



Missouri Greenways Project

Preface

In many Missouri counties, the county-maintained roads have a dirt base with sharp rocks kicked up by regular grading -- not the best place for a new bicyclist to develop confidence in his or her abilities. A recreational cyclist seeking other alternatives may find a few paved county roads and paved state highways that might have high traffic counts and lack shoulders. The choices for beginning bicyclists who lack bike-handling experiences become even fewer for city dwellers that live along high traffic roads. According to the U.S. Department of Transportation National Highway Traffic Safety Administration, "Pedalcyclists 25 years of age and older have made up an increasing proportion of all pedalcyclist deaths since 1992. The proportion of pedalcyclist fatalities age 25 to 64 was 1.4 times as high in 2002 as in 1992" (Traffic Safety Facts 2002).

One of the reasons recreational trails built upon abandoned railroad corridors have been so successful is because they have low grades or inclines and smooth surfaces for riding and walking. Since making a healthy lifestyle change requires repetition, rail-trails offer exactly the terrain needed for success in walking or riding a bicycle as part of the change. In southeastern Missouri, 55 percent of trail users (who responded to the Bootheel and Ozark Heath Projects survey) are exercising more than before they had access to a trail (Health and Wellness Benefits).

Railroad Corridor, Right-of-Way Procurement

When considering abandonment of railroad right-of-way, one must first understand the methods by which the corridor may have been obtained by the founding railroad company. In the United States, there are three ways rights-of-way are typically acquired.

1. Federal Land Grants, such as those used in the late 1800s in Missouri -- Typically railroad companies were deeded 50- or 100-mile-wide stretches of land from which they would select their corridor and then sell the remainder to settlers or land speculators in order to fund construction of their railroad.
2. Purchase of land from an existing owner by the railroad company for use as railroad right-of-way -- The railroad purchased, for a set fee, the corridor needed to operate and maintain an active railroad over the property.
3. Purchase of easement or right-of-way from an existing property owner by the railroad company for use as railroad right-of-way -- The railroad purchased for a set fee the right or easement to operate and maintain an active railroad over the property. If the seller was not agreeable to the purchase offer, condemnation or adverse possession was used by the railroad to secure the desired right-of-way (Welch).

Understanding the meaning of terms used in original deeds will indicate the property's status. Terms such as right-of-way and easement, and phrases such as "construction, operation, and maintenance of said railroad" (Welsh) indicate whether or not the right-of-way is reversionary in ownership. People interested in converting an abandoned rail corridor to a trail should seek wording that indicates whether or not the easement or right-of-way has reverted to its original owner.

In most cases, land grant rights-of-way are seen as reversionary. This means they return to the current adjoining property owner when the railroad corridor is abandoned. The exception to this rule is alternate section patent lands, which upon abandonment of active railroad status then belong to the railroads or their successors. Land that is purchased by the railroad company for use as right-of-way is not considered reversionary upon abandonment of active railway use; whereas the purchase of easement or right-of-way is considered a "right to use" the corridor until it is no longer needed for that purpose.

Railroad Corridors, Right-of-Way Abandonment

Abandonment of a railroad corridor or right-of-way occurs when the railroad files the required paperwork with the Surface Transportation Board (STB), located in Washington D.C., requesting permission to deactivate the line.

“Under the ICC Termination Act of 1995 (Act), a railroad may abandon a line only with the STB's permission. The Board must determine whether the ‘present or future public convenience and necessity require or permit’ the abandonment. In making this determination, the Board balances two competing factors. The first is the need of local communities and shippers for continued service. That need is balanced against the broader public interest in freeing railroads from financial burdens that are a drain on their overall financial health and lessen their ability to operate economically elsewhere” (Abandonments & Alternatives to Abandonments).

Railroad abandonment has taken place almost since the first railroad companies began to operate because new routes are determined to be more profitable or old routes fall out of repair. The late 1800s were the railroad construction's boom period in the United States, and thousands of miles of track were laid. Long before trucking the product over interstate highways was an option, trains connected major production centers across the country. Trains served as the delivery system for all types of raw and manufactured materials until modern highways began developing. With the Great Depression of the 1920s, the first round of railroad abandonment took place. During the 1940s, World War II brought about some railroad abandonment to reuse rail steel. However, it was in the mid-1970s before the effects of the industries governmental regulations increased competition from trucking and the maintenance of thousands of miles of track caught up with the railroad companies (Nielsen 4-11).

The Staggers Rail Act of 1980, combined with other legislation, sought to reduce governmental regulation and to increase commercial competition among railroads. As railroads looked for ways to operate more efficiently, railroad abandonment became critical to their survival. Early railroad abandonment took place without much governmental oversight, but current railroad abandonment must occur with STB's permission. Today, the regulations for abandonment are detailed and designed to serve both the railroads and the public with specific timetables of when different events in the process should occur (Abandonments & Alternatives to Abandonments).

