

Working with Railroads Q&A Part 1



Thank you for attending our recent webinar, Working with Railroads Part 1: Productive Partnerships for Successful Projects. Below is a compilation of questions submitted by participants during the session. These questions were either addressed during the webinar or may have been answered after the webinar. Some yet-to-be answered questions will be addressed at Working with Railroads Part 2: RTC Expert Q&A (<https://rtc.li/working-with-railroads-2>) and will be included in that session's follow-up materials. Note: Some questions have been lightly edited for clarity and conciseness. We hope this document helps clarify any outstanding inquiries and serves as a useful reference for future discussions.

Negotiations

What are some of the most common challenges railroads face when negotiating with trail organizations on rail-trail projects, and how can trail advocates be prepared to address these challenges?

Damien D'Anna, Director Real Estate- Sales and Leasing, CSX Transportation Inc: One of the challenges is the disparity between what a lot of communities see as an unused corridor and the railroads' view of it. Communities often ask why the railroad doesn't just give it to them, or struggle to determine the appropriate value for the corridor. From the railroad's perspective, these corridors were not simply given to us. In fact, we invested resources to assemble the land, and I can trace the deed for every piece of land we own back 150 years. Not only did we have to manage these assets, pay taxes on them, and deal with legal and liability issues over the years, but we also invested significant money and resources into maintaining them. The corridors are extremely valuable, and there's a reason the railroad is involved in discussions about their value instead of communities just building trails elsewhere. Educating buyers on the value of these corridors and the way they are appraised is key. Another challenge is funding, as property values are increasing due to inflation. That's why we came up with creative deal structures. For example, there's a trail in Alabama that took 15 years to work out the deal because every time the community raised money, the value of the corridor had increased. However, this week we're signing a purchase agreement for that one, where we sold it for half the value and mortgaged the other half, finally solving the catch-twenty two through creativity.

Negotiations

Knowing that these projects can take a very long time, even though we're working together to try to shrink that timeline, what's your advice for how to keep the project momentum going through staff, advocates and elected official cycles and changes over time?

Tim Bartlett, Exec. Director, Urbana Park District: First, I think having the right leaders and organizations is critical. In our case, we have parks, forest preserves, and conservation districts with a vested interest in creating a linear park. I think it's really important to create opportunities to share the value of what corridors bring. For example, we've learned that rail companies often have a vested interest in future utilities and how to deal with infrastructure needs like drainage crossings. If we can focus on those opportunities, there may be mutual benefits. I also think we need to be more creative. As our country urbanizes quickly, we are realizing the need for every form of transportation, including biking, hiking, and walking. Our corridors in university communities will ultimately be used to get people to school or work, so we need creative opportunities to collaborate with trail managers and rail companies. For instance, our extension into downtown Urbana and the University of Illinois may require shared corridor use. If there's an active rail line, why can't we design and manage shared-use trails? This will be a reality for the future, as we may not find many rural corridors perfect for recreational experiences without disrupting urban areas. We need to start planning together and bring these ideas into our communities as solutions for everyone.

Railroad motivations

Do the railroads take into consideration current conditions and other environmental issues when valuing the corridor?... Is there value in having site visits with CSX staff at prospective purchase sites since not all staff is familiar or local to project sites?

Damien D'Anna, Director Real Estate- Sales and Leasing, CSX Transportation Inc: One part of CSX's collaborative approach is their willingness to meet on-site and walk the trail with project groups, though patience is required as staff handle multiple responsibilities. Regarding environmental concerns, when converting industrial land to recreational trails, soil exposure is a significant issue, but development plans—like placing an asphalt cap—usually address these concerns. Most appraisal values take similar development costs into account. In the due diligence process, if contamination is found, such as a hotspot requiring soil removal, CSX may reduce the purchase price to cover those costs. Typically, such cases are rare, but CSX is willing to assume these costs. Appraisers value corridors based on their highest and best use, and any conditions that need to be addressed to reach that value—like replacing a bridge—should be factored into the appraisal. However, minor issues like overgrowth or dense woods are not typically seen as reducing the value.

Railroad motivations

What factors go into a railroad making the decision to discontinue use?

Damien D'Anna, Director Real Estate- Sales and Leasing, CSX Transportation Inc: The decision for a railroad to discontinue use of a corridor is complex and influenced by several factors. From a regulatory standpoint, it is difficult to discontinue a corridor unless it has been inactive for more than two years without a customer. Although some may think that a corridor unused for 7 to 10 years is a candidate for discontinuation, in the life of a railroad, that duration is relatively short. Economic factors, such as onshoring and the return of manufacturing to the U.S., may also influence a railroad's decision to retain a corridor, as it may foresee future demand. Additionally, while rail banking a corridor can be an option, it can create complications if the railroad decides to reactivate it shortly after the banking process, especially in light of shifting economic conditions.

Railroad motivations

What motivates rail companies to rail bank and/or in other ways facilitate rail trails?

