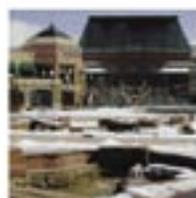


Successful Rail Property Cleanup and Redevelopment

Lessons Learned and Guidance to Get Your

RAILFIELDS

Projects on Track



United States Environmental Protection Agency





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Introduction

and Purpose of this Guide

Overview

The history of railroads in the United States began almost two centuries ago when the first charter for a railroad was awarded in 1815. After the completion of the transcontinental railroad in 1869, the growth of the railroad industry continued rapidly, and by 1916 the rail network had grown to 254,000 miles. However, in the mid-twentieth century the rail industry began facing significant competition — the trucking industry entered the freight shipment market, air travel became the predominant mode of long-distance passenger travel, and the automobile was used for many purposes. Competition led to declines in the rail industry and significant consolidation over several decades. By the second half of the twentieth century the miles maintained by the

entire rail system had decreased by 50 percent, leaving an extensive legacy of underutilized, contaminated, and sometimes abandoned rail properties also known as *railfields*, across the United States. For more information on the history and current status of the railroad industry, refer to the Association of American Railroads (AAR) Web site www.aar.org.

Brownfields, of which railfields are a subset, are defined by the federal brownfields law “as real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” Brownfields are located all across the country, and although brownfields are often located in areas with access to transportation and utility infrastructure, developers and other potentially interested parties

are hesitant to redevelop brownfields because of the investment risk and potential cleanup liability associated with the property. In 2002, Congress enacted the Small Business Liability Relief and Brownfields Revitalization Act, which provided the Brownfields Program with a congressional mandate and increased funding to advance brownfields cleanup and reuse. For more information on the Brownfields Law, go to www.epa.gov/brownfields/sblrbra.htm.

Railfields are located in rural, urban, and suburban areas, and vary greatly in size and former usage. Railfields include rail tracks, rights-of-way, rail depots, industrial areas, and other support facilities. Residual contamination including herbicides, petroleum products and byproducts, metals, and creosote, is often present as a result of the former railroad operations and associated industrial activities. Notwithstanding,

many of these properties provide considerable opportunities for reuse and community revitalization. Their redevelopment can transform blighted areas into resources that meet the needs of the community and support the local economy.

Many of these properties are returning to productive use through the efforts and partnerships of communities, rail companies, and other stakeholders — and even more are waiting to be reused. While railfields share some characteristics common to all types of brownfields, they also offer unique challenges and opportunities. As opportunities, many railfields offer large parcels of lands with ideal locations for community revitalization efforts. However, rail properties present a unique challenge in that they benefit from certain legal protections and are subject to regulatory steps for property transfer as compared to non-rail property. Rail property that has not been lawfully abandoned is not subject to the power of eminent domain. However, the railroad may make the property available for a voluntary sale. In addition, rail companies are market driven, privately owned, for-profit corporations. Their primary responsibility is to make a profit for their shareholders, and local governments should understand that perspective — rail property transactions need to be financially beneficial to the rail company.



Purpose

This guide is intended to assist local governments with the unique aspects of redeveloping railfields and provide them the information they need to successfully work with rail companies. The guide is targeted at communities that are beginning to address a railfields project rather than those that are already grappling with the more complex issues involved with railroad property reuse. This guide provides a history of rail development, the

regulatory framework governing rail companies and their properties, and the current landscape of underutilized rail properties. It also provides information on the rail companies' perspective of railfields redevelopment, and relates stories of successful projects to give communities tools and approaches for addressing rail properties. The guide concludes with a directory of rail companies and contacts for redevelopment projects. To develop the guide, EPA consulted various local government and rail company representatives to identify successful railfields redevelopment projects; the different stakeholders' policies and incentives; and the elements that promote success. The most common themes from these conversations are summarized in the following sections.

About challenges:

“Addressing rail property in our community has been challenging, but rewarding. Through our partnership with the rail company and other stakeholders, we’ve redeveloped a rail yard and spur tracks into a shopping center, mixed-income housing, and a pedestrian and bicycle greenway. Our track record shows that railfields provide the economic engine and environmental quality-of-life benefits that are well worth the effort.”