Early Railroad Abandonment Documentation Attempts

In 1966, President Kennedy challenged Americans to be physically fit, and Waldo Nielsen, along with a fellow hiker, attempted to walk 50 miles in one day in response to the challenge. Though there were many trails in New York, few were on flat terrain. The walkers found that abandoned railroad right-of-way offered the terrain they sought, and in April 1966, set out on a 20-hour, 50-mile hike. While most of their chosen trail was intact, they found that bridges and trestles had been removed, some of which required some waist-deep fording of water (Nielsen 4-11).

Waldo Nielson found no single source for information regarding abandoned railroad corridors. He created documents for New York state governmental departments for planning of recreational trails across the state, which led to the documentation of abandoned railroad corridors across the entire nation and the publication of a book.

History of Railroad Corridor Railbanking

The beginning of the rail-to-trail movement has gained momentum with the passage of the Rails-to-Trails Act (1983), an amendment to the National Trails Systems Act enacted in 1968. The Rails-to-Trails Act established the concept of railbanking, which is a place the right-of-way is under the control of an approved trail organization (Abandonments & Alternatives to Abandonments). What is critical to these trail organizations is notification of plans to abandon a corridor in their area. The Rails-to-Trails Conservancy, Washington D.C., which formed in 1986 along with the National Park Service Rivers, Trails and Conservation Assistance program (Rivers and Trails) developed an Early Warning System to notify interested parties of proposed railroad abandonment and issues concerning trail development (Action Alert Network Sign-Up Form).

While Nielsen's book served as a foundation, it is not complete since its last publication was in 1986. One aspect of this report is to update the abandoned railroad data in Missouri and the method of presentation.

Abandonment and Railbanking in Missouri

There are hundreds of miles of abandoned and railbanked railroad right-of-way or corridor in Missouri waiting for action by interested trail organizations. Due to the nature of how railbanking works, an interested trail organization would have to know of or be actively watching for the proposed section of rail corridor to be railbanked rather than be abandoned. Therefore this document is intended to serve these organizations in the identification of corridors that have been abandoned by railroad companies.

When considering development of a trail from railroad corridor or right-of-way, the length of time in which the abandonment happened is critical to successful conversion. Railroad corridor abandonment has taken place as early as 1852, after the completion of a section of the first railroad west of the Mississippi (Missouri Pacific Railroad Company). The more recent the abandonment, the more likely the railroad corridor is going to be worthy of having a trail developed on it. Since abandoned corridors or rights-of-way exist from the early 1900s, an understanding of the restoration's complexity is important to a successful outcome.

For a corridor's conversion that has been abandoned for more than five years, the effort will be substantial. The process of "Acquiring Rail Corridors" has been thoroughly documented in a how-to-

manual from the Rails-to-Trails Conservancy, which includes planning, acquisition strategies and more (Trails and Greenways Clearinghouse).

Creation of the Missouri Greenways Project Map

Just as Waldo Nielsen found in 1966 there was no single source for abandonment information in New York State, there is still no single resource in Missouri in 2006. A major project component is the documentation of the precise locations of past and present railroad corridors in Missouri. By presenting the data in Geographic Information Systems (GIS) form, users will be able identify a given railroad segment and also identify associated information such as the founding railroad company and length of abandoned section. The map's first phase is intended to show approximate locations of all known railroads, active and abandoned. Since the data is electronic, presentation via the Internet will allow interested groups easy access to the information.

In cases of railroad corridor abandoned for decades, some interested parties may not even be aware there was ever a railroad located there. Since one of the major expenses of new trail construction is the earthwork required to prepare a quality-riding surface, the use of abandoned railroad corridor is a logical choice if available. Even corridors that have been abandoned for decades offer the benefit of the existing earthwork and should be explored.

By using this map along with aerial photos available from the Missouri Spatial Data Center and other sources, an interested party could conduct a preliminary search of the area and locate the abandonment. Most areas are readily visible to those who know how to spot the correct geological features in the photographs. In areas of high agricultural use, abandoned corridors have sometimes been removed by man or by flooding. Northern Missouri appears to have the greatest number of abandoned railroad corridors and, along with the Bootheel region, the highest concentration of agricultural use.

In creating the map, where possible, existing GIS-based data was used and historically referenced data was added. Data was collected from the following sources.

1. Missouri Spatial Data Center - Late 1980s railroad coverage of the State of Missouri, (Transportation Theme, Old Railroads of Missouri)
2. National Transportation Atlas Railroad Shape File (ESRI Software Set)
3. Oak Ridge Shape File (Railroad Network)
4. Commissioners Official Railway Map – 1888 (American Memories)
5. SPV Comprehensive Railroad Atlas of North America - Prairies East and Ozarks edition (Walker 37-62)
6. Right-of-Way, A Guide to Abandoned Railroads in the United States Waldo Nielsen (Nielsen 63)

The first three sources are GIS-based data. Data sets' comparisons determined which railway lines were active and which were abandoned or railbanked. Using ESRI GIS Mapping software, a new data set was then created to represent railway lines in the final three sources. Almost all new railroad construction since 1888 (source 4) appears in source 1 or source 2. The other sources added little to this, aside from a few segments found in source 3.