Damien D'Anna, Director Real Estate- Sales and Leasing, CSX Transportation Inc: There are a lot of costs involved with keeping the rail on a corridor, and our operating folks sometimes approach us saying they want to abandon it. Part of the regulatory requirement is that the rail must remain in place because we have a common carrier obligation to serve customers on that line, even if it has been years without service, so we can't just rip up the track. There's a significant value in maintaining the rail, but at times, groups within the company want to abandon the corridor to scrap the rail and avoid maintaining road crossings and signal infrastructure. In such cases, we start looking for a trail buyer, allowing us to scrap the rail, reduce maintenance costs, make some money from selling a trail, and keep the connectivity in place in case we need to use it again in the future.

Outreach

What type of outreach, if any, does CSX do to promote their support/approach for Rails to Trails? Any case studies to share or that could be posted for trail managers to direct other railroad owners to view?

Damien D'Anna, Director Real Estate- Sales and Leasing, CSX Transportation Inc: CSX has not done any formal outreach/marketing to the trails community beyond proactively engaging directly with RTC and various Trail Sponsors (TPL, OSI, etc.). Our approach is more reactive than proactive (i.e., when municipalities and other potential buyers reach out to CSX, we strongly encourage that they engage with a Trail Sponsor to facilitate the transaction).

Federal funding for railbanking and rail-trails

Is railbanking allowed for trails funded by federal dollars, and has recent federal infrastructure funding helped advance rail-trail projects?

RTC: Yes, railbanked corridors are eligible for federal funding, including programs like the Transportation Alternatives Program. The recent surge in federal infrastructure funding (such as through the Bipartisan Infrastructure Law) has greatly benefited rail-trail projects by boosting resources for existing programs like Transportation Alternatives and RAISE and introducing new programs. Rail-trail projects have been highly competitive and have advanced significantly with this support, enabling many impactful projects to move forward. Visit our Funding pages to discover programs to fund multiuse trails: <https://www.railstotrails.org/policy/funding/>

Railbanking

Is railbanking needed if the property can be acquired fee simple?

RTC: Even If the corridor is owned in fee by the railroad, railbanking still provides important protections and tools to defeat legal challenges or legislative attempts to thwart trail development. Read more in our Trail-Building Toolbox: <https://www.railstotrails.org/trail-building-toolbox/corridor-research/>

Railbanking

How do you handle obtaining a clear title to railroad land?

RTC: Railbanking avoids title issues where the railroad only owns only a easement interest in the right of way that is limited to railroad purposes because it treats trail use as a railroad use. Under railbanking, the land is held for potential future rail use while allowing interim trail use, so complex title searches, easement clarifications, and ownership transfers aren't required. Read more: <https://www.railstotrails.org/trail-building-toolbox/railbanking/>

Railbanking

Have there been any railroads yet that have been successfully railbanked with trail usage as the interim use (or something else if even possible) AND have since been reclaimed by the railroad for train use?

RTC: Yes, although it is rare. Some, like in Denton, TX have successfully had a rail-with-trail (A Train Rail Trail- <https://www.trailink.com/trail/a-train-rail-trail/>) developed along the reactivated section. Some more info is available here: <https://www.railstotrails.org/trail-building-toolbox/working-with-the-railroads/>

Railbanking

Does railbanking work for rail WITH trail?

RTC: Railbanking can facilitate concurrent use of a portion of the corridor for transit or commuter rail. Railbanking can also be used in connection with active freight rail service if there is a double track and there is a chance to railbank one track and the railroad is amenable to this there is a way to make it work in that situation. Learn more about rail-with-trail: <https://www.railstotrails.org/trail-building-toolbox/rail-with-trail/>

Liability

Is there standard rail with trail liability limitation language the railroads prefer?

Damien D'Anna, Director Real Estate- Sales and Leasing, CSX Transportation Inc: As a condition of the sale, most railroads expect that the Trail Buyer fully indemnify and release the railroad from any and all liability, risk and damages (to the extent permitted by applicable law).

Crossings

Would be interested in hearing thoughts about how to negotiate crossing other active railways with a rail-trail

RTC: For safety, operating and liability reasons, most railroads are opposed to new at grade crossings of rail corridors, for trails, roads, etc. That being said, there are lots of funding options for creating new grade-separated pedestrian crossings.

Crossings

Do RR's have a responsibility or federal mandate to upgrade at-grade crossings for ped/bike crossings when doing other work such as signal upgrades or track replacement in an area? These are often not touched by DPW's as the RR coordination is cumbersome and challenging.

Damien D'Anna, Director Real Estate- Sales and Leasing, CSX Transportation Inc: To my knowledge, no such mandate exists. The responsibilities for this type of activity are likely dictated by whatever agreement allowed for the existing crossing.

We appreciate your engagement and look forward to continuing the conversation. Visit our Trail-Building Toolbox for guidance on Working with the Railroads, Railbanking and more. And if you have further questions, feel free to reach out to us at railtrails@railstotrails.org