Ignacio Dayrit, Emeryville, CA
Brownfields Project Director

Rail Ownership and Abandonment

While there are several federal statutes governing railroads, the Interstate Commerce Act (ICA), as revised in the ICC Termination Act of 1995 (ICCTA), is the primary source of protection for railroad companies against eminent domain actions by local governments. The ICA gives the Surface Transportation Board (STB) broad authority over railroads and associated property. The ICA gives the STB exclusive jurisdiction over rail transportation, and defines rail transportation expansively to encompass not only railroad operations over the nation's rail network, but also property, facilities, structures, and equipment related to the movement of passengers and property by rail. The STB's broad and exclusive jurisdiction over railroad transportation and facilities prevents application of state and local laws that would otherwise be available, including the use of state or local eminent domain procedures to take rail property for other use that would conflict with the rail uses. The STB has the sole authority to authorize the removal of such railroad property

from the national transportation system. But after such properties are lawfully abandoned, they may be sold or used for other purposes since the STB's regulatory mission has come to an end. Visit the STB's Web site at www.stb.dot.gov/ for more information.

If a railroad wants to discontinue service or abandon particular lines, it first needs STB approval. In making abandonment decisions, the STB balances the needs of local communities and shippers for continued rail service with the financial burden that continued service would place upon the railroad. The STB will also determine whether the property may be appropriate for another public purpose (e.g. highway, conservation, or recreation). Once the STB decides that a line may be abandoned, any financially responsible person may acquire the line, at the constitutional minimum value, to continue rail service. When such a sale does not occur, the STB may impose a 180-day waiting period during which other parties may negotiate with the railroad for purchase of the property for public uses. If no agreement is reached,



the railroad may dispose of the property as it sees fit. Alternatively, the Trails Act provides a voluntary process under which a rail line can be converted to recreational trail use while being "railbanked" for possible future rail use. Finally, STB abandonment authority is permissive. When abandonment authority is granted by the STB, the rail company generally must exercise the authority within one year or the property reverts back to the national transportation system and is once again subject to the STB's jurisdiction.¹

¹The abandonment process is described in more detail in Appendix B.

Rail Industry

Perspective

Most rail companies — with the exception of Amtrak — are private companies that are responsible for making profits for their shareholders. As private entities, rail companies are not likely to transfer a property unless there is a tangible benefit. The following information, developed from conversations with rail company representatives, presents the rail companies' perspective on several aspects of railfields property transfer, cleanup, and redevelopment. Representatives from major rail companies as well as EPA and STB rail contacts are listed in Appendix A of this guide for reference.

Marketing and Divesting Properties

Rail companies often have a real estate branch that tracks and monitors their properties. In addition, several rail companies keep a list of “surplus” properties, or properties that are not currently being used as a part of their rail operations. Surplus properties are classified based on work loads, future rail plans, and risk assessments, and are the properties that are targeted by the rail company for divestment and sale. Naturally, rail companies are selective about divesting these properties because the future value of their operations is influenced by having access to a wide network of rail properties. Some real estate branches are more proactive about marketing their surplus properties than others. For example, Union Pacific staffs an 80-person real estate department dedicated to expanding lines, facilities, and business; recycling older properties; and actively managing leasing arrangements for all of its properties. Union Pacific also employs 25 field representatives in different geographic areas throughout the United States who specialize in marketing properties for sale and lease. Rail companies that do not actively market their surplus properties primarily rely on private industry or local governments to approach them regarding properties they are interested in leasing or purchasing.



Environmental Contamination and Liability

A majority of rail companies perform an environmental review on every property transaction as an evaluation process to determine if there are significant contamination concerns. According to the rail companies, a common hurdle in disposing of railfields is the misconception that all rail properties are large, polluted areas. Although fueling stations and large transportation hubs are heavily polluted, there are many former rail properties that have minimal or no contamination. Many rail companies are interested in confronting the stigma associated with their properties by working with local groups and state or federal agencies.

Similar to other brownfields redevelopment projects, liability concerns about environmental contamination on the property are a common roadblock for the rail companies in addressing railfields properties. The rail companies recommend that local governments work with the rail companies and state environmental agencies on liability issues. Often, if contamination is found during the investigation process of the railfields project, all of the liability rests with the rail company. This creates a major disincentive for the rail companies to proceed. Most rail companies evaluate every potential property sale to limit liability concerns; however, even with their due diligence, they are still open to liability.

Environmental insurance is a tool used to quantify and transfer risks related to brownfields cleanup costs and liability from project stakeholders to an insurance company. Sellers, buyers, developers, and local governments use environmental insurance to manage risk, including cost overruns and third-party liability claims that can arise during cleanup and redevelopment. Environmental insurance not only limits liability, but sometimes is required to get the development project off the ground. For more information on environmental insurance, visit EPA's Web site at www.epa.gov/brownfields/insurebf.htm.