Howell County, Current River Railroad Example

In the late 1880s, the South Central Region of Missouri was still remote and sparsely populated. A group of Pennsylvania businessmen founded the Missouri Lumber and Mining Company in the region. In an effort to more easily export timber from the company's 100,000 acres of forest in Carter County, they sought a railroad connection to the area (Stevens, Jr.). The Kansas City, Fort Scott and Memphis Railroad were interested in becoming a distribution partner. A junction connecting the Kansas City-Memphis route to Willow Springs was created. To create this connection, the Kansas City, Fort Scott and Memphis Railroad formed another railroad called the Current River Railroad Company. Early railroad companies often spun a vicious web of small, interrelated companies designed to protect or isolate their business interests in case of lawsuit (Good).

The Current River Railroad route was built east from Willow Springs and reached Grandin in 1888. In 1889, it connected in Hunter with the Cape Girardeau Southwestern Railroad, which had built from the Doniphan to the east. Both railroad routes had several feeder lines or spurs built off of it, which extended into the region as new forest areas were harvested (Stevens, Jr.).

In 1901, the Current River Railroad Company was acquired by the St. Louis and San Francisco Railroad Company. By 1920, much of the more readily accessible timber had been harvested from the region. Many of the tram or spur lines were likely abandoned as soon as the timber harvesting was completed. Parts of the main line were cast off in the 1930s, and finally in 1983, the remaining 37 miles of its then owner, the Burlington Northern-Santa Fe Railroad (Interstate Commerce Commission, Certificate and Decision, Docket No.), abandoned main line from Willow Springs to Winona AB-6 (Sub-No. 144) – Decided: June 7, 1983.

During preliminary research, it was thought that some of the most recently abandoned corridor might still be obtainable because the majority of landowners along the route had not filed paperwork to assume the right-of-way. Excitement soon faded after clarification of the relationship between the two terms "easement" and "right-of-way." The Current River Railroad Company had merely purchased the "easement"-- the right to operate a railroad on the property -- and not purchased the land itself. Reversion of the right-of-way was automatic once the line was abandoned. A search of deeds at the Howell County Recorder's Office showed that Current River Railroad Company filed court documents in order to get right-of-way from two property owners near Willow Springs under adverse procurement, similar to today's eminent domain proceedings. According to Margaret Kiester of Brill Title Service, West Plains, the courts historically have interpreted the term "right-of-way" to mean "easement." Other references support the reality of this legal interpretation (Welsh).

In light of this information, the pursuit of a trail along this corridor appeared futile. However, another possible procedure became evident. While landowners are now in possession of what was once the corridor, there might still be a chance of gaining a new right-of-way from the property owner. There might be resistance from some landowners, including concerns about liability. The liability concerns have been addressed by the Missouri Recreational Use Statute, which releases the landowner from being liable for injury for persons using a recreational trail that goes across his land (Missouri Recreational Use Statute, 258.100 RSMO).

By reorganizing the existing group or by creation of an entirely new group and following procedures similar to those outlined in the Rails-to-Trails Conservancy "Acquiring Rail Corridor, A How-To-Manual," a trail connecting Willow Springs to Mountain View by way of the former Current River Railroad Corridor is possible. By following the manual's suggestions and involving numerous saddle clubs and horse riding groups to design a trail that incorporates equestrian use, landowner resistance to the

project might decrease. Most importantly, a plan must be developed for how the group will proceed and how it will use the right-of-way once it is acquired.

Summary

As this report documents, there are abandoned railroad corridors located across Missouri. The purpose of this report has been to document where the corridors are and identify resources for those interested in converting them to active recreational trails.

By first locating an abandoned railroad corridor on the *Missouri Greenways Project* GIS-based map, an individual may then use procedures outlined in the Rails-to-Trails Conservancy's guide, *Acquiring Rail Corridors* (available in print or online). Using a process similar to the one documented in this report, an individual would then determine how the original railroad corridor was acquired and approximately when it was abandoned. Conversion to recreational trail will have substantially increased odds of successful completion when the railroad corridor has been abandoned for less than five years, due to the numerous factors and parties involved. Primary factors affecting success are bureaucracies in the railroads, state and local governments, and the human nature of the adjoining property owners.

For several reasons, owners of property adjoining the railroad corridor often assume ownership of the former rail corridor after abandonment. The process of abandonment merely states that the railroad company is no longer interested in operating an active railroad service on that right-of-way. If the railroad owns the right-of-way by easement, then the abandonment will transfer the right-of-way back to the owner of the underlying property. However, if the railroad purchased the right-of-way outright "fee simple," the railroad still technically owns the underlying land, though it is no longer part of the active rail network.

After the abandonment, assessed property taxes for the county officials will assign the right-of-way to someone. Many county assessors, not knowing exact status of a railroad corridor after abandonment, assess the tax to the adjoining property owners since state officials are unwilling to challenge railroad companies as to their rightful ownership. After an adjoining property owner has paid taxes on half or all of the former right-of-way, sometimes for many years, many assume (incorrectly) that some form of legal transfer of ownership must have taken place since they are paying the taxes. Many adjoining property owners begin using all or part of the abandoned right-of-way soon after the railroad company removes the rails, ties and other equipment, without pursuing formal ownership.

Missouri Greenways Project Map



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