

# Railbanking

## And Rail-Trails



A Legacy for the Future



RAILS-TO-TRAILS CONSERVANCY—  
creating a nationwide network of trails  
from former rail lines and connecting  
corridors to build healthier places for  
healthier people.

On the cover: Katy Trail State Park, Missouri

*“One of the fascinating things about the [Katy Trail] project was that here you had the Missouri River, which is one of the most famous rivers in the United States; yet, people would drive across it on a bridge and that’s the closest they got. The Katy Trail opened up the river for people to become acquainted with.”*

— COLUMBIA, MISSOURI, MAYOR DARWIN HINDMAN



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# EXECUTIVE SUMMARY

The construction and development of our nation's system of rail lines was nothing short of a marvel. At its 1916 peak, more than 270,000 miles of track crisscrossed the United States, carrying freight and passengers and fueling the economy and growth of a nation.

Just as the miles of rail line peaked, however, other methods of increasingly popular transport eclipsed the rail industry's dominance. Some railroad lines became underused and unprofitable. In the 1970s, several major railroads went bankrupt.

The U.S. Congress, which began to regulate the railroads through the Interstate Commerce Commission in 1887, passed a law in 1980 to help keep the rail lines solvent by allowing rail companies to abandon unprofitable lines with relative ease. But with abandonment came the disappearance of rights-of-ways as legal entities and the opportunity for lines to be broken into hundreds of parcels of land that are expensive and extremely difficult to reassemble. As carriers began abandoning rail lines at an alarming rate (4,000 to 8,000 miles per year), Congress realized a valuable resource was being lost forever.

In an effort to conserve these corridors while still allowing rail carriers to discontinue use on unprofitable lines, the Congress included a unique and prescient provision within the National Trails System Act Amendments of 1983. The Rails to Trails Act allowed the federal government to regulate the disposition of soon-to-be abandoned railroad lines to preserve the right-of-way in case the need for future rail use arose, and make way for the development of alternative transportation uses for railway corridors, including trails. This process is called "railbanking."

Because of the 1983 Act, more than 2,450 miles of rail lines have been converted into more than 100 multiple-use trails. Preserving these valuable rights-of-way has created attractive new recreation and transportation resources in communities nationwide.

The railbanking process, however, is not without its detractors. The law surrounding ownership of

rail corridors is somewhat unclear and opponents have challenged Congress's authority to facilitate rails-to-trails conversions through railbanking. But in 1990, the U.S. Supreme Court unanimously upheld the Trails Act as a valid exercise of Congress's power under the Commerce Clause of the U.S. Constitution.

Through railbanking, Congress has preserved a tremendous resource: America's rail corridors. Railbanked lines remain intact and can be converted back into rail use should the need ever arise, and in their interim use as trails they encourage active and connected communities and create business and tourism opportunities.

## RAILBANKING NATIONWIDE

Total Number of Railbanked Corridors	256
Total Number of Miles	4,628
Number Open as Trails	102
Miles Open as Trails	2,451
Number of Trails Under Development	112
Miles Under Development	1,683



Great Allegheny Passage, Pennsylvania — This 202-mile trail is comprised of some rail-trail corridors and contains several railbanked miles. It has been lauded by U.S. Congressman John P. Murtha who said, "The trail is already attracting a lot of people, and we're just starting to market it. It's a major asset for our region, not only because of the tourist dollars it's attracting, but also because it's a key piece of our economic rebuilding efforts."

# RAIL LINES TO RAIL-TRAILS

At the turn of the century, the country's labyrinth of rail lines hauled food to market, moved the coal that heated cities, and took settlers into the Western frontier. It has been said that the trains that moved iron ore from the Mesabi Range to the steel mills of the Great Lakes helped win World War II.

These railroad corridors were assembled at great public cost and through the painstaking labor of generations of workers. The federal government granted more than 130 million acres of federal land to railroads, and it is estimated that building a single mile of rail required a full day's labor from ten men.