Redevelopment

Rail companies have an interest in working with municipalities during the planning process of redevelopment of rail properties that are no longer needed for the national rail transportation system. This allows them to provide early input into reuse options as they have valuable knowledge about potential contamination concerns.

Rail companies recommend that local governments spend significant time exploring whether the end use is appropriate based on the cleanup level prior to planning redevelopment. This will enable municipalities to create redevelopment plans based on the level of cleanup necessary (i.e., planning a light industrial or commercial use, rather than a community park, on a historic industrial rail property). EPA has developed a site profile guide, entitled "Technical Approaches to Characterizing and Cleaning up Brownfields Sites: Railroad Yards," to assist stakeholders in characterizing rail properties. Go to www.epa.gov/ORD/NRMRL/pubs/625r02007/625r02007.htm to download the report.

In addition, the rail companies recommend contacting them before applying for and receiving grants to carry out assessment and cleanup efforts at their properties. Since the rail companies have knowledge of the property's historic use(s) and contamination concerns, they can play an integral part in developing a clear vision for a project. Several local governments indicated that it is important to make contact with the rail company before getting too far into the planning process. Rail company representatives noted that



rail companies and local governments should reach agreement on the property reuse before funding is allocated for specific redevelopment activities. Early communication and cooperation between rail companies and local governments can enable them to work together to determine a mutually beneficial reuse.

Partnering with States

Several rail companies and local governments reported that conducting property cleanup through the state voluntary cleanup programs (VCPs) is a key component to the success of railfields projects. Enrollment in the VCP at the start of the cleanup process enables the rail company, the local government, and the state environmental regulatory agency to

work together throughout the cleanup process. State environmental agencies have been a vital part of the success of the railfields cleanup planning process. Rail companies commented that in some cases, state agencies require cleanup to a level beyond which any involved party is willing to commit; therefore, the property deals can fall through. However, in recent years, the state agencies, rail companies and purchasing parties have been able to reach consensus because state agencies developed more flexible expectations and better processes for evaluating the end use of properties, resulting in the selection of an appropriate cleanup level. For more information on state VCPs visit www.epa.gov/brownfields/pubs/st_res_prog_report.htm.

Partnership:

“As rail companies retire facilities, the opportunity to redevelop historic rail yards can infuse new life or further enhance growing urban centers. Union Pacific takes great pride in working with community leaders and developers to realize the vision of transforming Railfield sites. It truly is a win-win opportunity.”

Tony Love, General Manager, Real Estate, Union Pacific

Success Stories and Lessons Learned

Working with the rail industry to purchase and redevelop former rail properties can be difficult. There are several steps local governments can take to successfully facilitate and complete their railfields project. The following tips have been developed based on conversations with local governments and rail company representatives, and include lessons learned from past projects.



Communication and Education

The success of any project begins with communication and education — and even more so with railfields projects because of their complexity. Developing a strong relationship with the rail companies facilitates trust between decision makers in the rail company and the local government. This relationship also helps ensure that the appropriate people are involved, and that both parties understand each other's needs and expectations. As part of fostering this relationship, local governments should educate themselves as much as possible about:

- Properties they are interested in redeveloping, including any possible reuse issues
- Applicable financial or tax incentives

- Rail property abandonment policies
- Laws and regulations that govern rail companies

Building and fostering a positive relationship with the real estate branch of the rail company can start with scheduling regular meetings to discuss future redevelopment plans and properties of interest in the community. This forum provides the rail company with the opportunity to inform the community of its interests. It could also lead to the disclosure of other surplus properties that the railroad may be interested in selling or leasing in the short and long term. See Appendix A for a list of rail company real estate contacts.

Make contact with rail companies before applying for and receiving grants to carry out assessment and cleanup efforts at their properties. Early communication and cooperation

BridgeCourt Redevelopment Project *Emeryville, California*

In Emeryville, CA, as part of the larger East Baybridge redevelopment project, an abandoned rail yard was redeveloped into the BridgeCourt. The city assisted Catellus Development Corporation with the development of the four-acre rail yard. Catellus approached the city and solicited input as to the eventual reuse. In response, the city held several workshops to gather ideas on the development project. The project was completed in 1997 and consists of 220 housing units of which 40 percent are affordable.

For more information, contact Ignacio Dayrit, a project manager for the City of Emeryville Redevelopment Agency, at 510-596-4356.



between rail companies and local governments can enable them to work together to determine a mutually beneficial reuse. Rail companies want to see that a local government has a proposed plan for reusing the property that is supported by the community and lays out possible roles and responsibilities for the stakeholders. The plan can then serve as the focus of initial discussions between the local government and the rail company, with rail companies providing the best knowledge about the property characteristics and any potential contamination concerns. This knowledge enables the rail company to provide input into reuse options as well as the cleanup plan. Rail company participation at the early stages of redevelopment helps stakeholders form realistic expectations about the project.

