

1. Report No. FHWA/TX-02/4007-P1		2. Government Accession No.		3. Recipient's Catalog No.	
4. Title and Subtitle TEXAS RURAL RAIL TRANSPORTATION DISTRICTS: INFORMATIONAL GUIDEBOOK FOR FORMATION AND EVALUATION				5. Report Date September 2001	
				6. Performing Organization Code	
7. Author(s) Stephen S. Roop, Curtis A. Morgan, Jeffery E. Warner, Leslie E. Olson, and Laura L. Higgins				8. Performing Organization Report No. Product 4007-P1	
9. Performing Organization Name and Address Texas Transportation Institute The Texas A&M University System College Station, Texas 77843-3135				10. Work Unit No. (TRAVIS)	
				11. Contract or Grant No. Project No. 0-4007	
12. Sponsoring Agency Name and Address Texas Department of Transportation Research and Technology Implementation Office P. O. Box 5080 Austin Texas 78763-5080				13. Type of Report and Period Covered Product: September 2000-August 2001	
				14. Sponsoring Agency Code	
15. Supplementary Notes Research performed in cooperation with the Texas Department of Transportation, and the U.S. Department of Transportation, Federal Highway Administration. Research Project Title: The Role of Rural Rail Transportation Districts in Texas					
16. Abstract Rural Rail Transportation Districts (RRTDs) in Texas are formed to prevent the loss of rural rail lines that have been abandoned by rail companies, or to maintain the former rail right-of-way for future transportation uses. This guidebook provides basic information about RRTD formation and evaluation for RRTD board members and Texas Department of Transportation personnel. Chapter 1 of this guidebook provides a brief history of rail abandonment and of the legislation authorizing and governing the formation of RRTDs. It then describes the purposes and procedures for forming a RRTD and presents a summary of RRTD powers and duties. Chapter 2 presents a brief checklist of indicators for evaluating the potential success of a RRTD, including financial factors, RRTD board activity, business operational practices, and legal and ownership issues. Chapter 3 lists some of the measures that can be used to evaluate the progress of an existing RRTD. Appendices include a map and listing of current and pending RRTDs in Texas, a glossary of rail terms, briefings on selected rail issues, RRTD-related legislation, and a summary of the rail abandonment process.					
17. Key Words Rail Planning, Rail Freight, Texas Rail System, Rural Rail Transportation Districts, Rural Transportation			18. Distribution Statement No restrictions. This document is available to the public through NTIS: National Technical Information Service 5285 Port Royal Road Springfield, Virginia 22161		
19. Security Classif.(of this report) Unclassified		20. Security Classif.(of this page) Unclassified		21. No. of Pages 92	22. Price

**TEXAS RURAL RAIL TRANSPORTATION DISTRICTS:
INFORMATIONAL GUIDEBOOK FOR FORMATION AND
EVALUATION**

by

Stephen S. Roop
Director, Rail Research Center
Texas Transportation Institute

Curtis A. Morgan
Associate Transportation Researcher
Texas Transportation Institute

Jeffery E. Warner
Engineering Research Associate
Texas Transportation Institute

Leslie E. Olson
Associate Research Scientist
Texas Transportation Institute

and

Laura L. Higgins
Assistant Research Scientist
Texas Transportation Institute

Product 4007-P1
Project Number 0-4007
Research Project Title: The Role of Rural Rail
Transportation Districts in Texas

Sponsored by the
Texas Department of Transportation
In Cooperation with the
U.S. Department of Transportation
Federal Highway Administration

September 2001

TEXAS TRANSPORTATION INSTITUTE
The Texas A&M University System
College Station, Texas 77843-3135

Disclaimer

The contents of this product reflect the views of the authors, who are responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official view or policies of the Federal Highway Administration or the Texas Department of Transportation. This report does not constitute a standard, specification, or regulation.

Acknowledgements

We would like to gratefully acknowledge the assistance provided by John Helsley of Rail District Advisors, Inc. of Granbury, Texas, who provided much of the background information on current and prospective rail districts in Texas. His experience in helping to form new rural rail transportation districts during the last decade was instrumental to the research team in preparing this report.

We would like to acknowledge the guidance and support provided by the TxDOT Project Monitoring Committee: Wayne Dennis, P.E., project coordinator; Fred Marquez, project director; Tommy Robinson, project advisor; and Wilda Won, project advisor. Thanks also go to Shelia Stifflemire and Khali Persad of the TxDOT Research and Technology Implementation Office.

Purpose of this Guidebook

This guidebook provides basic information regarding Rural Rail Transportation Districts (RRTDs) in Texas. It lists the powers granted to a RRTD, describes how one is formed, outlines factors to evaluate when considering whether or not to form a RRTD, and explains several means to assess the effectiveness of existing RRTDs. Early during the research, the authors discovered the lack of readily available information on RRTDs and the rail industry for state and local transportation planners as well as newly appointed RRTD board members. The [appendices](#) of this guidebook contain briefings on several railroad related topics that may aid these two groups in understanding both the benefits and difficulties of operating rail facilities. Among the items included are an abandonment timetable, a tabular outline of the rail abandonment process, a listing of railroad operational and financial terms, and a description of several emerging issues in rail transportation.

The legal statutes and abandonment procedures investigated in this guidebook are regularly updated by acts of Congress and the Texas State Legislature. For this reason, this volume should serve only as a beginning reference for those who are unfamiliar with either RRTDs or the railroad preservation field. All legal proceedings should reference the most current statutes regarding RRTDs and Surface Transportation Board regulations.

Executive Summary

This guidebook provides information for Rural Rail Transportation District (RRTD) board members, county commissioners, local transportation and economic development planners, and TxDOT personnel on the history, purposes, and powers of RRTDs and on the factors that indicate or predict a successful RRTD. The major topics of the guidebook are summarized below. [Appendices](#) provide additional information, including glossaries, legislation, and briefings on selected rail issues.

Background

The Staggers Rail Act of 1980 allowed rail companies to “abandon” low-traffic rail lines rather than continuing service and maintenance on lines that do not carry enough traffic to be cost-effective. Many of the large rail companies that opt to cease service on these lines first attempt to lease the line to smaller Class II and III railroad companies; if a line is not leased, the company may file an application to abandon the line. Once a line is abandoned, the track infrastructure is usually dismantled and sold for its salvage value or for scrap, and the rail right-of-way reverts to the previous landowners. While this legislation relieved railroad companies of the financial burden associated with operating and maintaining non-profitable lines, line abandonments have resulted in the loss of miles of track and right-of-way that might otherwise have been available for future transportation uses. Texas therefore passed legislation allowing the formation of RRTDs to preserve abandoned rail for future use.

Purposes, Procedures, Powers

A county is eligible to become part of a multi-county RRTD if it has a rail line within its borders that is currently being abandoned or is in danger of abandonment due to low traffic levels (less than three million gross tons per mile per year). Newer RRTD legislation also permits single counties to form RRTDs. The original purpose of RRTDs was to preserve existing rural rail systems for agricultural and industrial shipping. More recently, economic development has become a second recognized purpose for RRTDs, some of which are forming with the intent to build new spur lines to accommodate new or expanding business opportunities in rural areas. At the time of this report, 16 RRTDs exist in the state of Texas.

A RRTD is created and named by resolution of the county commissioners of the county(s) to be included in the district. The RRTD must have at least four board members, appointed to two-year terms, who must meet at least once a month to conduct RRTD business. RRTD powers include the right of eminent domain to acquire lands formerly held by rail companies and powers to acquire, construct, sell, lease, and operate rail facilities and rolling stock. Duties include adopting an annual operating budget, with public notice. Additionally, a RRTD may not abandon a rail line for which state funds have been loaned or granted, and may not dissolve.

Elements of a Successful RRTD

A successful RRTD depends on a number of factors that fall into four main categories and should be evaluated prior to establishing a RRTD and periodically thereafter:

- financial capabilities, which include access to capital funding, business and economic development opportunities, and a generally healthy local economy;
- a board that holds regular meetings, has little turnover, and has a background in shipping-oriented business;
- good business operational practices, including a viable business plan, a good operator, and connections with larger (Class I) railroads; and
- ownership and control of the right-of-way and associated facilities.

Other Project Resources

This project also generated a report covering the research tasks and findings, Texas Rural Rail Transportation Districts: Characteristics and Case Studies, Texas Transportation Institute, Project Report 4007-1, September 2001.

Table of Contents

	Page
Disclaimer	v
Acknowledgements	vi
Purpose of this Guidebook	vii
Executive Summary	ix
Chapter 1: Development of a Rural Rail Transportation District	1
Introduction	1
Background	1
RRTD Formation and Statutory Authority.....	2
Chapter 2: Predicting the Potential Success of a Future Rural Rail Transportation District ...	13
Success Factors	13
Chapter 3: Evaluating the Economic Success of an Existing Rural Rail Transportation District.....	19
District.....	19
Information on Economic Development.....	19
Gauging Board Activity	19
Funding Avenue Exploration	20
Rail Traffic Levels/Trucks Diverted	20
Long-Term Roadway Rehabilitation Costs.....	20
Appendices and Information Handbook	21
Appendix A: Map of Texas Rural Rail Transportation Districts	A-1
Appendix B: Current and Potential Texas Rural Rail Transportation Districts.....	B-1
Appendix C: Rural Rail District Statute.....	C-1
Appendix D: Surface Transportation Board Abandonment Process.....	D-1
Appendix E: Selected Rail Transportation Issue Briefings.....	E-1
Appendix F: Railroad Operational and Financial Terminology.....	F-1
Appendix G: Basic Railroad Track Terms Chart	G-1

Chapter 1: ***Development of a Rural Rail Transportation District***

Introduction

Rural Rail Transportation Districts (RRTDs) are regional governmental bodies that have been granted specific powers by the Texas Legislature in order to prevent the permanent loss of rail infrastructure and to encourage economic development by rehabilitation of existing rail lines or construction of new rail transportation facilities. RRTDs are considered political subdivisions of Texas state government and are created by action of the county commissioners courts of the county or counties that make up each district. The status of RRTDs as “local governmental units” grants to them many of the same powers as other public bodies, such as a city or county government. Unlike several other special districts allowed by Texas law, RRTDs do not have the power to levy or collect taxes in order to fund their activities.

Background

The 67th Texas Legislature first authorized formation of RRTDs in 1981 following passage of the Staggers Rail Act by the U.S. Congress the previous year. For years, the large Class I railroad companies were required to keep many light traffic density rail lines in rural and agricultural areas in service despite increasing financial losses. Maintenance and operation of such underutilized rail lines consumed capital resources that the private, larger Class I railroads needed in order to maintain, operate, and improve other parts of their systems where traffic demand was greater and profits could be generated. Congress viewed the mounting losses as a threat to the overall rail system and provided relief by reforming the regulatory framework under which the railroad companies operated. The Staggers Act removed most federal-level economic regulation from the railroad industry and greatly reduced the barriers to removal or “abandonment” of unprofitable rail lines nationwide.

At the same time, decades of public investment in improved highway infrastructure took valuable freight business away from the railroads by providing a means for both agricultural and industrial products to move more readily by truck in rural areas. Truck transportation allowed many goods, especially smaller shipments, to move at greater expense but with more flexibility on the publicly provided highways depriving the railroads most of their remaining revenue on

many rural branch line railroads. The volume of traffic on these lines often fell below the level at which the larger, Class I railroad companies could justify retaining service. Federal regulation of the rail industry and their obligation as common carrier transportation providers forced the railroad companies to continue providing service even though it was done at a loss.

After the regulatory reforms of the Staggers Act removed some of the obstacles to abandonment, Class I railroad companies began an effort to lease or sell redundant or unprofitable lines to smaller regional or “shortline” railroad companies known as Class II and Class III, respectively. These smaller companies, it was hoped, could operate the lines more economically by not having to comply with as many of the remaining regulatory and business restrictions of the Class I railroads. If a light density rail line could not be sold or leased, almost invariably, the railroad company asked for permission to abandon the line from the Interstate Commerce Commission (ICC) or its successor agency, the Surface Transportation Board (STB).

Generally, approval of a rail line abandonment request by the STB means that the owner may remove and sell railroad track and materials for any scrap or salvage value. In addition, since much of the rail system is constructed on rights-of-way that are held by rail easement rather than on a fee-simple (ownership) basis, large portions of any abandoned lines right-of-way would revert to the owners of adjacent parcels along the length of the line. The prospect of losing both track infrastructure and long, linear rights-of-way caused the state legislature to seek a way in which to prevent rail line abandonment. Currently, costs for building a new rail line for freight service can average a million dollars or more per mile for construction alone, excluding the cost of re-acquiring the right-of-way. Due to these prohibitive costs, once track materials are removed and the property rights have been lost, the likelihood of reconstructing the rail line in the future is small.

RRTD Formation and Statutory Authority

The authority and process for establishing a RRTD has been codified as Title 112, Chapter 13, Article 6550c in Vernon’s Texas Civil Statutes. The statute includes sections outlining the legislature’s findings regarding the purposes and powers of a rail district, definitions of important railroad terms, rules for formation, and guidelines for appointing members to the RRTD board. [Appendix C](#) contains the rail district statute. This section of the guidebook will summarize the information contained in the statute.