In 1887, the United States Congress began to regulate railroad traffic through the Interstate Commerce Commission (ICC) and has continued to be a steward of this vast national resource by protecting those hard-built rights-of-way and

striving to keep what remains of the corridor system intact.

In 1920, when railroads first began to struggle and wane, the Congress began to regulate the abandonment of rail lines to ensure that rail corridors remained dedicated to transportation. Decades later Congress foresaw the appeal of preserving these corridors by facilitating their conveyance for other public uses. Through the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act), Congress imposed conditions that prevented the disposition of railroad rights-of-way for 180 days to allow for possible transfers for public use, including for trails.

The rail systems continued to struggle, however, and in 1980 Congress passed the Staggers Rail Act, which required the ICC to exempt most rail abandonments from regulation. As a result, the rate of rail abandonments by major carriers accelerated to between 4,000 to 8,000 miles a year. By 1990, the 270,000-mile system had contracted to 141,000 miles.



Historic Union Pacific Rail Trail, Utah — Railbanked in May 1998, this 28-mile trail is today a high-altitude adventure, drawing mountain bikers, equestrians, runners and cross-country skiers from in and around Park City.

## Looking for a Remedy

As thousands of lines each year were abandoned, the railroads could remove tracks and ties and either sell off the land or allow it to be claimed by adjacent landowners. The nation was losing its system of rail corridors and preservation became a critical issue of national policy.

The railroads still needed a way to be relieved of the burden of maintaining unprofitable and unused lines, and the idea of transferring financial and legal responsibility of these lines to third parties, including trails, was again considered. But interested communities and potential trail managers who wanted to purchase unused railroad corridors for conversion into trails faced major obstacles under the existing system. The biggest challenge came from nearby landowners, who wrongly concluded that when a railroad stopped running trains across tracks and secured permission to abandon its common carrier obligations to provide service on the line, it also

abandoned its property interests. This perception led to disputes and litigation over land rights, and, because state laws were ill-equipped to handle these disputes, defending against litigation became prohibitively expensive and time consuming for trail agencies.

The U.S. Congress, long a steward of railroad rights-of-way, hit on an innovative solution to the problem of abandoned rail lines, disappearing rights-of-way, and the loss of transportation resources the nation worked so hard to build: railbanking. Section 8(d) of the National Trails System Act, passed by Congress in 1983, allowed a railroad to free itself of an unprofitable rail line by donating, selling or leasing the right-of-way to a qualified private or public agency for interim use as a trail. By employing the railbanking program, corridors that might otherwise be abandoned have been preserved as trails, moving people, instead of trains, through much needed green spaces nationwide.

## Preserving Critical Corridors

Railbanking prevents a line from being deemed abandoned when a qualified agency or group agrees to maintain the corridor as a transportation route for pedestrians and cyclists, and to preserve its integrity as a transportation route should another carrier decide to resume service on that line. Fewer than 10 percent of the country's



Minuteman Bikeway, Massachusetts — This popular 10.5-mile rail-trail was railbanked in July 1992 and opened in September 1996. Following the path of Paul Revere's historic ride through suburban Boston communities, the Minuteman is one of the country's most heavily used trails, providing safe passage for recreational users and bicycle commuters.

rail-trails have been railbanked. However, the process has been essential in preserving some of the country's longest and most scenic corridors, as well as essential links in the nation's system of public trails.

Because of railbanking, cyclists can today pedal a continuous 145 miles along Washington's historic Milwaukee Railroad corridor, and many in traffic-packed suburban Maryland can escape for a quiet walk on the Capital Crescent Trail and even use it as an alternative way to work. And a family can explore 150 miles of developed trail along the longest railbanked corridor, the 321-mile Cowboy Line Trail through Nebraska's Sand Hills.