Patience and Flexibility

The majority of railfields projects are long-term efforts that require persistence and patience to succeed. Some local governments pointed out that negotiations for the sale of a rail property took over a year to complete. Potential environmental liability concerns require rail companies be cautious and thorough when making a real estate transaction. Local governments should be aware that addressing liability concerns with the state regulatory agency is a time consuming process. Understanding



the demands and constraints on all parties can help avoid creating adversarial relationships. According to interviews with rail company representatives, pushing the companies to make decisions too quickly is counterproductive to the success of the project.

In addition, because of the complexities of rail redevelopment projects and because rail companies have significant power in any transaction or negotiation,

Loco Works/Liberty Commons Industrial Park Project

Lima, Ohio

The former Locomotive Works site in Lima, Ohio was used to manufacture locomotives until the 1950s. After locomotive production ceased, the property was used by a number of manufacturing firms and eventually became a storage location for a salvage business. In August 1999 the city purchased the site for \$687,500, and as part of the purchase agreement, the property owner agreed to pay any cleanup costs incurred over \$50,000. This site is now part of the larger Liberty Commons Industrial Park project. The city negotiated a \$1.5 million purchase agreement with Global Energy, LTD, which plans to invest over \$600 million in the project and to construct a 540 megawatt electrical generator that would employ an innovative technology, coal gasification, to produce electricity for the long term contract market.

For more information, contact Gary Sheely, Utilities Director of the City of Lima, at 419-221-5294.



communities need to remain flexible to get a project off the ground. The Chelsea Creek Restoration Partnership is working to create a park and greenway along the Chelsea River, an industrial waterway close to downtown Boston, Massachusetts. A Chelsea Creek representative emphasized that they are willing to negotiate with the current lessee to accommodate multiple uses and hopes that through creative planning, a recreational trail may even be able to co-exist with a rail line. Several other interviewees from companies and local governments emphasized the importance of flexibility cost-sharing among the local government, private organizations, and other governmental entities to help ensure that the project does not place excessive burden on a single party.

Incentives

Rail companies are motivated by the market. Creating a situation that rewards these companies for working with other stakeholders is critical in enticing rail companies to participate in the process of railfield development. To this end, local governments should think creatively about financial and other tools that will make a redevelopment project attractive to a rail company.²

Local governments should also consider purchasing “bundles” of clean and contaminated properties for sale. This strategy is beneficial to the rail company and the public, making the properties easier to sell, expediting negotiations, and reducing paperwork. This approach succeeded in Baltimore, Maryland, where Camden Yards baseball stadium is located. The area previously contained several lawfully abandoned rail properties, some that were contaminated and some that were not. All were sold to the city in a package deal.

Rail companies are for-profit businesses that have a financial responsibility to their shareholders. While the rail companies are interested in working with local governments and state and federal agencies on redeveloping rail properties, ultimately, the property transaction must be financially beneficial to the rail company. Local governments should use available incentives and have funding in place to ensure that the property transactions and redevelopment plans succeed.

Railroad Reservation Park and District *Birmingham, Alabama*

The Railroad Reservation Park and District in Birmingham was reserved for rail-related distribution and warehouse uses at the founding of the city over a century ago. The city acquired the 14-acre inactive rail yard adjacent to a lively AMTRAK and Intermodal Station eight years ago and agreed to interpret the site as part of historic preservation agreement. The city, in partnership with Friends of the Railroad Reservation District, is engaging residents, workers, and the corporate community in the area’s revitalization through the building of the park as a new economic engine. In addition to many recreational and water features, public art, and interactive-media will tell the geographic, economic, and socio-cultural history of the city. The Railroad Reservation Park is to be completed within the next two to five years through strong public/private partnerships.

For more information, contact Renee Kemp Rotan, Director, Capital Projects, Mayor’s Office, City of Birmingham at 205-254-2275.



²For example, the Federal Brownfields Tax Incentive allows taxpayers to reduce their taxable income by the cost of their eligible cleanup expenses in the year that they are incurred. Visit www.epa.gov/brownfields/bftaxinc.htm for more information.