Eligibility to Form a RRTD

In order to become part of a rural rail district, a county must have a rail line within its boundaries that is in the process of being abandoned through either a bankruptcy court or Surface Transportation Board abandonment proceeding or that has traffic levels below three million gross tons per mile per year—putting the rail line in danger of abandonment. The commissioners court of a county with a rail line meeting these criteria may also form a RRTD to develop, finance, maintain, and operate a new rail system under provisions of the statute.¹

Purposes for Forming a RRTD

The two main goals behind forming a rail district have historically been rail line preservation and economic development. These two purposes have been borne out in the types of rail districts that exist in Texas today. When first authorizing RRTDs, the 67th Legislature included four legislative findings, or reasons, that had motivated their action to allow formation of these special districts. These reasons were:

- The state contains many rural areas that are heavily dependent on agriculture for economic survival.
- Transportation of agricultural and industrial products is essential to the continued economic vitality of rural areas.
- The rail transportation systems in some rural areas are threatened by railroad bankruptcies and abandonment proceedings that would cause the cessation of rail services to the areas.
- It is in the interest of all citizens of the state that existing rail systems be maintained for the most efficient and economical movement of essential agricultural products from the areas of production to the local, national, and export markets.²

These statements articulate that the 67th Legislature's primary concerns were the transportation benefits that could be achieved by preservation of rail transportation assets in rural areas.

Twelve years later, the 73rd Legislature added three additional legislative findings by passing SB 968,³ that linked RRTDs more closely with economic development. These were:

¹ Article 6550c, Vernon's Texas Civil Statutes, Section 3(b) and 3A(a).

² Article 6550c, Vernon's Texas Civil Statutes, Section 1.

³ Texas Rail Line Preservation, TTI, May 1994, p. 32.

- Rural rail transportation districts are appropriate political subdivisions to provide for the continued operation of railroads, which are declared by Article X, Section 2, of the Texas Constitution to be public highways.
- The creation, re-creation, financing, maintenance, and operation of rural rail transportation districts and facilities acquired by the districts under this Act will help develop, maintain, and diversify the economy of the state, eliminate unemployment or underemployment, foster the growth of enterprises based on agriculture, and serve to develop and expand transportation and commerce within the state under the authority granted by Article III, Section 52-a, of the Texas Constitution.
- Financing by rural rail transportation districts for the purposes provided by this Act is a lawful and valid public purpose.⁴

These findings express the legislative intent for RRTDs to preserve the rail lines in rural areas of the state for economic as well as for transportation reasons. They also make clear that the spending of public funds to preserve rail and encourage economic activity along rail lines can benefit the public.

Since 1993, additional amendments to the legislation have further focused the ability of RRTDs to foster economic development. Changes to the statute, passed in 1997 by HB 2462 of the 75th Legislature, have made it possible for single counties to form rail districts. This capability has led to formation of several RRTDs focused on specific rail construction projects at planned or existing goods distribution centers around the state. This very localized, project-specific application of a RRTD's powers has increased interest in the formation of new districts as another tool that development planners and local government leaders can use to attract new businesses to their area.

Many manufacturing firms will not consider constructing a new plant or relocating to rural sites that do not have rail access in addition to highway access for trucks. Additionally, they prefer sites served by more than one rail carrier so that competition between railroad companies will reduce the rates that they must pay to move freight. The use of RRTD legislation to provide rail transportation options in new areas of the state has also attracted private businesses to enter into joint agreements with RRTDs in order to develop exclusive projects

⁴ Article 6550c, Vernon's Texas Civil Statutes, Section 1.

through a public-private partnership. This smaller, more local type of district has become the most common being formed during the last five years. This trend is mainly in response to the need for more development of this type to handle increased trade, the changes made to the statutes, and a slow-down in longer branch lines being abandoned by the Class I railroad companies.

Procedures for Forming a RRTD

A RRTD is created by resolution of the county commissioners of the county or counties that are to be included in the district and has the same boundaries as the forming counties. Each rail district must be given an official name in the resolution and a board must be appointed to direct its activities. The board may have no fewer than four members, appointed to two-year terms, and the manner of their appointment is directed by the commissioners court or courts forming the district. For example, a multi-county district would likely have representation from each county on the board but a single-county district would likely have all of its appointees from within that county.

Once RRTD board members are appointed, its members select personnel to fill the four designated offices of president, vice-president, treasurer, and secretary. The board is statutorily required to meet once a month to conduct the business of the RRTD, but the board president may call other meetings as necessary. The board must also adopt rules for its proceedings and may hire personnel to carry out the powers and duties of the district. These duties vary from maintaining board records to actual operation of trains and maintenance of track. The statute outlines in detail requirements for board membership and regulations regarding who may serve.

Currently, 16 RRTDs exist in the state of Texas with several more counties considering forming their own or in combination with other counties. The largest number of counties banding together to form a district has been 12 and several single-county districts exist. Each district has perpetual succession, meaning that it legally continues to remain in place despite any change in the members of its board. Although one RRTD was formed in the late 1980s and later dissolved, current statutes allow RRTDs to be dissolved only upon joining another adjacent, existing RRTD or upon allowing another county or counties to join with it in creating a new, larger RRTD.

Powers and Duties of a RRTD

Section 5 of the rail district statute outlines the powers and duties of a RRTD. Each of the districts responsibilities are explained in legal terms in the statute, but this section of the guidebook will provide an overview of many of them. Among the powers granted to a RRTD are:

- A district may plan, acquire, construct, complete, develop, own, operate, and maintain rail facilities inside or outside the district.
- A district has the right of eminent domain to acquire lands in fee simple (outright ownership) or any interest less than fee simple.
- A district may sue and be sued.
- A district may acquire by grant, purchase, gift, devise, lease, or otherwise may hold, use, sell, lease, or dispose of real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of its other powers.
- A district may enter into agreements with any other public utility, private utility, communication system, common carrier, or transportation system for the joint use of its facilities, installations, or properties within or outside the district.
- A district may adopt rules to govern operation of the district, its employees, the rail facilities, service provided by the district, and any other necessary matter concerning its purposes.
- A district may enter into joint ownership agreements with any person.
- A district shall establish and maintain rents or other compensation for the use of the facilities owned or controlled by the district in sufficient amounts to pay all expenses necessary to the operation and maintenance of the properties and facilities of the district and any interest and principal on all bonds issued by the district.
- A district may make contracts, leases, and agreements with, and accept grants and loans from the United States of America, its departments and agencies, the state, its agencies, and political subdivisions, and public or private corporations and persons, and may generally perform all acts necessary for the full exercise of the powers vested in it.
- A district may acquire rolling stock or other property in any of several manners as outlined in the statute.

- A district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or properties not needed for the efficient operation and maintenance of the system.
- A district may, by order of its board, sell, lease, or otherwise dispose of, at any time, any surplus materials or personal or real property not needed for carrying out its powers.
- A district by resolution may adopt rules and regulation governing the use, operation, and maintenance of the system and shall determine all routings and change them whenever the board considers it advisable.
- A district may lease all or part of its rail facilities, or contract for the use or operation of the rail facilities, to any operator and encourage the use of private firms to accomplish these tasks.
- A district may contract with any county or other political sub-division to provide rail transportation services outside the district boundaries.
- A district must adopt an annual operating budget and publish notice of its hearing to adopt such a budget.
- A district board shall, by resolution, name one or more banks for the deposit of district funds which may be invested as other public funds.
- A district may not abandon a rail line of the district with respect to which state funds have been loaned or granted unless the abandonment is approved by the Texas Transportation Commission as being consistent with the district's mission.⁵

The broad powers granted to rail districts have given them the potential to accomplish much, however, lack of a stable funding source has proven problematic.

Funding Rural Rail District Activities

The only statutory funding source that has been made available to RRTDs, other than receiving donations of cash and real property, has been the authority to issue revenue bonds and the use of anticipation notes. Specific rules for these methods are included in Section 6 and 6A of the RRTD statute. Because RRTDs need an adequate revenue stream to repay bonds and notes this funding method is not attractive. Currently, at least one RRTD is considering being the first to issue bonds as permitted in the statute.

⁵ Article 6550c, Vernon's Texas Civil Statutes, Section 5.

Unfortunately, up until now, only RRTDs that have been able to obtain multi-million dollar grants from outside sources have had the capital available to fund robust activities. Two RRTDs, the South Orient Rural Rail Transportation District and the Northeast Texas Rural Rail Transportation District, have been successful in gaining state financial assistance through state appropriations bill riders and in one district, the Centex Rural Rail Transportation District, a Class III rail operator has paid for long-term rights to operate on the RRTD's line. Such outside funding sources, from both public and private sources, have enabled these districts to continue rail service over the lines. Other RRTDs have been formed early in the abandonment process and have sought to purchase the rail assets in their district, but without a stable, identified funding source have not been able to purchase the line and prevent its abandonment and scrapping.

The use of "innovative financing" techniques is the newest trend in funding for RRTDs. The statutory power to accept "grants and loans from the United States of America, its departments and agencies, the state, its agencies, and political subdivisions, and public or private corporations and persons"⁶ opens up numerous possible funding sources to RRTDs. These programs can be based either upon the transportation aspects of the railroad or on the economic development that preserving such a line can encourage. Except for the prohibition from levying or collecting ad valorem (property) taxes, there are very few limitations within the RRTD statute as to what funding sources may be used. As with any small business or local government, it behooves members of RRTD boards to be "entrepreneurial" in seeking out these sources.

Recent examples of economic development-type funds being appropriated to Texas short line railroads include:

- The NETEX RRTD obtained a \$1.5 million dollar grant from the U.S. Department of Agriculture to purchase and rehabilitate track.
- The "Peanut Railroad" between Dublin and Gorman received a \$2 million dollar grant from the Texas Department of Economic Development and the Texas Department of Agriculture to rehabilitate its track. (Although this line is not associated with a RRTD, this case illustrates how a light density line with an identified traffic base can obtain such funding if it can make its business case known and explores all available funding sources.)

There are also a number of transportation-related funding programs generally used for highways that can be made available for railroad improvements under certain conditions. This trend to have more flexible, multimodal transportation funding began in 1991 with passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) that authorized certain highway trust fund dollars to be used for other transportation modes and focused attention on the need for freight transportation planning at the state and local levels.

A recent Federal Railroad Administration report listed several examples of transportation funding sources from the Transportation Equity Act for the Twenty-first Century (TEA-21), the latest national transportation funding bill passed in 1998, that have been applied to railroad projects around the U.S. These funding sources include the following programs:

- National Highway System,
- Surface Transportation Program,
- Congestion Mitigation and Air Quality (CMAQ) Improvement,
- Transportation Infrastructure Finance and Innovation Act (TIFIA),
- Railroad Rehabilitation and Improvement Financing (RRIF),
- National Corridor Planning and Development and Coordinated Border Infrastructure Programs (Corridors and Borders),
- Transportation and Community and System Preservation (TCSP) Pilot Program,
- Transportation Enhancements Program,
- Light Density Rail Line Pilot Projects, and
- High-Speed Rail Program.⁷

Not all of these programs may be applicable to the needs of RRTDs, nor are all RRTDs eligible for each program, but every possible avenue for funding should be identified and evaluated. For example, RRTDs will most likely not be interested in undertaking projects of over \$100 million that require repayment under the TIFIA loan program. Nor will the High Speed Rail development program be likely to affect the low-density lines generally owned by RRTDs.

⁶ Ibid.

⁷ Intercity Freight and Passenger Rail: State and Local Project Reference Guide, Public-Private Partnerships and TEA-21: Planning, Evaluating, And Financing Public Benefit Rail Infrastructure Projects, U.S. Department of Transportation, Federal Railroad Administration, April 2001.

In addition, each of these TEA-21 programs has distinctive rules regarding how to apply for funding. In some programs, state government may coordinate submission and prioritize applications on a statewide basis before sending them on to the federal government. For example, to apply under the Corridors and Borders Program, a RRTD project would have to compete against and rank higher than other projects at the state level, including high profile highway projects, before it could advance to be considered for an award from the United States Department of Transportation (U.S. DOT). A similar competition for funds occurs under the Transportation Enhancements Program although its projects are decided at the state transportation commission level. Applying under this program might be more advantageous for RRTDs in some cases, however, because funds from this program are designated specifically for non-traditional, but still transportation-related, projects. A peculiarity of this program is that it can fund recreational trail development or restoration of a railroad depot into a museum or historical park, but U.S. DOT guidelines have precluded enhancement funds from being used to continue railroad operations.

Other programs, such as CMAQ, apply only in urban areas that the Environmental Protection Agency has designated as federal “non-attainment” areas for air quality. A few of the existing RRTDs may be located in or near such areas, but most are not. Most federal level programs for rail are either under funded or have not received federal appropriations. For example, the Light Density Rail Line Pilot Project was authorized by TEA-21, but has not been appropriated funds by Congress since TEA-21’s passage.

Possibly the most promising of these programs for small railroads, the RRIF, was authorized to provide both grants and loans to the rail industry and state government entities for rehabilitation of rail infrastructure. The grant portion was not funded, but the loan segment of this provision has recently been activated after a long battle over rulemaking for the program. The program will have \$3.5 billion in low interest federal loans and loan guarantees available of which \$1.0 billion is reserved for Class III railroads like those operated in RRTDs. One problem is that loans must be repaid and RRTDs or their operators often cannot generate enough revenue to repay large loans of this type.

Because each program’s requirements and application procedures are different, RRTD boards must carefully study whether any of these programs would meet their needs and judge whether or not an application under any specific program has a reasonable chance of success.