### LONGEST OPEN RAIL-TRAILS

*Katy Trail State Park	Missouri	225 miles
*Milwaukee Road Corridor (John Wayne Pioneer Trail)	Washington	145 miles
Soo Line Trail	Minnesota	148 miles
George S. Mickelson Trail	South Dakota	114 miles
Blue Ox Trail (Voyageur Trail)	Minnesota	107 miles
State Line Trail	Michigan	102 miles
Paul Bunyan State Trail	Minnesota	110 miles
*OC&E Woods Line State Trail	Oregon	96 miles
White Pine Trail State Park	Michigan	92 miles
*Rice Lake to Superior Trail	Wisconsin	90 miles

\* Railbanked trails

## How Railbanking Works

Railbanking allows a rail carrier to transfer an unprofitable line — by sale, donation or lease — to a capable public or private entity (called a “trail manager”) that is willing to assume financial responsibility for the management of the right-of-way. When a trail is railbanked, instead of abandoned, the land remains under federal jurisdiction, and any state laws that might extinguish the trail manager’s right to use the corridor are preempted.

The full process works as follows:

- Either a public agency or a qualified organization can request to railbank a trail by sending the request to the Surface Transportation Board (formerly the ICC). A statement of willingness to assume financial and legal responsibility must accompany the request. Since the railroad company must agree to negotiate a railbanking agreement, a copy of the request for railbanking must be served on the railroad at the same time it is sent to the Surface Transportation Board.
- If the railroad agrees to enter into negotiations with the trail manager, it can decide to donate, lease or sell the land to the trail agency.
- Once management of the trail had been transferred, the trail manager can remove railroad tracks and ties or the railroad can sell them. The trail agency cannot build any permanent structures on the right-of-way.
- A railbanked line is subject to possible future restoration of rail service. Any railroad can apply to the Surface Transportation Board to resume rail service on the corridor.

*“[A trail] helps the economy, attracts tourists and makes people healthy. . . . Go to Congress, and the city council and state legislators, and start getting them to buy into [the idea of improving the] built environment.”*

— HEALTH AND HUMAN SERVICES SECRETARY TOMMY THOMPSON ENCOURAGES LOCAL GOVERNMENTS TO TRANSFORM UNUSED RAILROAD RIGHTS-OF-WAY INTO EXERCISE PATHS, MAY 2004



Capital Crescent Trail, Washington D.C., and Maryland — This 11-mile gem of a trail connects Silver Spring, Maryland, with the District’s Georgetown neighborhood. When freight trains stopped running, most of the corridor was railbanked in 1988. Opened as a rail-trail ten years later, the Capital Crescent is now home to urban walkers, bicyclists, and inline skaters zipping along the Potomac River.

# RAILBANKING IN THE COURTS

The trails movement has many passionate advocates, communities that are dedicated to their trails and avid users. But some rail-trails also have staunch opponents, and the 1983 implementation of the Trails Act promptly became the subject of litigation.

Trail opponents filed a number of challenges in an attempt to curtail the authority of the ICC (now the Surface Transportation Board) to issue railbanking orders. The courts have uniformly rejected efforts by trail opponents to attack railbanking orders by challenging an interim trail manager's ownership or use of a railbanked corridor. The courts have also rejected efforts by trail opponents to add burdensome procedural requirements to the railbanking process.

In 1990, the U.S. Supreme Court unanimously upheld the Trails Act as a valid exercise of Congress' power under the Commerce Clause of the U.S. Constitution, stating; "Congress apparently believed that every line is a potentially valuable national asset that merits preservation even if no future rail use for it is currently foreseeable."

A separate set of challenges concerned whether the conversion of a rail line into a trail takes private property without compensation in violation of the Fifth Amendment. The U.S. Supreme Court declined to address this issue and held instead that such "takings" claims must be brought in the U.S. Court of Federal Claims (previously called the U.S. Claims Court), pursuant to the judicial review mechanism for asserting claims against the federal government.

Several compensation claims have since been filed against the U.S. government by trail opponents. The Claims Court ultimately ruled in one case, *Preseault v. United States*, that the Trails Act did not effect a taking of any property interest. The decision was initially upheld by a three-judge panel of the U.S. Court of Appeals for the Federal Circuit. This decision, however, was subsequently vacated by the full Federal Circuit, and a new decision was issued that reversed the Claims Court's holding.