Northpoint Project

Cambridge and Somerville, Massachusetts

Across the river from downtown Boston, a former rail freight yard owned by Guilford Transportation Industries is being transformed into a 45-acre mixed-use development. Guilford initiated the development after declining freight traffic in Boston made the property redundant. The project will include commercial and residential development. Significant area will be devoted to greenspace, and a regional bicycle trail will traverse the development. The property will be easily accessible by public transportation and will include the relocation of a subway station to within the development. Ultimately, it will integrate an underused industrial property to the communities around it. The company will continue to maintain ownership of the property as it is developed.

For more information, contact Stephen Winslow, an official in the community development office of the City of Somerville, at 617-625-6600 x2519.



Reuse Planning

In addition to cultivating relationships with the rail companies, there are a number of strategies a local government should pursue to successfully redevelop rail properties. These strategies, in whole or in part, were suggested by multiple representatives of rail companies and interested local governments.

Pursue a Shared Vision of Redevelopment

While differences of opinion among community members about redevelopment are to be expected, it is important to come to a common understanding about the project vision. According to representatives of the Chester County, Pennsylvania Economic Development Council,



Crandic Railroad

Coralville, Iowa

The City of Coralville purchased the 14-acre Crandic Railroad property as part of a larger redevelopment project being conducted along the banks of the Iowa River. This property housed a 50-year old, four-acre coal pile that was owned by the University of Iowa. The city purchased the property for \$1.8 million in 2000 and used EPA Brownfields Assessment funding to assess the site. The removal of the coal pile, some soil, and a layer of asphalt was funded by University of Iowa, the owner of the pile. The site is currently slated to be redeveloped into a combination open and developed park space called Riverfront Park, which will be accompanied by some mixed-use development.

For more information, contact Dan Holderness, City Engineer of the City of Coralville, at 319-248-1720.



stakeholder cooperation is essential. It is much easier for a rail company to negotiate with a community if there is a unified voice representing community interests. In one instance, a former rail property in Brunswick, Maine sat vacant for many years in city ownership before a vision was developed for the property. Once the vision was developed and pursued, the project began to proceed rapidly, despite other challenges associated with it. Although this strategy is relevant to all brownfields projects, it is particularly essential in order to make a compelling case for redevelopment to a rail company and to other potential partners.

Ensure Redevelopment is Consistent with Prior Uses and Remaining Contamination

A representative from CSX Transportation emphasized that local governments should always consider the contamination level and previous uses of a property, as well as the planned level of cleanup, in determining a property's reuse. Different levels of cleanup are required for different uses.

These issues are being successfully navigated in ongoing redevelopment of the Cornfields Property in Los Angeles, California. Community advocates wanted to transform the property into a park, creating sorely needed greenspace in downtown Los Angeles. A prior owner was



already planning to pay for cleanup to industrial standards, but the planned park required a more rigorous cleanup with a higher cost. The creation of the park was contingent on the dedication of additional funds, which was deemed a priority by community and government groups. It was essential to account for prior use, cleanup standards, and availability of cleanup funding in designing a reuse plan.

Using Available Resources

Outside resources are available to help communities struggling with the cleanup and redevelopment of rail properties. Below are some programs and organizations that can help local governments navigate their railfields project.

Participate in a state Voluntary Cleanup Program (VCP)

Working with a state environmental regulatory agency often allows projects to proceed smoothly, whether the rail company works directly with the VCP or the entity purchasing a rail property works with the VCP. Representatives of Canadian Pacific, Union Pacific, and CSX all noted that there are

benefits to working through VCPs. Some companies have developed good relationships with specific state programs that can benefit future projects. For example, Union Pacific notes successful working relationships with the programs in California and Texas. Among other benefits, the Texas VCP protects non-responsible parties, future owners, and lenders from liability. A former rail property on Houston's Fulton Street entered into the Texas VCP, aiding the cleanup and redevelopment effort. At the Los Angeles Cornfields Property, discussed above, a preliminary assessment was performed by the city brownfields program through the VCP program. The quick turnaround process enabled the project to proceed and the community is now successfully building a park.

Learn the Role of The Surface Transportation Board

The exclusive jurisdiction of the STB over railroad operations and associated property protects the national interest in an efficient and effective interstate rail system. However, the STB also provides procedures for allowing the removal of unnecessary or outdated rail lines and associated property from the national rail system. The STB provides several different procedures for abandonment, described in further detail in Appendix B. While



abandonment proceedings typically are initiated by the railroad, in certain circumstances, outside third parties can initiate STB proceedings to authorize abandonment of the line in order to allow the rail property to be removed from the national rail transportation system. Go to the STB Web site at www.stb.dot.gov/ for more information.