Spending time and effort pursuing the most promising programs would be wise since RRTDs have limited personnel and resources to expend. Federal program managers for each specific program should be able to advise RRTD board members on program applicability to rail district use. Local TxDOT district planners and TxDOT's multimodal planning section in Austin should also be consulted for guidance regarding applicable federal programs.

Before deciding to form a RRTD, officials should evaluate the potential for such a governmental entity to accomplish its goals. It is very unlikely that a RRTD will be successful unless there is a commitment of both personnel and fiscal resources to the venture.

Chapter 2:

Predicting the Potential Success of a Future Rural Rail Transportation District

Success Factors

Several factors that have proven essential in forecasting the potential ability of a RRTD to carry out its functions effectively were identified during the research project based upon the experiences of the existing districts. These factors fall into four main areas—financial capabilities, board activity level, business operations practices, and legal and ownership issues. County commissions that are considering formation of a RRTD should review these factors before doing so to help in making their decision on whether to proceed. A listing of characteristics describing desirable backgrounds for board members should also help them in selecting appropriate leaders for each RRTD board.

While there is some variance from district to district regarding niche markets or products that will be moved by rail, the RRTDs that have proven successful in preserving rail infrastructure and developing new rail facilities have several common features that have contributed to their success. Because each district developed under different conditions and the ownership characteristics of each RRTD are not equal, these factors will be evaluated based upon the assumption that the RRTD has ownership of both the existing track infrastructure and its underlying right-of-way.

Financial Capabilities

One of the determining factors in the success or failure of a RRTD is its financial status. The costs of acquiring and operating an abandoned rail line are considerable, and without sufficient financial backing and business prospects, it is unlikely that the RRTD will be able to preserve the rail line. Some of the primary financial considerations for RRTDs are summarized below.

Capital Expenses

- *Acquisition costs* include the cost of the land, the right-of-way, and infrastructure (rail, ties, ballast, etc.) of an abandoned line and any existing support facilities.

- *Rehabilitation costs* will vary according to the current condition of the rail line. Many lines that are being abandoned may have been in gradual decline due to decreasing use and maintenance by the abandoning rail company.
- If a new spur line or supporting facilities are planned, *construction costs* must also be considered.

Funding Sources

The following are some of the funding strategies RRTDs may use to finance capital and operating expenses:

- *Issue revenue bonds* to finance acquisitions and construction
- *Apply for grants* (federal, state, or private sector) of real property or funding. Possible sources of grants for existing RRTDs include State General Revenue appropriations and funding through private rail, manufacturing, or industrial companies that have an interest in operating/shipping along the line.
- *Sell or lease excess property* from the acquired right-of-way.
- *Charge rents* for use of the right-of-way and associated properties.

Economic Development Prospects

To maximize the opportunities for continued funding of rail activity, RRTDs need to ensure opportunities for preserving present and encouraging future economic development along the rail line. Indicators of potential future economic success of the RRTD include the following:

- Existing or prospective customer base/businesses on line when the RRTD forms,
- RRTD involvement in rail industry associations such as the American Shortline and Regional Railroad Association (ASLRRA) or others,
- RRTD involvement in local economic development groups, and
- a generally healthy national and local economy.

Board Activity Level

The ability of a RRTD board to complete tasks is greatly determined by the level of activity and effort that is put into its success. The following factors regarding board activity and make-up aid the RRTD to ensuring that:

- *Timeliness of RRTD formation* is the first and possibly most difficult requirement. Actions to preserve a local rail line should begin as traffic levels begin to decrease

and must be taken once the line is proposed for abandonment by a railroad company. If at all possible, acquisition by the RRTD should occur before the rail infrastructure is removed or deteriorated by heavy use and deferred maintenance. Since many railroad abandonments occur without much warning, organizing and establishing a RRTD within this time window requires local transportation and economic development leaders to be proactive in working with the owning railroad company to preserve rail service.

- Those appointed to the RRTD board should have a background in or an understanding of businesses that rely on rail transportation and general knowledge of the local economy.
- Regular board meetings to conduct RRTD business should be held. The RRTD statute mandates that meetings be held at least monthly.
- Ideally, RRTD boards should have as little turnover of members as possible. Members develop knowledge of rail transportation over time, so experience from years of RRTD board service is beneficial.
- Boards do not need to be overly involved in day-to-day rail operations if a reliable and conscientious contract operator can be obtained. (See Business Operational Practices below.)

Business Operational Practices

Favorable Operating Conditions

The following conditions should be addressed prior to acquiring an abandoned rail line, if possible, as they will directly affect the ability of the RRTD to operate rail service over the line.

- Condition of the rail infrastructure – if the rail is not in sufficient condition for operating trains, the cost and timetable of rehabilitation must be considered.
- The rail lines of the RRTD should interchange with at least one Class I railroad, and preferably more than one.
- The RRTD needs to establish a business relationship with its Class I or other interchanging railroads.
- Traffic levels (existing or potential) on the rail line, and traffic levels on the connecting railroads must be sufficient to support operating costs.

The Business Plan

A business plan should include a set of goals for the operation of a rail line (or for the use of the right-of-way if a rail line no longer exists). The RRTD board should be innovative in

seeking out new avenues for business, and should work closely with local business and economic development groups. The business plan should be developed in concert with the annual RRTD operating budget required by the statute.

Relationship with Rail Operator

Once the business plan and track and interchange conditions are evaluated and the decision is made to acquire the rail line for continued operations, the RRTD should hire a contract rail operator as soon as possible. To ensure a productive relationship between the RRTD Board and the operator the board should:

- Set standards for the rail operator that meet the board's business plan.
- Develop an understanding of how rates are set for movement by rail so that the board and operator can more easily negotiate on use fees for the RRTD and in setting fees that will cover both line maintenance costs and the other financial needs of the RRTD and operator.
- Understand that the rail operator will need the RRTD board's assistance in gaining STB approval to operate over the line and may need to have certain fees waived or even limited financial assistance from the RRTD during an initial period of start-up operations.
- Hire an operator that is skilled and aggressive in gaining new, retaining current, and regaining former shippers while providing a high level of customer service.

Legal and Ownership Issues

RRTD ownership of the land, right-of-way, and rail infrastructure are essential to long-term preservation of the line and continuing rail operations. Without ownership and control of all these elements, the RRTD's future activities will be limited. RRTD boards should:

- Ensure support and agreement between all counties involved before proceeding.
- Prepare to negotiate with the rail company on the purchase price (taking into account the company's expected income from scrapping and selling the rail line components) and with potential rail operators.
- Hire a good transportation lawyer to guide the RRTD board through the process and protect the interests of the RRTD.

- Use the RRTD’s status as a public agency to good advantage wherever possible in finding funding or other assistance for RRTD activities. Boards should be sure to seek legal guidance in such matters.

If the RRTD is unable to gain ownership of track infrastructure, but has ownership of the underlying right-of-way, it should do its best to preserve the right-of-way intact for future redevelopment as a rail corridor. One method for achieving this is for the RRTD to place the right-of-way in “rail banked” status and converting it to some interim use until a new rail line is needed. Rail banking is described in more detail in [Appendix E](#).

Chapter 3: Evaluating the Economic Success of an Existing Rural Rail Transportation District

Ultimately, because its main purposes are to provide transportation options and to promote economic development, a successful RRTD will seek to “break even” financially. Any profits it might generate should be either invested in improvements to its existing holdings or for investment to raise capital for future projects. Periodic evaluations of RRTD activities and accomplishments help to measure the success and progress of a RRTD and to identify areas for possible improvement. The following selection of economic evaluation measures is by no means comprehensive, but provides a starting point for monitoring the current and potential success of an existing RRTD.

Information on Economic Development

Measures of economic development that should be tracked within a RRTD’s county or counties include the following:

- growth of existing businesses that use rail shipping,
- new businesses in the area that use rail shipping,
- number of businesses switching to rail shipping from truck shipping (or supplementing truck shipping with rail shipping),
- increase in profits and jobs within businesses that switch to rail shipping from truck shipping (or supplement truck shipping with rail shipping), and
- number of manufacturers/shippers served.

Gauging Board Activity

Measures of effective RRTD board activity could include the following:

- frequency of board meetings,
- attendance levels at board meetings,
- average length of tenure for board members, and
- successful partnering with operator and other railroads.

Funding Avenue Exploration

Measures of funding avenue exploration could include the following:

- amount of funding and/or real property received from federal or state grants,
- amount of funding and/or real property received from private-sector companies,
- number of manufacturers and shippers paying for rail shipping within the RRTD,
- number and amount of revenue bonds sold, and
- total funding obtained versus capital and operating costs.

Rail Traffic Levels/Trucks Diverted

Measures of rail and truck traffic levels could include the following:

- number of rail carloads shipped per day/week/month/year within the district and
- number of truckloads shipped per day/week/month/year within the district

Long-Term Roadway Rehabilitation Costs

Measures of long-term roadway reconstruction/rehabilitation costs could include the following:

- number of rail carloads diverted from truck shipping per day/week/month/year, (expressed as the equivalent number of truckloads removed from roads with each rail car equivalent to approximately 3 or 4 truckloads);
- number of truckloads removed per day/week/month/year (from above measure), expressed as the approximate reduction in roadway damage (with roadway damage from each 80,000-pound truckload equivalent to that of approximately 9,600 automobiles); and
- expected roadway lifetime, based on the number of truckloads shipped.

***Appendices and
Information Handbook***

Appendix A:

Map of Texas Rural Rail Transportation Districts

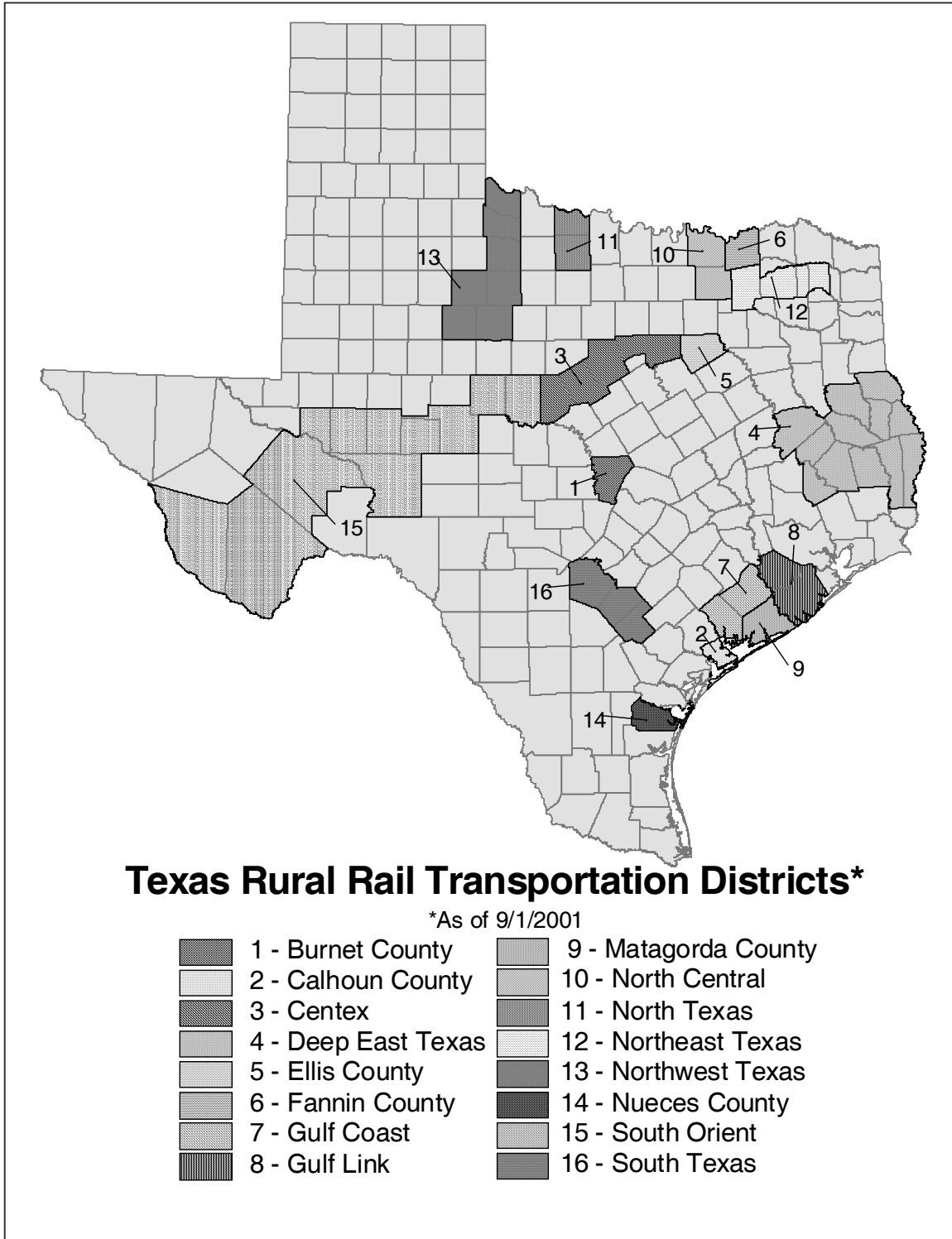


Figure A-1. Rural Rail Transportation Districts in Texas.