In its new decision, the Federal Circuit held that the application of the Trails Act in the *Preseault* case effected a taking of property because, under the Court's interpretation of Vermont law, the railroad easement would have otherwise been extinguished, and the adjacent property owners would have regained the property. The decision, however, made clear that the federal government, and not the trail manager, was solely responsible for the payment of any compensation owed. The case was remanded to the U.S. Court of Federal Claims for a determination of what amount, if any, the federal government must pay.

There are now a number of "takings" cases pending in courts around the country and in the U.S. Court of Federal Claims. Many of the cases filed in the federal district courts on behalf of persons asserting compensation claims for less than \$10,000 have been certified as class actions, on behalf of all persons claiming a compensable interest in the railbanked corridor. One case has been certified as a state-wide class action. Thus far, 12 cases have been fully resolved either through settlement or the entry of final judgment by the courts. The United States has paid out approximately \$3 million in these takings cases, most of which represents payments for attorney's fees and costs rather than just compensation.



Trail of the Coeur d'Alenes, Idaho — Running 74 miles through Idaho's Silver Valley, the trail stretches west from the Montana border and extends, for 15 miles, through the Coeur d'Alene Reservation. After being railbanked in 2001, the U.S. Court of Appeals for the D.C. Circuit rejected a challenge to the railbanking order.

# THE BENEFITS OF TRAILS

## Recreation, Health and Alternative Transportation

The highways that replaced rail lines as the major method of transportation in this country have also bound Americans to their cars — for better and for worse. In many communities, built without sidewalks or bike lanes, it can be difficult if not impossible to walk or ride a bicycle, and it shows in the congestion on roads and in the expanding waistbands of Americans.

The U.S. Department of Health and Human Services estimates that 64 percent of Americans are overweight or obese. Even more alarming: One in three children in this country is heavy enough to be at risk for developing health problems because of their weight. And once adult diseases such as high blood pressure, type 2 diabetes and high cholesterol are now commonly found in overweight youth.

The USDA's Dietary Guidelines recommend at least 60 minutes of daily exercise for children and teens and at least 30-60 minutes everyday for adults. Trails provide close, safe, traffic-free paths

for walkers, joggers, inline skaters, cyclists and, in some areas, snowshoers and cross-country skiers. Rail-trails are also part of a nationwide initiative launched by Congressman James L. Oberstar (D-Minn.) to create safe routes that will encourage school children to walk and bike to school. Studies have also shown that using trails and having these resources nearby increases the rate of regular physical activity.

Rail-trails are simply the ideal place for families and communities to become more active and, as a result, they are in considerable demand. The Minuteman Bikeway in Massachusetts gets more than 2 million visitors a year, and the Pinellas Trail in Florida 1.2 million. The crowds on these trails and so many others show rail-trails are cherished by locals and visitors, and the Surface Transportation Board has received railbanking requests from towns and cities nationwide.

At the heart of railbanking, of course, is the possibility that the line could be converted back into rail use. Railbanking has preserved these lines so they can be quickly reconverted, and used for freight rail, a high-speed train, light rail or any other type of rail service. Some corridors are used as "rails-with-trails," where these corridors serve as alternative transportation, mass transit and recreational corridors.

As traffic grows worse, developing alternative commuting options are a must for many towns and cities. In a 2005 traffic survey by ABC News, *Time Magazine* and the *Washington Post*, about half of all Americans said traffic in their area is worse now than it was five years ago and they fear the trend will continue. Railbanking preserves transportation corridors and, in their interim use as trails, provides alternative commuting routes for walkers and cyclists and can connect residents to bus and rail lines.

Atlanta, for example, is creating a network of commuter and recreation paths that will connect trails with transit stations, light rail, bus lines, colleges and tourist attractions to help ease the city's notorious traffic. Its newest development is the 22-mile Beltline, which will turn old rail lines



Burke-Gilman Trail, Washington — This 27-mile rail-trail, railbanked in November 1998, traces the waterways along Seattle's northern half, linking industrial centers, the University of Washington, and residential communities with outerlying parks and farmland along the Sammamish River.