In many cases, abandonment proceedings at the STB move swiftly. It may be a good idea for a community to engage an outside expert who is practiced in following and using STB abandonment procedures, particularly if the project involves a request for a condition permitting the use of rail property authorized to be abandoned as a recreational trail. The Trail Act, 16 U.S.C. 1247(d), permits parties to negotiate a voluntary trail use agreement when a local sponsor (e.g. nonprofit organization) agrees

to accept financial responsibility for, and maintain, the rail property for the duration of the trail use, with the understanding that all or part of the corridor may be reactivated as a rail line in the future. For information on the Trail Act, go to http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+16USC1247. In Greenville, South Carolina, the city pursued creating parkland on rail line along the Reedy River that is not currently being operated, which would connect several sections of the city.

Consider Using Third Parties

Local governments and rail companies are not alone in pursuing redevelopment of rail properties. Other stakeholders may be able to provide crucial help with funding, technical expertise, or facilitation. In Chester County, Pennsylvania, the Chester County Economic Development Council provides technical assistance to the small communities of Downingtown and Coatesville that are seeking to redevelop rail properties within their boundaries. Neither small community

Abandoned Railyard Property

Brunswick, Maine

The town of Brunswick, Maine, is currently redeveloping a four-acre abandoned railyard property. After the bankruptcy of development company left the property vacant for several decades, the Town purchased the property in 1998 for \$600,000. The planning process is currently proceeding rapidly and includes significant community involvement. The town is looking to use creative methods of handling the presence of coal ash — the primary contaminant on the property — by blending it with pavement or concrete materials that will be used in construction, covering in place where possible, and removal when necessary. Although the plans are not yet finalized, the redevelopment will likely include a rail station, hotel, housing, retail, and other services, as well a pedestrian connection to the heart of downtown Brunswick.

For more information, please contact Mathew Eddy, Director of Economic Development for the Town of Brunswick, at 207-721-0793.



has the capacity to complete the desired rail redevelopment projects on its own. Although the projects have not yet come to fruition, this third party group has been able to raise the profile of the issue, obtain political support, and assist in ongoing negotiations with the relevant rail company.

In the redevelopment of the Cornfields Property in Los Angeles, California, financial assistance from the Trust for Public Land (TPL) was crucial to the project's success. TPL purchased the property when it became available — before another owner could put it to a different use. The property was then sold to the State of California for use as a park. Although the state eventually paid for the property, it was not able to do so immediately. The involvement of TPL made the project a reality. TPL is a nonprofit land conservation organization that can assist local governments with a variety of services including project planning, research and education, property transaction, and finances. For more information about the TPL, visit their Web site at www.tpl.org/index.cfm.

The Rails to Trails Conservancy (RTC) can also be a valuable resource for those who have rail lines in their communities and are interested in their potential reuse as a trail. The RTC is a nonprofit organization whose mission is to

Cornfield Property *Los Angeles, California*

After the consolidation of the rail industry in the Los Angeles region, a developer purchased a former Union Pacific rail yard for industrial use. However, the local community desired a park at the location on the LA River in downtown Los Angeles. The Trust for Public Land played an essential role in facilitating the transfer of the property from an industrial developer to the State of California, and the City of Los Angeles Brownfields Program performed an environmental assessment at a crucial moment in the project. Subsequently, the state funded additional cleanup that was necessary to convert the property to recreational use. The state is currently developing an interim park use and developing final use plans. This new state park will be part of a larger initiative to reclaim the blighted LA River and to create greenspace in the midst of Los Angeles.

For more information, contact Craig Tranby of the City of Los Angeles Brownfields Program at 213-978-0871.



create a nationwide network of trails from former rail lines and connecting corridors to build healthier places for healthier people. For more information on the Rails to Trails Program, their Web site at www.railtrails.org. RTC provides materials to communicate the benefits of rail-to-trail projects, strategies to obtain funding, and ideas on how to highlight successful projects. RTC can also provide technical assistance to communities engaging in these projects. The assistance may even include help purchasing a trail and following the STB regulatory

procedures for abandonment and recreational trail use under the Trails Act. One representative from the rail industry stated that incentive programs like “Rails to Trails” are valuable, especially to the public. Because it is not a comprehensive program, local governments should continue to pursue the Rails to Trails program in combination with other resources and incentives.

Conclusion



It is important to remember that rail properties are fundamentally different than traditional brownfields projects and their redevelopment poses unique challenges. Railfield projects must take into account the broad jurisdiction of STB, as well as any applicable state and federal environmental programs. Furthermore, the rail companies and other site owners have their own incentives and interests that must be factored into any planned railfield redevelopment.