Appendix B:

Current and Potential Texas Rural Rail Transportation Districts

- 16 Districts; 3 Potential Districts
- 56 Counties; 5 Potential New; 1 Potential Overlap

Table B-1. Current and Potential RRTDs in Texas

Current Rural Rail Transportation Districts	
RRTD	COUNTY
Burnet County	Burnet
Calhoun County	Calhoun
Centex (5 Counties)	Brown, Comanche, Erath, Hood, Johnson
Deep East Texas (12 Counties)	Angelina, Houston, Jasper, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler
Ellis County	Ellis
Fannin County	Fannin
Gulf Coast (2 Counties)	Jackson, Wharton
Gulf Link (2 Counties)	Brazoria, Fort Bend
Matagorda County	Matagorda
North Central (2 Counties)	Collin, Grayson
North Texas (2 Counties)	Archer, Wichita
Northeast Texas (NETEX) (4 Counties)	Franklin, Hopkins, Hunt, Titus
Nueces County	Nueces
South Orient (11 Counties)	Brewster, Coleman, Crane, Crockett, Irion, Pecos, Presidio, Reagan, Runnels, Tom Green, Upton
South Texas (3 Counties)	Bexar, Karnes, Wilson
Potential Rural Rail Transportation Districts	
RRTD	COUNTY
Rio Grande Valley (3 Counties)	Cameron, Hidalgo, Willacy
San Patricio County	San Patricio
Bexar County	Bexar

Appendix C:
Rural Rail District Statute

Vernon's Texas Civil Statutes Title 112, Chapter 13, Article 6650c

Rural Rail Transportation Districts

Findings

Sec. 1. The legislature finds that:

(1) the state contains many rural areas that are heavily dependent on agriculture for economic survival;

(2) transportation of agricultural and industrial products is essential to the continued economic vitality of rural areas;

(3) the rail transportation systems in some rural areas are threatened by railroad bankruptcies and abandonment proceedings that would cause the cessation of rail services to the areas;

(4) it is in the interest of all citizens of the state that existing rail systems be maintained for the most efficient and economical movement of essential agricultural products from the areas of production to the local, national, and export markets;

(5) rural rail transportation districts are appropriate political subdivisions to provide for the continued operation of railroads, which are declared by Article X, Section 2, of the Texas Constitution to be public highways;

(6) the creation, re-creation, financing, maintenance, and operation of rural rail transportation districts and facilities acquired by the districts under this Act will help develop, maintain, and diversify the economy of the state, eliminate unemployment or underemployment, foster the growth of enterprises based on agriculture, and serve to develop and expand transportation and commerce within the state under the authority granted by Article III, Section 52-a, of the Texas Constitution; and

(7) financing by rural rail transportation districts for the purposes provided by this Act is a lawful and valid public purpose.

Definitions

Sec. 2. In this Act:

(1) “Board” means the board of directors of a rural rail transportation district.

(2) “Bonds” means bonds; notes, including bond anticipation notes, revenue anticipation notes, and grant anticipation notes; warrants; certificates of obligation; interest-bearing contracts; interest-bearing leases of property; equipment trust certificates; commercial paper; and any obligation issued to refund any type of bond.

(3) “Concurrent orders” means the orders adopted by eligible counties that contain identical provisions regarding the creation or re-creation of a district.

(4) “District” means a rural rail transportation district created under this Act.

(5) “Earthworks and structures” includes the clearing and grubbing of right-of-way; demolition of structures; relocation of utilities, pipelines, and any other obstacles in right-of-way; stripping and stockpiling; removal of subsoils for embankment or spoil; borrow pits; dressing and seeding of slopes; construction of culverts; road crossings; bridges; restoration of roadway; drainage within a right-of-way or along road networks; and restoration of a hydrologic system.

(6) “Eligible counties” means two or more counties that meet the requirements of Sections 3(a) and (b) of this Act.

(7) “Operating contract” means a professional services contract executed by a district and another person under which the person agrees to provide:

(A) all or part of the rolling stock required for operation as a common carrier over all or a part of the rail facilities of the district; and

(B) all or part of the personnel required for the operation of the rolling stock owned or leased by the district or for the operation of the rail facilities of the district.

(8) “Maintenance and operating expenses” means all expenses of operating and maintaining a district and its rail facilities, including all compensation, labor, materials, repairs, and extensions necessary, required, or convenient in the discretion of the board to render efficient service or to maintain and operate the district, and taxes or other amounts paid, payable, or to be paid to the United States pursuant to Section 148(f) of the Internal Revenue Code of 1986 (26 U.S.C. Section 148), or any similar law.

(9) “Maintenance facility” includes a workshop, a service, storage, security, or personnel facility, temporary or transient lodging for district employees, and equipment for any type of facility.

(10) “Person” has the meaning assigned by Section 311.005, Government Code.

(11) “Rail facilities” means any real, personal, or mixed property, or any interest in that property that is determined by the board to be necessary or convenient for the provision of a rural rail transportation system and all property or interests necessary or convenient for the acquiring, providing, constructing, enlarging, remodeling, renovating, improving, furnishing, using, or equipping of the system, including rights-of-way, earthworks and structures, trackwork, train controls, stations, rolling stock, and maintenance facilities.

(12) “Revenues” means all income, receipts, and collections received by, to be received by, or pledged to the district from or by any source, except a restricted gift or a grant in aid of construction.

(13) “Right-of-way” means a right of passage over property; a strip of land in length and width determined required, necessary, or convenient by the board over, on, or under which trackwork is or is to be constructed or acquired; or a right of precedential passing.

(14) “Rolling stock” means locomotives, engines, rail cars, repair construction cars, or other cars designed to operate on trackwork.

(15) “Station” means a passenger or freight service building, terminal, or station, ticketing facility, waiting area, platform, concession, elevator, escalator, facility for handicapped access, access road, parking facility for passengers, baggage handling facility, local maintenance facility, and offices for district purposes, together with any interest in real property necessary or convenient for any of the listed items.

(16) “Trackwork” means track, track beds, track bed preparation, ties, rail fasteners, slabs, rails, emergency crossovers, setout tracks, storage track, and switches.

(17) “Train controls” includes signalling, interlocking equipment, speed monitoring equipment, emergency braking systems, central traffic control facilities, and communication systems.

Creation, Re-Creation, or Dissolution of District Located in More Than One County

Sec. 3. (a) The commissioners courts of two or more eligible counties that, taken together, constitute a contiguous geographic area may by order create or re-create a rural rail transportation district consisting of the territory of the counties whose commissioners courts adopt the order.

(b) A county eligible to create or re-create a district is one in which is located a rail line that is in the process of being or has been abandoned through a bankruptcy court or Interstate Commerce Commission proceeding, or any line carrying 3 million gross tons per mile per year or less.

(c) The commissioners courts of two or more eligible counties that create a district or provide for the re-creation of a district by the addition of one or more counties shall by concurrent order at the time of creation or re-creation:

- (1) declare the boundaries of the district as the boundaries of the counties included;
- (2) designate the name of the district; and
- (3) designate the number of board members, which may not be less than four, and the manner of their appointment by a commissioners court.

(d) The commissioners courts of all counties included within a district by order may provide for the dissolution of the district if:

- (1) the commissioners courts determine that the dissolution will not impair an obligation of any contract of the district; and
- (2) the dissolution order will become effective only on the creation or re-creation of another district in which each county included within the dissolving district is included.

(e) A district created or re-created under this section automatically assumes any obligation of a contract executed by the district or a predecessor district and in force on the date of the creation or re-creation unless the contract expressly expires on the date of dissolution or re-creation of the district that executed the contract.

(f) The board of directors of each newly created district shall provide notice to the Texas Transportation Institute of the creation of the district. On being notified by the board, the Texas Transportation Institute shall make available to the board a guide to the services and information that the institute provides.

Creation or Dissolution of District Located Wholly in One County

Sec. 3A. (a) In addition to eligible counties, the commissioners court of a county that meets the requirements of Section 3(b) of this Act by order may create a rural rail transportation district for purposes of developing, financing, maintaining, and operating a new rail system under this Act and for other purposes of this Act.

(b) The boundaries of a district created under this section are the boundaries of the county in which the district is created.

(c) At the time the district is created, the commissioners court shall:

(1) designate the name of the district; and

(2) appoint at least four residents of the county to serve as directors of the district.

(d) A member of the board of directors serves for a two-year term. An initial director serves for a term ending on the second anniversary of the date on which the order creating the district was adopted.

(e) Section 4 of this Act applies to a board member appointed under this section.

(f) The commissioners court of the county by order may provide for the dissolution of the district if:

(1) the commissioners court determines that the dissolution will not impair an obligation of any contract of the district; and

(2) the dissolution order will become effective only on the creation of another district under this Act that includes the county and meets the requirements of Sections 3(a) and (b) of this Act.

Board of Directors; Employees

Sec. 4. (a) The board of directors is responsible for the management, operation, and control of the district.

(b) To be eligible for appointment to the board, a person must be a resident of the county governed by the commissioners court that appoints the person. A board member serves for a term of two years ending on the second anniversary of the latest date a concurrent order was adopted creating or re-creating the district. A vacancy on the board shall be filled for the remainder of the term by the commissioners court that appointed the member who vacated the position. A board member may be removed from office for neglect of duty or malfeasance in office by the commissioners court that appointed the member, after at least 10 days' written

notice to the member and a hearing before the commissioners court. At a hearing on the question of removal of a board member, the board member is entitled to be heard in person or through counsel.

(c) Members of the board shall select a president, vice-president, treasurer, and secretary. The secretary is not required to be a board member. The board shall hold at least one regular meeting each month for the purpose of transacting business of the district. The president may call special meetings of the board. A majority of the members is a quorum.

(d) The board shall adopt rules for its proceedings and may employ and compensate persons to carry out the powers and duties of the district. The right to control and regulate the affairs of the district is vested exclusively in the board except as specifically otherwise provided by this Act.

(e) A board member or employee of a district may not be pecuniarily interested, directly or indirectly, in any contract or agreement to which the district is a party.

(f) Notice of a meeting of the board shall be posted at the administrative office of the district and at the courthouse in the county in which that office is located. In all other respects Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252–17, Vernon’s Texas Civil Statutes), applies to meetings of the board.

(g) An elected officer of the state or a political subdivision of the state who is not prohibited by the Texas Constitution from serving on the board is eligible to serve on the board.

Powers and Duties of District

Sec. 5. (a) A rural rail transportation district is a public body and a political subdivision of the state exercising public and essential governmental functions and having all the powers necessary or convenient to carry out the purposes of this Act, including the powers granted in this section. A district, in the exercise of powers under this Act, is performing only governmental functions and is a “governmental unit” within the meaning of Chapter 101, Civil Practice and Remedies Code. A district is a “local government” under Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon’s Texas Civil Statutes); an “issuer” under Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon’s Texas Civil Statutes), Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k–3, Vernon’s Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k–6, Vernon’s Texas Civil Statutes), Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article

717k–8, Vernon’s Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon’s Texas Civil Statutes); and a “public agency” under Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k–2, Vernon’s Texas Civil Statutes), and Chapter 400, Acts of the 66th Legislature, 1979 (Article 717m–1, Vernon’s Texas Civil Statutes). The acquisition, improvement, or repair of rail facilities by a district is an “eligible project” under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon’s Texas Civil Statutes).

(b) A district has perpetual succession.

(c) A district may sue and be sued in all courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond. An action at law or in equity against the district shall be brought in the county in which the principal office of the district is located, except that in eminent domain proceedings suit shall be brought in the county in which the land is located.

(d) A district may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers under this Act.

(e) A district may plan, acquire, construct, complete, develop, own, operate, and maintain rail facilities inside or outside the district, and for those purposes subject to a grant previously secured or with the consent of any municipality, county, or other political subdivision may use streets, alleys, roads, highways, and other public ways of any municipality, county, or other political subdivision and may relocate, raise, reroute, change the grade of, or alter, at the expense of the district, the construction of any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other properties, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of rail facilities. A district may acquire by purchase, whenever it considers the purchase expedient, any land, property rights, right-of-way, franchises, easements, and other interests in land as it considers necessary for the acquisition, construction, or operation of any rail facility on such terms and at such price as agreed to between the district and the owner and may take title in the name of the district. The governing body of every municipality, county, other political subdivision, or public agency is authorized without any form of advertisement to make conveyance of title or rights and

easements to any property needed by the district to effect its purposes in connection with the acquisition, construction, or operation of rail facilities.

(f) A district has the right of eminent domain to acquire lands in fee simple and any interest less than fee simple in, on, under, or above lands, including, without limitation, easements, rights-of-way, rights of use of airspace or subsurface space. The right may not be exercised in a manner that would unduly interfere with interstate commerce. Eminent domain proceedings brought by a district are governed by Title 52, Revised Statutes, except as it is inconsistent with this Act. Proceedings for the exercise of the power of eminent domain are commenced by the adoption by the board of a resolution declaring the public necessity for the acquisition by the district of the property or interest described in the resolution, and that the acquisition is necessary and proper for the construction, extension, improvement, or development of rail facilities and is in the public interest. The resolution of the district is conclusive evidence of the public necessity of the proposed acquisition and that the real or personal property or interest in property is necessary for public use.

(g) A district may enter into agreements with any other public utility, private utility, communication system, common carrier, or transportation system for the joint use of its facilities, installations, or properties within or outside the district and establish through routes, joint fares, and, subject to approval of any tariff-regulating body having jurisdiction, divisions of tariffs.