*“This facility and all its interconnected modes will make our waterfront accessible to a greater number of visitors — without overwhelming it with automobiles.”*

— BURLINGTON, VERMONT, MAYOR PETER CLAVELLE REGARDING THE RAILBANKED BURLINGTON WATERFRONT BIKEWAY

into a recreation and transit loop. In addition to adding more green space to the community, three new stations of the city’s Metropolitan Atlanta Rapid Transit Authority will be added to connect the Beltline to the city’s existing transit network.

## Business and Tourism

Rail-trails create myriad outdoor recreation opportunities. The long, uninterrupted stretches of rail corridors, some hundreds of miles, have become destinations for weeklong excursions, day trips and quick escapes. Rail lines were often built along river valleys and the trails along these corridors bring people in touch with their local waters, hills, forests and historic attractions, and connect towns and sights. The 225-mile Katy Trail State Park in Missouri, railbanked in 1987, brings residents and visitors alongside that state’s mighty river and is one of several rail-trails that lie on the path followed by Lewis and Clark.

Because they provide scenic and often historically significant paths, rail-trails have become draws

not only for local residents but also for visitors. Cafes, inns, hotels and bike shops have cropped up along trails to serve both locals and tourists. The trails boost local economies and often create new business opportunities in communities where other industries are waning. In Pittsburgh, for example, the Three Rivers Heritage Trail system — with portions aided by railbanking — has brought new life to the former rail lines that once hauled coal and steel in and out of the city. The area is now a riverfront draw for walkers, cyclists, and the residents who have returned to the city’s downtown.

Rail-trails enhance the quality of life in the communities in which they are located, in addition to offering transportation alternatives and new business opportunities. Above all, rail-trails help preserve America’s railroad history and, when railbanking is used, preserve this valuable resource for our nation’s future rail and transportation needs.



Ojai Valley Trail, California — A 5-mile extension to this charming 10-mile trail was railbanked in June 1996. Parallel asphalt and dirt tracks accommodate walkers, bicyclists, inline skaters and equestrians.

## Open Rail-Trails on Railbanked Corridors

Trail Name	State	length on ROW	total length
Delta Heritage Trail (Barton-Lexa)	AR	4.3	4.3
Fresno-Clovis Rail-Trail	CA	13	13
Ventura River Trail (Ojai Valley Trail Extension)	CA	6	6
Mineral Belt Trail	CO	6	12.5
Suwannee River Greenway at Branford	FL	4.5	11.5
Kewash Nature Trail	IA	13	13
Laurens	IA	1.5	1.5
Perry to Rippey Trail (Three County Trail)	IA	9	9
Raccoon River Valley Trail	IA	56	56
Sauk Rail Trail	IA	13.4	33.2
Shell Rock River Trail (Butler County Trail)	IA	5.5	5.5
Summerset Trail	IA	10.83	12
Three Rivers Trail	IA	36	36
Vinton to Dysart (Old Creamery Trail)	IA	15.3	15.3
Wabash Trace Nature Trail	IA	63	63
Winkel Memorial Trail	IA	6	10
Nampa to Stoddard Trail	ID	1.5	1.5
Trail of the Coeur d'Alenes	ID	72	72
Weiser River Trail	ID	55	55
Bill Chipman Palouse Trail	ID, WA	7.45	7.45
Joe Stengel Trail	IL	7	7
Long Prairie Trail	IL	14.6	14.6
Lowell Parkway Bicycle Path	IL	3.5	3.5
Madison County Transit Schoolhouse Trail	IL	11.5	11.5
McHenry County Prairie Trail	IL	21	25
Cardinal Greenway	IN	10	10
Flint Hills Nature Trail (Herington)	KS	4	4
Flint Hills Nature Trail (Ottawa)	KS	1	1
Haskell Rail-Trail (formerly Lawrence Rail-Trail)	KS	1.1	1.1
Landon Nature Trail (South Topeka)	KS	1	1
Prairie Spirit Rail-Trail	KS	33	33
Shortgrass Prairie Trail (Protection to Clark County Line)	KS	2	2
Muhlenberg County Rail-Trail	KY	6	6
Tammany Trace	LA	27.5	27.5
Minuteman Bikeway	MA	10.5	10.5
Capital Crescent Trail	MD, DC	11	11
Saint John Valley Heritage Trail	ME	0.4	18
Alpena to Hillman	MI	20	20
Alpena to Mackinaw Trail	MI	26.05	26.05
Marquette West Connector	MI	3.69	3.69
Marquette to Munising	MI	37.3	37.3
Rogers City Trail	MI	6.7	6.7
Avon to Sauk Centre (Lake Wobegon extension)	MN	28	28
Frisco Greenway	MO	4	4
Frisco Highline Trail	MO	35	35
Grant's Trail	MO	6.2	6.2
Katy Trail State Park	MO	223.5	226
Crosstie Walk (Cleveland) (Downtown Walking Trail)	MS	0.6	0.6
Longleaf Trace	MS	41	41
Dunn-Erwin Rail-Trail	NC	5	5
Cowboy Trail	NE	150	150