Using innovative approaches, successful railfield developments have been achieved. The examples presented in this guide are just a few of the many railfield redevelopment projects completed around the country. Some keys to success are:

- Communication — build and maintain lasting relationships among stakeholders.
- Incentives — explore stakeholders' interests and seek alternatives that provide benefits to all parties.
- Planning — working with the railroad company and other stakeholders, developing a unified vision of what is desired for the project and making sure it is consistent with past, future, and neighboring land uses.
- Maximize resources — explore all resources available, including state programs or working with a third party to complete a project.

Appendix A:

Railfields Directory

EPA Railfields Contacts:

U.S. EPA Office of Brownfields Cleanup and Redevelopment (OBCR)

Tony Raia

Phone: 202.566.2758

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Surface Transportation Board (STB) Contact:

Surface Transportation Board

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Chief, Section of Environmental
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Canadian National Railway

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**Kansas City Southern
Railway**

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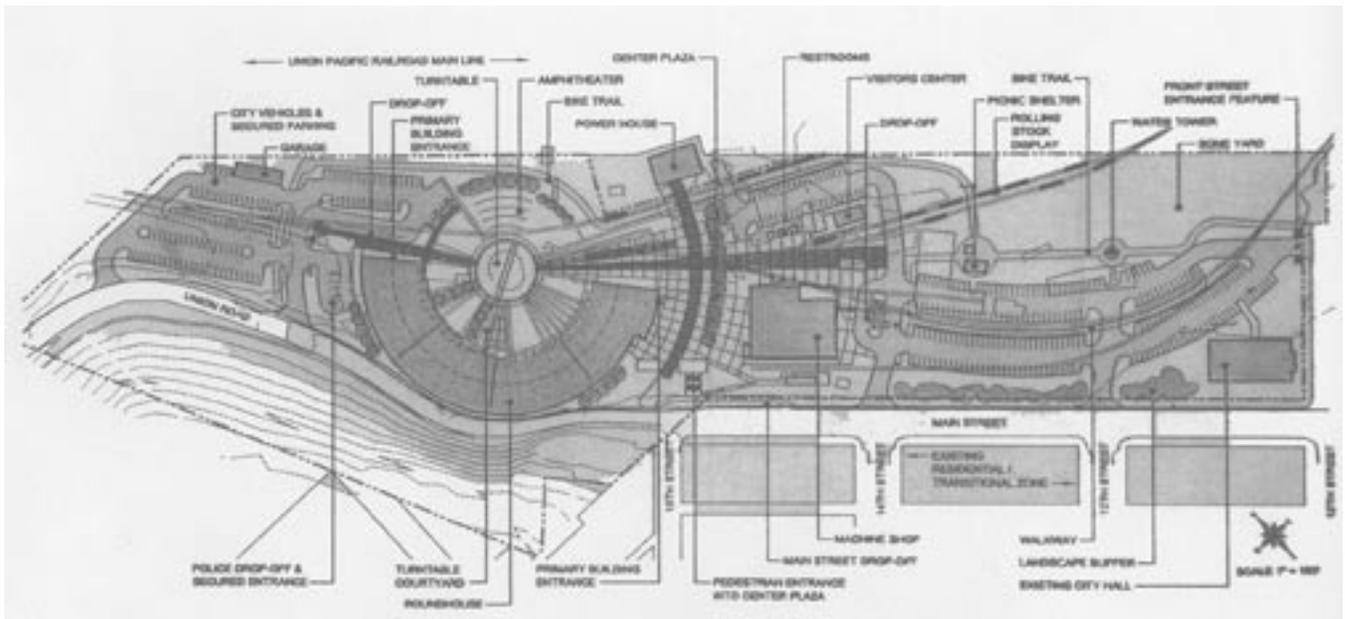
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Appendix B:

Additional Background on Rail Regulation in the United States

Congress has extensively regulated the nation's railroad system for over a century. The Interstate Commerce Act of 1887 (ICA) brought the rail industry under the regulation of the Interstate Commerce Commission (ICC). Among other activities, the ICC was tasked with regulating railroad rates and services, the construction, operation, and abandonment of rail lines, and rail consolidations, mergers, and common control arrangements.

To ensure a functional national shipping and transit system, rail lines were required to maintain passenger operations even when they were not profitable. In 1970, federal law created Amtrak as the national corporation for passenger rail travel, removing passenger operations from the responsibilities of the rail industry. By the 1970s, the rail freight industry was on the brink of financial collapse. Ten years later, in the Staggers Rail Act of 1980, Congress began the substantial economic deregulation of the surface transportation industry. The Staggers Act streamlined the processes for abandonment of rail lines, which are currently the responsibility of the federal Surface Transportation Board (STB), the successor agency to the ICC. The ICA, as broadened by the ICC Termination Act of

1995 (ICCTA), further minimized regulatory burdens on the industry and vested exclusive authority over rail transportation, including associated facilities, exclusively with the STB. Specifically, 49 U.S.C. 10501(b) now states:

The jurisdiction of the STB over:

- transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and
- the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one state, is exclusive. Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under federal or state law.