(h) A district may adopt rules to govern the operation of the district, its employees, the rail facilities, service provided by the district, and any other necessary matter concerning its purposes, including rules regarding health, safety, alcohol or beverage service, food service, and telephone and utility services, to protect the health, safety, and general welfare of the state.

(i) A district may enter into joint ownership agreements with any person.

(j) A district shall establish and maintain rents or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the district that are reasonable and nondiscriminatory and, together with grants received by the district, are sufficient to produce revenues adequate:

(1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the district;

(2) to pay the interest on and principal of all bonds issued by the district under this Act payable in whole or in part from the revenues, as they become due and payable; and

(3) to fulfill the terms of any agreements made with the holders of bonds or with any person in their behalf.

(k) A district may make contracts, leases, and agreements with, and accept grants and loans from the United States of America, its departments and agencies, the state, its agencies, and political subdivisions, and public or private corporations and persons, and may generally perform all acts necessary for the full exercise of the powers vested in it. A district may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. Any revenue bond indenture may provide limitations on the exercise of the powers granted by this section, and the limitations apply so long as any of the revenue bonds issued pursuant to the indenture are outstanding and unpaid.

(l) A district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or properties not needed for or, in the case of leases, not inconsistent with the efficient operation and maintenance of the system. It may, on adoption of an order by the board, sell, lease, or otherwise dispose of, at any time, any surplus materials or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(m) A district by resolution may adopt rules and regulations governing the use, operation, and maintenance of the system and shall determine all routings and change them whenever the board considers it advisable.

(n) A district may lease the rail facilities or any part to, or contract for the use or operation of the rail facilities or any part by, any operator. A district shall encourage to the maximum extent practicable the participation of private enterprise in the operation of rail facilities. The term of an operating contract under this subsection may not exceed 20 years.

(o) A district may contract with any county or other political subdivision of the state for the district to provide rail transportation services to any area outside the boundaries of the district on such terms and conditions as may be agreed to by the parties.

(p) Before beginning the operation of rail facilities the board of a district shall adopt an annual operating budget specifying the anticipated revenues and expenses of the district for the remainder of the fiscal year, and the district shall adopt an operating budget for each

succeeding fiscal year. The fiscal year of the district ends September 30 unless changed by the board not more than once in any three-year period. The board shall hold a public hearing before adopting each budget except the initial budget. Notice of each hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in the district. A budget may be amended at any time if notice of the proposed amendment is given in the notice of meeting. An expenditure that is not budgeted may not be made.

(q) The board of a district shall by resolution name one or more banks for the deposit of district funds. District funds are public funds and may be invested in securities permitted by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes). To the extent funds of the district are not insured by the Federal Deposit Insurance Corporation or its successor, they shall be collateralized in the manner provided for county funds.

(r) A district may not abandon a rail line of the district with respect to which state funds have been loaned or granted unless the abandonment is approved by the Texas Transportation Commission as being consistent with the policies of this Act. The commission by rule shall adopt procedures for applying for and obtaining approval under this subsection.

Bonds and Notes

Sec. 6. (a) A district may issue revenue bonds and notes from time to time and in such amounts as its board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its rail facilities. All bonds and notes are fully negotiable and may be made redeemable before maturity, at the option of the issuing district, at such price or prices and under such terms and conditions as may be fixed by the issuing district in the resolution authorizing the bonds or notes, and may be sold at public or private sale, as determined by the board.

(b) Before delivery, all bonds and notes authorized to be issued, except notes issued to an agency of the federal or state government, and the records relating to their issuance shall be submitted to the attorney general for examination. If the attorney general finds that they have been issued in accordance with the constitution and this Act, and that they will be binding obligations of the district issuing them, the attorney general shall approve them, and they shall be registered by the state comptroller of public accounts. After approval, registration, and sale and delivery of the bonds to the purchaser, they are incontestable.

(c) In order to secure the payment of the bonds or notes, the district may encumber and pledge all or any part of the revenues of its rail facilities, may mortgage and encumber all or any part of the properties of the rail facilities, and everything pertaining to them acquired or to be acquired, and may prescribe the terms and provisions of the bonds and notes in any manner not inconsistent with this Act. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, any district may encumber separately any item or items of real estate or personalty.

(d) All bonds and notes are legal and authorized investments for banks, trust companies, savings and loan associations, and insurance companies. The bonds and notes are eligible to secure the deposit of public funds of the state, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state. The bonds and notes are lawful and sufficient security for the deposits to the extent of the bonds' principal amount or market value, whichever is less.

(e) Bonds payable solely from revenues may be issued by resolution of the board.

Alternative Financing

Sec. 6A. (a) A district may use the procedures provided by Chapter 271, Local Government Code, to finance rail facilities of the district, except to the extent of conflict with this Act and except that the district may not levy or collect ad valorem taxes.

(b) A district may issue nonnegotiable purchase money notes, payable in installments and secured by the property being acquired or constructed, to acquire or construct rail facilities. A district may also secure the obligation of the notes by a pledge or undertaking to issue bonds or bond anticipation notes. A district may covenant with the purchaser of bond anticipation notes that the proceeds of one or more particular series of bonds will be used for the ultimate payment of the purchase money notes or bond anticipation notes.

Competitive Bids

Sec. 7. A contract in the amount of more than \$15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property except real property may only be let on competitive bids after notice published, at least 15 days before the date set for receiving bids, in a newspaper of general circulation in the district. A board may adopt rules governing the taking of bids and the awarding of contracts. This section

does not apply to personal or professional services or the acquisition of existing rail transportation systems.

Exemptions from Taxes

Sec. 8. The property, revenues, and income of a district and the interest on bonds and notes issued by a district are exempt from all taxes levied by the state or a political subdivision of the state.

Effect on Other Law

Sec. 9. The powers and duties provided by this Act are in addition to the powers and duties provided by other law for counties regarding rail transportation.

Acts 1981, 67th Leg., p. 2434, ch. 623, eff. June 15, 1981. Secs. 1 to 6 amended by and Sec. 6A added by Acts 1993, 73rd Leg., ch. 332, § 1, eff. Aug. 30, 1993; Sec. 7 amended by Acts 1993, 73rd Leg., ch. 757, § 35, eff. Sept. 1, 1993; Sec. 3 head amended by Acts 1997, 75th Leg., ch. 1105, § 2, eff. June 19, 1997; Sec. 3(f) added by Acts 1997, 75th Leg., ch. 580, § 2, eff. Sept. 1, 1997; Sec. 3A added by Acts 1997, 75th Leg., ch. 1105, § 1, eff. June 19, 1997; Sec. 4(g) added by Acts 1997, 75th Leg., ch. 580, § 1, eff. Sept. 1, 1997.

Appendix D: Surface Transportation Board Abandonment Process

STB Timetable for Railroad Abandonment

Day 0	Abandonment application filed, including applicant's case in brief
Day 10	Oral hearing requests due
Day 15	STB decision on any oral hearing requests due
Day 20	Notice of abandonment must have been published in the Federal Register
Day 45	Written protests and comments, including opposition case in chief, and public use and trail requests due
Day 60	Applicant's reply to opposition case and applicant's response to train use requests due
Day 110	STB must serve a decision on the merits of the case
Day 120	Offers of Financial Assistance accepted up to this date, except that if an application has been granted by a decision issued sooner than Day 110, the Offer of Financial Assistance shall be due 10 days after the service of the decision granting the application.

Steps in the STB Railroad Abandonment Process

This is a tabular summary of the STB Publication, *OVERVIEW: Abandonments & Alternatives to Abandonments* available from the STB website: <http://www.stb.dot.gov/pubdoc.htm>. Refer to the STB for the most current procedures for abandonment.

<u>Step</u>	<u>Action</u>	<u>Deadline / Date Taken</u>	<u>Description of Action Required</u>
1	System Diagram Map or Narrative Description filed with STB	As desired	The abandoning railroad files a narrative description of its line with the Surface Transportation Board identifying the route or routes for which it plans to file for abandonment within the next three years. Such a filing cannot take place earlier than 60 days from the filing of the map/narrative description.
2	Notice of Intent to Abandon	Prior to filing for abandonment with STB	The railroad must publish this notice once a week for three consecutive weeks in general circulation newspapers in each county where the line is located, send it to each of its significant shippers on the line, send it to the state agency responsible for rail transportation planning, and post it at each agency station and terminal on the line. All these must be fulfilled 15-30 days before the abandonment application is filed at the STB.
3	Abandonment Application to STB (Official Filing)	No sooner than 60 days after filing map or narrative	The official abandonment application is filed with the STB. This application contains detailed information regarding the costs and revenues along the line to be abandoned and the overall financial condition of the carrier as a whole. This filing can occur at any time after the first 60 days during the three-year period following the railroad's filing of its map or narrative description putting the line in planned abandonment status.
4	Protests or Comments to the Proposed Abandonment and Requests for Public Use or Trail Requests	45 days after filing for written protests (10 days after filing for oral hearing requests)	Once the application is filed, protestants have only 45 days to submit written protests. An original and 10 copies of each comments or protest must be filed with the STB. ***Note: Oral hearing requests must be filed within 10 days of receipt of the application. The STB must act on those requests within 15 days of the filing of the application*** The same deadline applied to any request for future public use and any request for conversion of the right-of-way to trail usage.
5	Modified Procedure and Oral Hearings	Set by STB Decision must be issued within 110 days of filing of application	Modified procedure means that no oral hearing is held, and all evidence is filed in writing. This is more common than oral hearings because the reason for such as hearing is to cross-examine witnesses who have already filed verified statements in the proceeding. After receiving the protests and the carrier's reply to the protests, the STB must issue its decision within 110 days from the original filing of the abandonment application.
6	Appeals	No date specified, should be timely	Appeals of a Director's decision in certain stages of the proceeding may be appealed to the full STB. A party that is dissatisfied with the decision of the full Board may seek judicial review of the STB's decision by filing a petition for review in appropriate U.S. Court of Appeals.

Exemptions From the Normal Abandonment Process Under 49 CFR 1152

<p>I. Class Exemption of Out of Service Lines (2 years without local traffic)</p>	<p>No notice of intent to abandon or system map/narrative notice to file for an exemption of the normal process in this case, however, 10 days before filing the exemption notice with the Board, the railroad must notify the state agency responsible for rail planning of its intention to do so. STB will publish the notice in the <i>Federal Register</i> within 20 days of the filing. Thirty days after that notice is printed, the railroad may abandon the line unless the STB stays the exemption.</p> <p>Stay of Exemption Requests</p> <ol style="list-style-type: none"> 1. Stay request that raise transportation concerns must be filed within 10 days of the <i>Federal Register</i> notice. 2. Historic or environmental requests may be filed at any time, but sufficiently before the 30-day effective date for the STB to act on the petition. 3. Offers to subsidize continued operations must be filed within 30 days of the <i>Federal Register</i> notice. <p>Request to Reject or Reconsider</p> <p>Petitions to reject a request for exemption or to reconsider the exemption must be filed within 20 days of the <i>Federal Register</i> notice.</p> <p>Revocation of an Exemption</p> <p>Once the exemption has taken effect, parties may ask the STB to revoke the exemption.</p> <p>***The STB will disallow exemptions only in rate cases.***</p>
<p>II. Individual Exemptions</p>	<p>No notice of intent to abandon or system map/narrative notice is required. The only notice a railroad must give before filing an individual exemption request is an environmental notice to the state agency where the abandonment is proposed. The STB must publish notice of the proposed exemption within 20 days in the <i>Federal Register</i>. No further public notice is given even if the petition is denied.</p> <p>Opposition to Exemption Request</p> <ol style="list-style-type: none"> 1. Persons opposing an exemption must file an opposition within 20 days after the <i>Federal Register</i> notice. 2. Offers to purchase or subsidize the line must be filed within 120 days after the filing of the petition for exemption or 10 days after the service of the STB's decision granting the exemption, whichever occurs sooner. <p>Stay of Exemption Requests</p> <p>Petitions to stay the effective date of the exemption may be filed. The Courts have developed the following criteria for staying an administrative action:</p> <ol style="list-style-type: none"> a. There is a strong likelihood that it will prevail on the merits; b. It will suffer irreparable harm in the absence of a stay; c. Other interested parties will not be substantially harmed by stay issuance; and d. The public interest supports granting of the stay. <p>All four criteria must be met before the stay will be granted.</p>

