Eagle Ridge
Corralitos, CA 95076

From: Michael Arnold arnold@alcopartners.com
Sent: Tuesday, March 23, 2021 12:25 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Lawsuit Against SMART re: Bikepath

From today's Marin IJ; https://www.marinij.com/2021/03/22/federal-lawsuit-targets-smart-bike-path-buildout/?fbclid=IwAR2MCcqnASQ-wK3AXj2eoxOUcwoae6Dd_UohP2q8GmIJiwbqOXONa3W1ems

Federal lawsuit targets SMART bike path buildout

From: Steven Most <stevenericmost@gmail.com>
Sent: Tuesday, March 23, 2021 8:29 PM
To: Regional Transportation Commission <info@sccrtc.org>
Subject: Rail Trail

I am a soon-to-be 70 year old Live Oak resident. I do much of my shopping, recreation and commuting by bicycle and I believe a dedicated bicycle/pedestrian path that runs uninterrupted from north of Santa Cruz to Watsonville would be a panacea for our community. Our population centers are closely spaced making two wheel travel on such a path to be quick and easy especially considering the advent of e-bikes which are effortless to ride. When the train idea was proposed a few years ago e-bikes were not a "thing" as they are now clearly a game changer. Electric bikes are taking over and they are here to stay.

Just doing a mental calculation for the elapsed time to travel by e-bike from downtown Capitola to downtown Santa Cruz there is no comparison to the task of somehow getting from your door in Capitola to a train station near Capitola, waiting for the train, riding it at a presumably very moderate speed, disembarking the train and then somehow getting to your final destination. With all that's involved people will just get in the car and drive.

Looking down the train tracks from 38th ave. in Live Oak it is easy to see there is not enough width for a train and bike/pedestrian path. So does that mean bikes and people are relegated to surface streets? How is that an improvement? I already ride on streets and it is dangerous. Bike lanes are no protection for bikers. Bike paths are.

Emails received between 02/03/21 – 03/23/21

A path system as the one proposed by Greenway would instantly become a tourist attraction in our area just as the 18 mile Monterey Bay Coastal Recreation Trail to our south is. Having lived in Pacific Grove recently I can attest to the massive use of the trail by residents and visitors. Finally is the matter of cost. One plan is affordable and the other is incredibly expensive.

Please listen to the public. It is our money and our community.

From: Nadene Thorne <nadenetd@yahoo.com>

Sent: Tuesday, March 23, 2021 10:33 PM

To: eduardo.montesino@cityofwatsonville.org;
aurelio.gonzalez@cityofwatsonville.org; openup@cats.ucsc.edu

Cc: Regional Transportation Commission <info@sccrtc.org>

Subject: Support METRO, not the Train

Commissioners Rotkin, Gonzalez, and Montesino,

I find it difficult to understand your support for a train on the rail corridor, given your position as a METRO representative for the RTC. You have only to look at the effect on bus service as Sonoma and Marin Counties have built up the SMART train to see what will inevitably happen - money that could have gone to buses gets soaked up by the train. Your inability to provide effective service will be blamed on you and the overall transit system will degrade.

The SMART train planners advertised that the buses would be coordinated with the train service (as do the SC County planners) but that never worked as planned. The increased surface street traffic jams were also blamed on the buses. In short, bus management was saddled with increasing responsibilities and less capability for meeting the challenges.

In Santa Cruz County presently, setting aside the unlikelihood of there being public support for funding a train, greatly improved bus service would also significantly improve ridership and therefore your bottom line. Bus on shoulder for Highway 1 is a brilliant idea for least cost with most improvement in traffic. In my case, I live 9 houses away from Mission Street, but if I were to take the bus downtown, I'd have to walk 6 blocks to the nearest stop - so I drive my car. Some years ago, when the bus stopped on Mission every half hour, my mother rode the bus downtown 4-5 days a week. I would also do that. What do you think?

METRO is the county's very best bet for improving transit and reducing street traffic, fastest and cheapest. As you are well aware, traffic and

Santa Cruz County Regional Transportation Commission
Transit Corridor Alternatives Analysis – Business Plan

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transportation is a system that will be solved by many small improvements, not by one, huge, forever-debt infrastructure project. In my view, you do your position and the county a disservice by serving as a METRO representative and yet favoring rail. I urge you to reconsider your support for a train on the rail corridor and fully support METRO and its critical mission for the county.

Nadene Thorne
140 Averitt Street
Santa Cruz 95060
907-590-7996