Trail Name	State	length on ROW	total length
Field Club Trail	NE	2	2
Oak Creek Trail	NE	12	12
Steamboat Trace Trail	NE	21.4	21.4
White River Trail	NE	10	10
Pat McGee Trail	NY	12.14	12.14
Vestal Rail Trail	NY	2.1	2.1
Richland B&O Trail	OH	18.4	18.4
Old Frisco Trail	OK	8.2	8.2
Astoria Riverwalk	OR	5.1	5.1
OC&E Woods Line State Trail	OR	100	105
Springwater Corridor	OR	14	14
Springwater on the Willamette	OR	3	3
Panhandle Trail (Allegheny County)	PA	6.85	6.85
Pine Creek Trail	PA	54.5	54.5
Pittsburgh Riverwalk at Station Square	PA	1.5	1.5
Snow Shoe Trail	PA	19	19
Warren/North Warren Bike Trail	PA	2	2
Youghiogheny River Trail (North)	PA	41	43
George S. Mickelson Trail	SD	114	114
Caprock Canyons State Park Trailway	TX	64.2	64.2
Chaparral Trail	TX	29	29
Denton Branch Rail-Trail (Trinity Trails System)	TX	8	8
Katy Trail (Dallas)	TX	3.74	3.74
Lake Mineral Wells State Trailway	TX	20	20
New Boston to Dekalb	TX	14	14
Trail de Paris	TX	0	2.58
Historic Union Pacific Rail Trail State Park "The Rail Trail"	UT	28	28
Little Mountain Rail Trail	UT	10	10
Hanging Rock Battlefield Trail	VA	1.58	2
Beebe Spur	VT	4.05	4.05
Burlington Waterfront Bikeway	VT	7.6	7.6
Missisquoi Valley Rail-Trail	VT	26.5	26.5
Cascade Trail (Sedro-Woolley to Concrete)	WA	22.3	22.3
East Lake Sammamish Trail	WA	11	11
John Wayne Pioneer Trail	WA	145	145
Klickitat Trail	WA	31	31
Snoqualmie Valley Trail Extension (1 mile gap)	WA	10	10
Yelm-Tenino Trail	WA	7	7
Cedar River Trail	WA, WA	16	16
Algoma to Casco Junction	WI	12.4	12.4
Bayfield County Snowmobile Trail	WI	55	65
Cattail Trail	WI	17.8	17.8
Eisenbahn State Trail	WI	12	12
Fox River Trail (Green Bay to Greenleaf)	WI	13.5	13.5
Ice Age Park Multi-Use Trail	WI	4.2	4.2
Mountain-Bay State Trail	WI	80.5	83.4
Rice Lake to Superior Trail (Chippewa Falls to Superior)	WI	90	90
Tomorrow River State Trail	WI	15	15
Greenbrier River Trail	WV	77	77
Panhandle Trail (Colliers to WV/PA Line)	WV	4.4	4.4
Wyoming Heritage Trail (Rails to Trails)	WY	22	22



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