Alternatives to Abandonment

<p>I. Forced Sales and Subsidies</p>	<p>Two Cases</p> <p>1. Lines Approved for Abandonment</p> <p>Under the Offer of Financial Assistance (OFA) procedures, any financially responsible party seeking to continue service on a line approved for abandonment (or exempted) may compel the railroad to sell or conduct subsidized operations over the line. Parties may request data on subsidy and acquisition costs from the railroad as soon as the Notice of Intent to Abandon is filed. In “class exemption” cases, the OFA must be made within 10 days of the <i>Federal Register</i> notice. The party interested in filing an OFA must first file a written expression of their intent to file an offer within 10 days of the <i>Federal Register</i> notice. Once that is received, an automatic stay of 40 days is granted and the offer itself is due 30 days after the notice.</p> <p>In “individual exemption” or under normal exemption procedures, the OFA must be filed within 10 days of the service date of the STB’s order granting the exemption or abandonment application or within 120 days after the application or petition for exemption is filed, whichever is sooner.</p> <p>If the parties agree on a price, the STB must approve and will dismiss the abandonment application. If the parties cannot agree, they can ask the STB to set terms and conditions within 30 days of the offer filing. The offeror then has 10 days to accept. If the offeror accepts, the railroad must by law, comply with the terms and conditions set by the STB. Other STB rules outline procedures for situations in which the railroad may have received more than one OFA and regarding the minimum time the contract must be honored before transferred or sold.</p> <p>2. Purchase of Lines Potentially Subject to Abandonment</p> <p>This procedure applied to lines which have been identified for future abandonment, but for which the railroad has not yet filed an application to abandon to the board. A “financially responsible person” can compel the STB to require the railroad to sell it the line. The price can be agreed to by the parties or set by the STB as described above. The STB has 15 days to reject the application or 30 days to publish it in the <i>Federal Register</i>. During that 30 day period, any other interested party can file a competing application for all or a portion of the same line. The owner may respond to the board within 60 days of its filing on the offer(s). Within 80 days of the original filing, the offerors may file replies. The STB must then publish its decision in the <i>Federal Register</i>. Within 10 days of the service date of the decision, the offerors must file with the STB and the railroad accepting or rejecting the STB’s terms. If more than one offeror accepts, the railroad has 5 more days to select the one with which it wants to conduct business.</p>
<p>II. Voluntary Sales and Operations</p>	<p>Parties interested in preserving rail service may negotiate the voluntary purchase of the rail line while the abandonment process is still underway. To encourage this, the STB has made such purchases exempt from regulation. Procedures for such exemption requests are found in 49 USC 10901, 10902, and 11323.</p>

Alternative Uses for Rail Rights-of-Way – Public and Trail Use Conditions

<p>A. Public Use Conditions</p>	<p>Under the terms of the ICC Termination Act of 1995, when the STB approves or exempts an abandonment it must determine if the rail line is suitable for alternative public use, such as highways, other forms or mass transit, conservation, energy production or transmission, or recreation. If it is, the Board may prohibit the railroad from selling or otherwise disposing of the rail corridor for up to 180 days after the effective date of the decision or notice authorizing abandonment. During that time, interested parties may negotiate with the railroad to acquire the property for public use. The railroad’s consent is not necessary for the imposition of this negotiating period. If not agreement is reached within the 180 day period, the STB must allow the railroad to fully abandon the line and dispose of its property.</p> <p>***The STB will only impose a public use condition when it has received a request to do so. Requests must be filed within 45 days after the application is filed.</p> <p>Requirements of such requests are outlined in 49 CFR 1152.28.***</p>
<p>B. Trail Use Conditions</p>	<p>Requests for trail use must be filed within 45 days after the application is filed. Unlike the public use condition, the trail use condition will only be imposed if the railroad consents. The railroad has 15 days to reach a decision whether to and with whom it will negotiate. If the railroad agrees, a 180 day period for negotiation is set during which the rail carrier is prohibited from otherwise disposing of the corridor. In some cases, an extension has been granted to this period when both parties indicate they are near an agreement.</p> <p>***In class exemption cases, a trail use request must be filed within 10 days of the appearance of the notice in the <i>Federal Register</i>. Note that this is 10 days earlier than a public use condition request is due.***</p> <p>A request for trail use also requires the payment of a filing fee, while a request for public use does not.</p>

Appendix E:

Selected Rail Transportation Issue Briefings

Multiple Interpretations of Railroad “Abandonment”

Points to Remember

- The term “abandoned” or “abandonment” can describe the status of a railroad line at many different stages both during and after the official abandonment process.
- Even if no trains have run on a railroad line for many years, the track’s official status may not be “abandoned.”
- If a line’s status is, in fact, officially “abandoned,” it does not necessarily mean that the underlying right-of-way is no longer intact as a future rail corridor.
- Care should always be taken to accurately determine a railroad line’s current legal status before the RRTD takes any action in respect to it.

Narrative

There is often confusion when the word “abandoned” or “abandonment” is used in describing the status of a railroad. Most often this term is applied to a railroad that has been, or is, involved in a formal abandonment proceeding before the Federal Surface Transportation Board (STB) or its predecessor, the Interstate Commerce Commission (ICC). In most cases, when a railroad company desires to remove a line of its system from service, it must ask the STB for permission to do so because the railroad company does business as a “common carrier.” This means that the railroad company must accept for shipment any freight load from shippers along its line without discrimination as to the size or frequency of such loads.

When a line is no longer generating an operating profit, due to either high maintenance costs or a decrease in business levels, the railroad company must ask for permission before it can stop serving freight customers along that line. The railroad may either ask for permission to discontinue operations, meaning that they will stop operating trains but leave the track materials in place, or for permission to “abandon” the line, meaning that they seek to permanently stop running trains and also to remove the track materials and sell their rights to the underlying property. Thus, when a railroad seeks to abandon one of its rail lines, it is, in effect, asking permission from the STB, as the federal oversight agency for the U.S. rail system, for permission to stop providing freight rail service to the citizens along that line.

In making its case for abandonment to the STB, the railroad company must show that discontinuance of rail service will not adversely affect “public convenience and necessity.” Those who wish to protest the abandonment must show that continued rail transportation is needed and will be used in the future. The STB makes its decision based upon the merit of the arguments presented by each side. If it chooses to grant authority for abandonment to the requesting railroad company, it means that they have granted permission for them to do so.

One of the most misunderstood aspects of abandonment authority is that, even after the STB has granted its permission, the “abandonment” still does not become official until the railroad company consummates, or acts upon, the authority that has been granted to it. There have been several recent examples in which the railroad company (or its successor following a merger) has failed to act upon a previously approved abandonment request. This means that the line may remain in service. To avoid confusion over how long an STB abandonment approval may be held without actually removing the line from its system, recent STB abandonment decisions have often included a one-year time limitation during which the railroad company must notify the STB that it is officially going to remove the track from service and begin salvage operations.

Once a line’s abandonment is consummated and the time for the railroad company to complete salvage operations has passed, ownership of the underlying property that was held in easement for operation of a railroad reverts back to the adjacent landowners who had originally granted the easement and sections owned outright (fee simple) by the railroad company may be sold. Once this has occurred, the railroad right-of-way no longer officially exists. Alternatively, it is possible that the right-of-way may be kept intact for future rebuilding of a rail line over the same route by placing it in “rail banked” status through agreement between the railroad company and a public or private entity. In this case, an “abandoned railroad” or “abandoned rail right-of-way” may officially remain in place years after rail operations have ceased. (Rail banking is described more fully in another issue briefing in this section of the guidebook.)

Summary

Due to the broad application of the term “abandoned” to describe a railroad in any of the circumstances explained above, it is important that the actual legal status of the railroad line be determined in detail. Planners and RRTD board members should familiarize themselves with the steps in the abandonment process as well as the options available to them to halt or prevent railroad abandonment as described elsewhere in this guidebook. They should also be very careful to investigate any line or right-of-way on which they intend to execute any RRTD activities.

Handling of Heavy Axle Load or 286,000 lb. (286K) Cars

Points to Remember

- The current standard rail hopper car for moving grain and other bulk agricultural materials has a loaded maximum gross weight of 263,000 pounds per carload.
- Class I railroads have begun a trend to use larger hopper cars, many of them rated to carry a loaded maximum gross weight of 286,000 (286k) pounds as a means to increase productivity by moving more material on a per car and per train basis.
- Many railroad lines owned by RRTDs do not have improved track structures (track, ties, ballast, and bridges) that are rated to accommodate the heavier 286k cars.
- Expensive upgrading of track structures to handle 286k cars may or may not be needed by the RRTD. This depends upon the type and volume of commodities moved, the interchange relationship with its Class I railroad partner, and the speed at which the products need to move for rail to remain competitive with truck transportation.

Narrative

A recent trend in the rail industry that has adversely affected the viability of many shortline railroads is the trend among Class I railroads to use larger 286,000 pound (286k) hopper cars on their mainlines to replace the current standard 263,000 pound cars. These heavier railcars increase the weight on each rail axle from 33 tons to 36 tons. The use of 286k cars is beneficial to Class I railroads because it is a relatively easy way to increase profits by moving more materials with fewer trains. Fewer trains requires that fewer railcars be purchased and maintained and fewer locomotives can move the same amount of materials. This, in turn, requires that fewer crews must be hired and less fuel used. Class I railroad tracks and bridges are constructed and maintained to a standard that can handle this added weight.

Unfortunately, many shortline and rural, branch line railroads such as those acquired by RRTDs during the abandonment process are not able to move the larger 286K cars due to the condition of the track infrastructure. The nine percent increase in railcar weight can result in an increase of as much as 20 percent in damage to the underlying track structures.⁸ Already facing a growing number of “slow orders” to ten miles per hour or less because of deferred maintenance and not able to efficiently interchange 286k cars with Class I railroads, many shortlines may face difficult times if they cannot upgrade their track and bridge structures to permit some use of heavier axle load traffic. If infrastructure cannot be upgraded to allow higher average speeds by rail as well as movement of 286k railcars, rural rail service providers may have trouble competing with truck transportation even though trucks costs shippers more and they can negatively affect the safety and service life of rural highways.

⁸ U.S. Congress, House Subcommittee on Ground Transportation, “Heavy Axle Load Capital Needs Assessment,” testimony by Dr. Allan M. Zarembski, President, Zeta-Tech Associates, July 25, 2000.

Summary

The need to handle 286k cars is an issue that will need to be monitored and addressed by each individual RRTD board that has railroad operations over its track infrastructure. A balance must be struck among the increased damage to the track structures each time heavier axle load cars move over the line, the need to efficiently interchange with its Class I railroad partner or partners, the needs of shippers, and the cost to upgrade the infrastructure to better accommodate 286k cars. The rising cost of track and bridge structures may preclude many RRTDs from making the necessary improvements to move 286k cars. This could adversely affect the line's long-term viability if this type of car becomes the industry standard.

Rail Banking

Points to Remember

- The right-of-way underlying a railroad line that is abandoned may be preserved intact by “rail banking” of the corridor in accordance with federal law and STB procedures.
- Rail banking is a voluntary agreement negotiated between the abandoning railroad company and another public or private entity.
- Rail banking can be sought through the filing of either a “public use condition” or a “trail use condition” request to the STB within 45 days of the official abandonment filing.
- “Public Use Conditions” would allow a public entity to use the right-of-way for another public purpose such as to construct a highway or for commuter rail service or for use as a recreational trail.
- “Trail Use Conditions” would allow a private entity to use the right-of-way as a recreational trail facility.
- In either case, the rail right-of-way may be reactivated at some point in the future for rail service. This could possibly require removal of any structures built on the right-of-way to accommodate its interim use as a trail, highway, or other facility.

Narrative

Excerpt from *OVERVIEW: Abandonments & Alternatives to Abandonments*, 1997, U.S. Surface Transportation Board, U.S. Government Printing Office:

The ICC Termination Act and the National Rails to Trails Act, along with the STB’s regulations, give interested parties the opportunity to negotiate voluntary agreements to use a railroad right-of-way that otherwise would be abandoned for recreational or other public use, such as a commuter rail service or a highway. These methods of preserving a railroad corridor are known as “rail banking” meaning that the right-of-way is preserved for potential future use as a railroad. Many railroads do not own the land on which their tracks lie. Rather, they have easements over the land of adjoining property owners. Unless those easements are “rail-banked” by converting them to a trail or other public use, they are extinguished. Some rights-of-way that were “banked” have been reactivated.

There are two types of uses under which the STB will consider rail banking—alternate public uses and private use and maintenance of the right-of-way as a recreational trail. Requests for either interim public use conditions or interim trail use conditions can give local entities such as RRTDs up to 180 days to negotiate with the abandoning railroad company to find a way to keep

the right-of-way intact. Because the STB grants either of these conditions only after it has already decided to allow the abandonment to proceed, the track infrastructure may already be “lost” and preservation of the underlying right-of-way for the possibility of rebuilding the line in the future may be all that can be accomplished. If an agreement is reached to bank the line, the acquiring entity must assume responsibility for maintenance and other responsibilities for the right-of-way. Any structures built to allow the interim use of the corridor for other activities (i.e. bicycle trails, restrooms, roadway facilities, etc.) are subject to removal when, and if, the right-of-way is ever reactivated by the STB for railroad purposes. Detailed explanation of the procedures required to rail bank a corridor are available from the STB.

Summary

Rail banking is a long-term “solution” and does not generally preserve rail operations in the near-term. However, use of rail banking as a means to preserve rail right-of-way may prove beneficial to many activities carried out by a RRTD board. For example, if a RRTD has not yet been established, a public use condition request may provide up to a 180-day delay in removal of the track infrastructure on a line proposed for abandonment. This could allow time for a RRTD to be formed, public support raised, and preservation of the right-of-way by an agreement between the RRTD and the railroad company. It is also possible, in this scenario, that if the RRTD had the funds to do so, it could purchase the track infrastructure from the railroad company during that time as well.

Note that RRTDs can lose resources used to convert a rail banked corridor into a trail (or other facility) for interim use if the line is reactivated for rail purposes. If the purpose of rail banking a corridor is to maintain it intact for future rail service, this should not pose a problem, however, if the goal is to construct a permanent recreational trail, investigation into acquiring the underlying property rights rather than merely rail banking the corridor may be more advisable. This would preclude any future possibility that the trail would be removed.