Railroads typically have a common carrier obligation to provide service to any shipper that makes a reasonable request. In cases where providing service is no longer cost-efficient for a particular carrier, the carrier can ask the STB to authorize



the line's abandonment. Once a line is lawfully abandoned, it is no longer part of the national transportation system, and the railroad can sell or donate the property (if it owns the necessary property interest). Eminent domain laws also would apply and quiet title actions can be filed.

If a railroad decides to abandon a particular line, the STB has a prescribed process that must be followed. There are three ways that rail lines and associated properties can be abandoned: through formal application under 49 U.S.C. 10903, use of the so-called "out-of-service" class exemption, under 49 U.S.C. 10502 and CFR 1152.50, or a petition for an individual exemption under 49 U.S.C. 10502 and 49 CFR 1152.60.

- Formal Applications — Formal applications for abandonment are typically filed when the abandonment is controversial and the lines in question are actively



used. In a formal application, the STB weighs shipper and community need for the line against the burden that keeping the line open would impose on the carrier and on interstate commerce. The STB usually grants permission to abandon lines when the railroad suffers significant losses and existing uses of the line can be re-routed. Formal Abandonment applications generally take about 110 days to process.

- Out-of-Service Exemptions — The out-of-service “class” exemption allows the abandonment of any line that has not originated or terminated any traffic in the past 2 years and that carries no overhead traffic that cannot be rerouted to other lines. The use of the exemption generally is effective 50 days after it is filed with the STB. Anyone who believes

that a particular line does not qualify for the exemption or that there is a need to retain the line may petition for a stay and revocation of the exemption as it applies to the line.

- Petitions for Individual Exemption — When the railroad expects no significant opposition to its proposal to close a line, it may instead file a petition for individual exemption from the full application procedures involved in processing abandonments under 49 U.S.C. 10903. The petition process typically takes 110 days. If the STB decides to grant the exemption, it will publish a notice in the Federal Register. Anyone can then object to the closing of the line by filing a petition to stay and/or revoke the exemption.

Communities:

“There exists a sense of pride among the residents of the area as this site has been restored to productive industrial use. The overall project has energized the area and there have been other redevelopment projects in the area, like riverwalk and YMCA. This has created a sense of reinvestment in the core area of the community.”

Gary Sheely, Lima, Ohio
about the Loco Works/Liberty Commons Industrial Park Project.

A less common method of abandonment is known as the adverse abandonment procedure. Under this process, anyone who believes that a line is no longer needed and should be abandoned may apply to the STB for adverse abandonment authority, even if the railroad doesn't want to close the line. If the STB grants adverse abandonment authority, its decision serves to remove the jurisdictional obstacle to an eminent domain or quiet title action in an appropriate state court.

Abandonment authority is permissive: the railroad can elect not to exercise the authority it has been granted. Abandonment authority generally expires after one year if the railroad has not submitted a consummation notice within that time indicating the date on which it exercised that authority. After railroad property has been lawfully abandoned, state condemnation laws can be applied, since the property is no longer part of the national rail system and the STB's regulatory mission has come to an end.

Once the STB decides that a line may be abandoned, any financially responsible person may acquire the line, at the constitutional minimum value, to continue rail service. 49 U.S.C. 10904. When such a sale does not occur, the STB may impose

a 180-day waiting period under 49 U.S.C. 10905, during which other parties may negotiate with the railroad for purchase of the property for other public purposes. If no agreement is reached, the railroad may dispose of the property as it sees fit. Alternatively, the Trails Act, 16 U.S.C. 1247(d), provides a voluntary process under which a rail line can be converted to recreational trail use while being "railbanked" for possible future rail use. Trail use conditions providing time for the parties to negotiate a voluntary trail use/rail banking agreement are imposed by the STB whenever a trail sponsor (e.g. local nonprofit organization, etc.) agrees to accept financial responsibility for, and maintain, the rail property for the duration of the trail use, with the understanding that all or part of the corridor may be reactivated as a rail line in the future. Trail sponsors must work closely with the rail company to reach a mutually acceptable agreement for interim trail use, since this is a voluntary program for rail companies.