Ownership of Rail Line Infrastructure and Operating Authority

Points to Remember

- There are several levels of ownership involved in owning and operating a railroad.
- A RRTD board must understand the ownership interests held by the RRTD in its railroad properties in order to properly exercise and define its capabilities.
- These levels of ownership responsibility can include:
 - 1) ownership of the right-of-way underlying the railroad line in either fee simple or railroad operations easement;
 - 2) ownership of the track materials (tracks, ties, switches, ballast, bridges, etc.);
 - 3) the right or concession to operate a rail freight business over the line;
 - 4) the right to operate trains over the line;
 - 5) the common carrier obligation to serve customers along the line; and
 - 6) the responsibility to perform maintenance of the rail facilities.
- RRTD boards must be careful to understand which of these ownership responsibilities they are acquiring when entering into any joint purchase agreement with another public or private entity.

Narrative

Often, newly appointed board members and planners are unaware that the RRTD's "ownership" of the rail line through their RRTD may not be total ownership. There are several different "pieces" to owning and operating a railroad. Over time, these pieces may have been split among several parties resulting in several interests—each "owning" vital parts necessary for continued operation of trains over the line. Bringing these ownership rights and responsibilities together in an effective manner is necessary for the RRTD to succeed.

At least six different "pieces of ownership" have been identified and RRTD boards should be familiar with each of them. These include:

- 1) ownership of the right-of-way underlying the railroad line in either fee simple or railroad operations easement;
- 2) ownership of the track materials (tracks, ties, switches, ballast, bridges, etc.);
- 3) the right or concession to operate a rail freight business over the line;
- 4) the right to operate trains over the line;
- 5) the common carrier obligation to serve customers along the line; and
- 6) the responsibility to perform maintenance of the rail facilities.

It is important for the RRTD to hold as many pieces of the ownership puzzle as is necessary for it to accomplish its goals. For example, a relatively inactive RRTD that owns only the right-of-way beneath a rail line owned by the operating Class III carrier can have little to say about track

maintenance issues. If, on the other hand, the RRTD owns both the right-of-way and the track and structures and has contracted with an operator to provide service and maintenance for the line, the RRTD board can have much more influence as to how the line is operated. If the RRTD holds the common carrier obligation and the operator goes out of business, the RRTD is responsible for quickly finding a replacement operator or shippers along the line can file grievances with the STB. Many such scenarios, dependent upon who owns each of the ownership rights and responsibilities, are possible.

Knowing which parts of the “ownership” it holds will determine the actions and focus of the RRTD board in each situation. Only by bundling and holding as many of these rights together as possible can the RRTD effectively carry out its duties. Otherwise, the RRTD can become not much more than a public institution to hold ownership of the real estate, allowing the railroad company to avoid paying property taxes on the line. If playing that role is the only option available to prevent abandonment and scrapping of the line and resources are unavailable to acquire more of the ownership rights, some RRTDs may find this role to be acceptable.

Summary

RRTD board members and planners should be aware that there are several different ownership rights and responsibilities involved in owning and operating a railroad. If a RRTD is able to own both the track infrastructure and the right-of-way on which it lies, it will be more able to determine the level of service and degree of maintenance that will take place on the line by hiring a contract operator and specifying terms for these functions in the contract. If the RRTD board does not have this degree of ownership, it may be limited to acting as a public holding entity for the shortline rail operator on the line. The ability with which board members can leverage the assets that are owned by the RRTD and controlled by its board will, in great measure, control whether the RRTD will be successful.

Track Classification

Points to Remember

- The Federal Railroad Administration (FRA) classifies all railroad tracks according to the maximum safe speed at which a train can operate over them.
- Designation of each segment as a certain “class” is made by FRA track inspectors based upon the condition of the rails, the condition of the roadbed, the geometric design of the right-of-way and other safety factors.⁹
- The class at which each section of a rail line is maintained is determined by the owner and/or operator of the rail line based upon a business decision regarding how fast it wishes to operate trains along that segment.
- Failure to maintain track at the desired FRA classification will result in a mandatory decrease in train speeds and a loss of business to other transportation modes.

Narrative

FRA track inspectors designate the class of each track segment to determine the maximum speed at which a train may travel over it. The owner of the track determines the level of investment that it will place its trackwork to operate at a desired speed. Incremental improvement to a higher classification or allowing a track classification to decrease due to deferred maintenance is also the decision of the track’s owner and not the FRA. Most freight tracks are maintained at the Class 4 or lower levels. Several shortline railroads must operate in “excepted track” status as described below.

The following chart on track classification was included as part of a recent congressional subcommittee hearing on rail safety.¹⁰ The current FRA classifications of track are listed below:

<u>Track Class</u>	<u>Maximum Speed</u>	
	<u>Freight</u>	<u>Passenger</u>
Class 1*	10 mph	15 mph
Class 2	25 mph	30 mph
Class 3	40 mph	60 mph
Class 4	60 mph	80 mph
Class 5	80 mph	90 mph
Class 6**	110 mph (all)	
Class 7	125 mph (all)	
Class 8	160 mph (all)	
Class 9	200 mph (all)	

⁹ U.S. House of Representatives, Railroad Subcommittee Hearing briefing document, March 29, 2001.

¹⁰ Ibid.

*Excepted Track—Below the regular speed-rated classes of track, FRA has established a category known as *excepted track*, which has proven critical to the continued operation of short-line railroads created by the sale of marginal lines, often not well maintained, by the large railroads. Generally, excepted track must be limited to freight-only operations at 10 mph or lower speeds, with no more than 5 hazardous-material cars per train [49 C.F.R. 213.4]. Excepted track is allowed to have gage (between-rail width) tolerances greater than for classified track.

**At the Class 6 level or higher, special requirements regarding qualifications of inspectors and methods of inspection apply. There are also restrictions on carriage of hazardous materials in the higher speed classes.

Summary

RRTD board members and planners should be aware of the track classification of each segment of track within the RRTD. Any track degradation to a lower track classification could adversely affect the ability of the line to compete with other modes of transportation. Conversely, identifying funding for improving the track to a higher classification could attract more business to the line. Requirements regarding the classification to which the track must be maintained should be included as part of any discussions with potential operators that would be responsible for track maintenance.

Railroad Company Classification

Points to Remember

- The federal Surface Transportation Board (STB) classifies railroad companies as Class I, Class II, or Class III based upon their annual earnings.
- The class of railroad company with which a RRTD will usually be associated is Class III, either through its own operations or through a contractor.
- The Class III carriers operating over a RRTD's rail line will generally need to interchange its cars with a Class I or Class II carrier for movement over their more extensive rail systems for long distance transportation.

Narrative

STB Regulations group rail carriers into three classes based upon their annual earnings. The earnings limits for each class were set in 1991 and are adjusted annually for inflation. The limits below list the 1991 base limits with current, adjusted for inflation, limits in parentheses.

Class I—gross annual operating revenues of \$250 million or more (\$255.9 million)

Class II—gross annual operating revenues between \$20 million and \$250 million (\$20.5 million and \$255.9 million)

Class III—gross annual operating revenues of less than \$20 million (\$20.5 million)

Generally, under STB classification, Class II carriers are referred to as regional railroads and Class III carriers are often called shortline railroads and conduct their operations and maintenance activities very differently from the major or Class I railroads.

The Association of American Railroads (AAR) classifies railroads by a different system as Class 1, regional, and local. The AAR Class 1 definition is the same as that of the STB, however, regional railroads are defined as those with revenues between \$40 million and \$255.9 million and with more than 350 miles of track. AAR classification puts all line-haul railroads falling below either of these criteria in the “local railroad” classification including switching and terminal railroads.

Summary

RRTD board members and planners should be familiar with each of the railroads operating in the area served by the RRTD. The category into which each of these railroads is classified by the STB can affect its operating practices, its reporting requirements, its maintenance activities, and its interchange service characteristics. Because the operations on RRTD tracks will usually be under the control of a Class III railroad, familiarity with this type of railroad company's operations is the most vital. Knowledge of Class I railroads will aid in conducting interchange business where the tracks of the RRTD and the major rail system meet.

Federal and State Agency Oversight of Railroads

Points to Remember

Federal

- The Surface Transportation Board (STB) and the Federal Railroad Administration (FRA) are assigned oversight responsibilities for the rail system at the federal level.
- The STB provides economic regulatory oversight over railroad company activities including mergers, line acquisitions, line construction, rate dispute resolution, and abandonment requests.
- The FRA is responsible for implementing federal laws pertaining to railroad operational safety and performs safety inspections on both track and rolling stock.
- Federal law, not state law, governs rail safety and operations in the United States due to the interstate commerce nature of the rail system. For this reason, many state regulations are not enforceable due to the concept of federal “preemption” that has been upheld by the U.S. Supreme Court. Preemption means that federal law preempts or overrules state and local laws that might place limitations on rail transportation.

State

- The Texas Department of Transportation (TxDOT) and the Railroad Commission of Texas (RRC) have both been granted certain oversight responsibilities for railroads in Texas.
- TxDOT has been assigned responsibility for statewide transportation planning, including rail planning.
- RRC is primarily concerned with the safety inspections and regulatory issues at the state level.

Narrative

A variety of federal and state agencies have oversight of the U.S. rail transportation system. The primary agencies among these that are important to RRTD activities are the STB, the FRA, the TxDOT, and the RRC. Each agency has a different role to play in determining the actions that any rail entity can undertake and when they can do so. Because the U.S. Supreme Court has ruled that federal law preempts state and local laws that might unduly restrict railroad operations involving interstate commerce, the role of the STB becomes extremely important in regulating the actions of railroad companies, even on a small, rural branch line. While other federal and state resource agencies, such as the Environmental Protection Agency, the Texas Natural Resource Conservation Commission, and the Texas Historical Commission, also review aspects of rail abandonment proceedings and are concerned with rail issues, the STB makes the final decision in all abandonment and new rail construction cases. The FRA’s safety inspections and compliance activities are augmented by the RRC. TxDOT personnel have been given

responsibility to plan for transportation on a statewide basis and specifically to include rail and high-speed rail in that planning.

Summary

One of the more complicated aspects of rail transportation is learning the distinctive regulatory and oversight environment in which all railroads must operate. RRTD board members and planners should familiarize themselves with the roles and responsibilities of the STB, the FRA, the TxDOT, and the RRC. The importance of each board having available legal representation with experience specifically in rail transportation law and regulations cannot be underestimated.

Transit and Commuter Rail

Points to Remember

- RRTDs were not envisioned as passenger rail transportation providers when legislation allowing their formation was passed.
- Several current RRTDs are located in counties adjoining or passing through urban areas.
- The proximity of these RRTDs in and near cities leads to the possibility that a RRTD could someday own freight rail rights-of-way or tracks over which commuter or light rail could also operate.

Narrative

RRTDs were authorized to preserve rural rail service and to promote economic development along rural rail lines by ensuring that those rail lines remained in place. The rapid expansion of urban areas into the surrounding counties over the last decade has led to several areas where rail lines and rights-of-way that are included in RRTDs have the potential to also carry passenger rail at some point. While no current RRTD is providing passenger service over its lines, it is not unforeseeable that such operations may one day become a reality. Present track classification and other conditions on many RRTD-held lines would currently preclude reasonable commuting speeds, making any near-term operations unlikely. Such operations would have to be approved by both federal and state agencies and comply with existing STB, FRA, and state regulations.

Summary

RRTD board members and local planners in RRTDs located near urban areas should be aware that their rail lines and rights-of-way could one day also serve local passenger rail routes. While this falls outside the primary purposes of freight rail preservation and economic development laid out in the rail district statutes, once a RRTD owns the rail and/or right-of-way, a joint agreement with an urban transit authority or other passenger rail provider to move commuters could become a possibility. Any such activity would be subject to state and federal regulations for joint operations of passenger and freight rail that exist at that time.

Benefits of Rail Transportation

Points to Remember

- On average, rail transportation is three times more fuel-efficient than trucks.
- In 1999, railroads moved a ton of freight 386 miles for every gallon of diesel fuel used.
- If ten percent of highway freight were shifted to rail, nationwide as much as 200 million gallons of fuel could be saved and 2.5 million fewer tons of carbon dioxide would be emitted every year.¹¹
- Loss of rural rail service leads to increases in annual fuel consumption, air pollution, incidents of hazardous material spills, and the rate of transportation-related crashes.¹²
- Suddenly adding heavy trucks to the roadway traffic mix on rural highways can reduce the expected life of some thin pavements by 50 percent.¹³

Narrative

Rail transportation has many environmental and fuel consumption benefits over other surface transportation modes. On average, while a truck is able to move a ton of freight approximately 100 miles for every gallon of diesel fuel it consumes, a train can move a ton of freight approximately 386 miles per gallon of diesel fuel.¹⁴ One train car can carry approximately three to four times the weight of the heaviest trucks meaning that each rail carload has the potential to remove several trucks from the road depending upon the commodity moved. Keeping freight on rail when possible in rural areas can lead to decreased annual fuel consumption, a decrease in air pollution, less incidents of hazardous material spills, and less frequent crashes on rural highways. In addition, the deterioration of highways caused by increased truck usage consumes scarce public highway reconstruction and rehabilitation funding that could be spent in other areas. The fees paid by private users of the rail system, on the other hand, fund rehabilitation of its infrastructure. Maintaining all possible freight transportation options to and from rural areas remains vital to encouraging economic growth and maintaining current businesses in those areas.

Summary

RRTD board members and planners should be aware of the many environmental and economic benefits of rail transportation. By valuing the capabilities and the strengths that rail transportation provides over other modes, RRTD boards and their supporters can better make the case for preserving the rail assets within the district and for construction of additional rail

¹¹ *Railroad Issues, 1st Session 107th Congress*, Association of American Railroads, January 2001, Section 2, p. 10.

¹² Texas Rail Line Preservation, Texas Transportation Institute, May 1994, p. xi

¹³ Ibid.

¹⁴ AAR, p. 10.

facilities in some cases. Knowing the benefits of rail, combined with knowledge of the business base that would leave if rail transportation were no longer available, can aid in making the case for rail preservation or even new construction of rail facilities.

Appendix F:

Railroad Operational and Financial Terminology

Introduction

The terms in this appendix provide information helpful to newly appointed RRTD board members and transportation planners who may be unfamiliar with rail operations and finances. The list is not exhaustive, but should include the terms that will give the basics that will allow understanding of the rail business carried out at the RRTD level.

ABANDONMENT—Elimination of a segment from a rail network, or the cessation of operation by a carrier of a specific segment of track or facility, subject to approval by the Surface Transportation Board (STB). A proposed abandonment hearing is a regulatory proceeding by which a rail carrier seeks consent of the STB to discontinue service on some portion of its rail network. The STB can approve an abandonment application but the segment might not be officially abandoned by the owning railroad.

AGGREGATED SHIPMENTS—Numerous shipments from different shippers to one consignee that are consolidated and treated as a single consignment, for study purposes.

ASSOCIATION OF AMERICAN RAILROADS (AAR)— The central coordinating and research agency of the American Railway industry. It deals with matters of common concern in the whole field of railroading – operations, maintenance, engineering, research, safety, traffic, accounting, finance, valuation, taxation, legislation, transport economies, and public relations. Established by agreement, effective October 12, 1934, the AAR took over and coordinated the activities of several pre-existing railroad organizations, including the Association of Railway Executives, the American Railway Association, the Railway Accounting Officers' Association, the Railway Treasury Officers' Association, and the Bureau of Railway Economics.

AUTOMATIC BLOCK CONTROL—System of signals that automatically indicates to trains about to enter a segment of track whether it is occupied by another train. Generally, signals are not in use on light density lines.

AUTOMATIC TRAIN CONTROL (ATC)—A system which enforces the deceleration of a train in compliance with signal speed restrictions as picked up from the rails as a code. ATC is generally not in use on light density lines.

AVERAGE DEMURRAGE AGREEMENT—An agreement made between a shipper and a transportation line whereby the shipper is debited for the time cars are held for loading or unloading beyond a certain period and credited for the time cars are released by him within a certain period, demurrage charges being assessed by the transportation line, usually at the end of the month, for any outstanding debits. (Also, see "DEMURRAGE")

AVERAGE WEIGHT OF RAIL—The average weight in pounds per yard of rail.

BACK HAUL—To haul a shipment back over a part of a route which it has traveled.

BAD ORDER—Car or locomotive needing repairs.

BAD ORDER CARS—Revenue freight cars undergoing or awaiting repairs. Cars retired from service and held awaiting dismantling or sale are not included.

BALLAST—Selected material, as broken stone, gravel, cinders, and burnt clay, placed on the roadbed for the purpose of surface and holding the track in line.

BELT LINE—A short railroad operating within and/or around a city.

BILL OF LADING—Form of contract between the shippers and the carrier specifying the details of routing, consignor, consignee, commodity, and special terms and conditions or instructions.

Order Bill of Lading—A negotiable document by which a transportation line acknowledges receipt of freight and contracts for its movement. Surrender of the original Order Bill of Lading, properly endorsed, is required by transportation lines upon delivery of the freight, in accordance with the terms of the Bill of Lading.

Straight Bill of Lading—A non-negotiable document by which a transportation line acknowledges receipt of freight and contracts for its movement. The surrender of the original Straight Bill of Lading is not required by transportation lines upon delivery of the freight, except when necessary for the purpose of identifying the consignee.

Export Bill of Lading—A document which is issued on all consignment to foreign countries not contiguous to the United States. It contains terms and conditions for ocean carriers as well as for rail carriers.

Government Bill of Lading—A special form printed by the U.S. Government and used for Government shipments. These bills of lading are accompanied (receipted) by Government representatives at destination upon delivery of the freight, and surrendered to the railroad agent to bill against the Government for service rendered.

BLIND TRACK—A block of track with no signaling on which operations are controlled by a system of written procedures and special train orders. Such conditions often prevail on light density lines. Also called “dark territory.”

BLOCK—A length of track of defined limits, the use of which by trains and engines is governed by block signals, cab signals, or both.

BOX CAR—A closed car used for hauling freight.

BRANCH LINE—The secondary line of a railway. A rail line serving one or more stations beyond the point of junction with the main line or another branch line, and to or from which stations train service, or its equivalent, is performed. See *Main Line*.

BRIDGE TRAFFIC—A railroad's traffic which originates and terminates on other railroads, or off-line.

CAB SIGNAL—A signal located on control or operating cab of an engine or other vehicle indicating conditions of the block signal system. Generally, signals are not in use on light density lines.

CAPACITY CONSTRAINTS—Limitations to traffic flow on a segment caused by clearance, rail weight, or other physical constraints.

CAR POOLING—The pooling of car equipment through coordinating the operation under a central control for the joint and proportioned benefit of car owners and users of all cars owned by two or more railroads or by a central agency serving two or more railroads.

CAR RETARDER—A braking device, usually power-operated, built into a railway track to reduce the speed of cars by means of brake-shoes which, when set in braking position, press against the sides of the lower portions of the wheels. This device is used in freight car classification yards.

CARLOAD—The quantity of freight necessary to qualify a shipment for a carload rate.

CARLOAD RATE—A rate applicable to single rail carloads.

CAR-MILE—(a) A unit used in comparing freight earnings or expenses—the amount earned from, or the costs of hauling a railcar of freight one mile; (b) The movement of a car one mile.

CARRIER—An individual or company engaged in the operation of a transportation service for hire, classified as a common carrier if serving the public and as a private or contract carrier if not serving the public.

CARTAGE—The charge made for hauling freight on carts, drays, and trucks.

CENTRALIZED TRAFFIC CONTROL (CTC)—A system to control the movement of trains by means of remotely controlled signals and switches from a central location by a dispatcher. Generally, this system is not in use on light density lines.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY—Authority or certificate granted by the Surface Transportation Board to common carriers by railroad, motor vehicle and water to operate in interstate commerce. The certificate is also issued when the STB decides that the present or future public convenience and necessity require or permit abandonment or discontinuance of rail services.

CLAIM—A demand made upon a transportation line for payment on account of a loss sustained through its negligence.

CLASSIFICATION OF RAILROADS—STB regulations group rail carriers into three classes based on their annual earnings as outlined in 49 CFR, Part 1201. The earnings limits for each class were set in 1991 and are adjusted annually for inflation. The limits below list the 1991 base limits with current, adjusted for inflation, limits in parentheses.

Class I—gross annual operating revenues of \$250 million or more (\$255.9 million)

Class II—gross annual operating revenues between \$20 million and \$250 million (\$20.5 million and \$255.9 million)

Class III—gross annual operating revenues of less than \$20 million (\$20.5 million)

Generally, under STB classification, Class II carriers are referred to as regional railroads and Class III carriers are called shortlines.

The AAR classifies railroads by a different system as Class 1, regional, and local. The AAR Class 1 definition is the same as that of the STB, however regional railroads are defined as those with revenues between \$40 million and \$255.9 million and with more than 350 miles of track. AAR classification puts all line-haul railroads falling below either of these criteria in the “local railroad” classification including switching and terminal railroads.

CLASSIFICATION YARD—The location where rail freight cars are segregated by the carriers according to their destinations or deliveries and made ready for proper train movement or delivery.

CLEARANCE LIMITS—The dimensions beyond which the size of, or projections on a shipment may not extend in order to clear obstructions along railway tracks, such as switch-stands, platforms, tunnels, mail cranes, water tanks, third rails, low bridges, signal stands, etc.

COFC (Container on Flat Car)—An intermodal shipping container moving via rail on a railroad flat car. Can be either single- or double-stacked (one on top of another) to increase the number of containers that can move on one flat car. See TOFC.

COMMODITY—Any article of commerce; goods shipped.

COMMON CARRIER—One who holds himself out to the general public to transport property and passengers, intrastate, interstate, or foreign commerce, for compensation. Common carriers must operate from one point to another over routes or in territory prescribed— (1) by the Surface Transportation Board (STB) (interstate); and (2) by a state Public Service or Public Utilities Commission (intrastate).

CONDUCTOR—Railroad person who is in charge of the train’s proper completion of its assigned operations. He/she is responsible for the movement of the train. He/she is to check to see that cars are dropped or set out at the proper points and to see that empty or loaded cars are picked up.

CONTINUOUS WELDED RAIL (CWR)—Rails of standard length which are welded together at the ends to form a single rail.

CONTRACT—A written agreement between two or more parties specifying terms, conditions, etc., under which certain obligations must be performed. (Specifications are a part of the contract.)

COST ALLOCATION—Apportioning incurred costs over an entire railroad to segments of that railroad, using cost factors for each cost type (and segment, if required).

COST BASIS—The basis for a cost allocation; for example, gross ton-miles (for fuel).

COST—The actual money outlay incurred in acquiring, creating, operating or maintaining a railroad property, including the money value of the services rendered and other considerations involved. This would include contributions by governmental agencies, individuals, and companies toward nonjoint projects.

CROSSTIES—The wooden, concrete, or steel crosspieces that keep the two rails in gage, to provide a fixed guideway.

CURVATURE, DEGREE OF—As used in connection with railway tracks, the angle subtended at the center of a simple curve by a 100-foot chord.

DEMURRAGE—A penalty charge assessed by carriers for the detention of cars, vehicles or vessels by shippers or receivers of freight beyond a specified free time.

DERAIL—A track safety device designed to intentionally guide railway rolling stock off the rails at a selected spot as a means of protection against collisions or other accidents.

DESTINATION—Road, segment, and/or station to which the freight is delivered.

DISPATCHER—A railroad employee who directs the movements of trains over specific track segments. Generally reports to a division superintendent on the Class 1 railroads. For shortlines, dispatching may or may not be required by FRA regulations depending upon the type and number of operations that are being carried out on each segment.

DOUBLE TRACK—Two main tracks, upon one of which the current of traffic is in a direction specified by railway rules, and upon the other track in the opposite direction. See *Two or more tracks*.

DUMP CAR—An open car equipped with devices for automatically dumping its contents.

ECONOMIC IMPACT—The jobs, value added, and trade dependent on rail, based on assumed traffic flows, expected traffic retention, and economic impact factors.

ECONOMIC IMPACT FACTOR—For a given type traffic, industry, commodity, and (possibly) segment, the jobs, value added, and trade dependent on rail on a per ton basis.

ENGINEER—The operator of the locomotive. The locomotive engineer is under the authority of the conductor for completing the train's assigned operations.

EQUIPMENT BOND—A bond issued to cover cost of the rolling stock equipment of a carrier. Virtually all railroads are able to finance acquisition of rolling stock in this manner.

EQUIPMENT—Locomotives and other rolling stock, floating equipment and highway vehicles used in transportation service.

EX PARTE—From only one side or party.

FEDERAL RAILROAD ADMINISTRATION (FRA)—The division of the U.S. Department of Transportation that promotes safe and environmentally sound rail transportation. The FRA employs safety inspectors to monitor railroad compliance with federally mandated safety standards including track maintenance, inspection standards and operating practices. The FRA conducts research and development in support of its safety mission and to enhance the railroad system as a national transportation resource.

FINANCIAL FEASIBILITY—Analysis of revenues and costs as allocated to segments for assumed traffic flows and assumed traffic retention.

FLANGE (on Locomotive or Car Wheels)—Projecting edge on inside rim of the wheels for purpose of keeping the wheels on the tracks.

FLAT SWITCH YARD—A yard in which switching is performed with a locomotive rather than gravity (as in a hump yard).

FORWARDED TRAFFIC—A railroad's traffic which originates on one railroad and terminates on another.

FREIGHT BILL—Document from a common carrier shipment. Gives description of the freight, its weight, amount of charges, taxes, and whether collect or prepaid. Charges paid in advanced are called prepaid freight bills. Charges collected at the destination are called destination or collect freight bills.

FROG—A device made of rail sections so constructed and assembled as to permit the wheels on one rail of track to cross another rail of an intersecting track.

GATEWAY—A point at which freight moving from one territory to another is interchanged between transportation lines. See also "Junction", also "On-Junction."

GENERAL OPERATING EXPENSES—Generally similar to general and administrative expenses in conventional accounting.

GONDOLA CAR—An open car with sides and ends, used principally for hauling coal, sand, etc.

GRADE CROSSING—A crossing at the same level (1) as between tracks or different railways; (2) as between railway tracks and highway. See also Highway-rail intersection (HRI).

GRADE, DEGREE OF—As used in connection with railway line, the rise or fall in a track expressed as a ratio to 100 feet of railway track.

HIGHWAY-RAIL INTERSECTION (HRI)—Terminology for a grade crossing developed as part of the development of a nationwide intelligent transportation system (ITS) architecture.

HOPPER CAR—A railroad car with floor sloping to one or more hoppers through which contents may be unloaded by gravity.

HORSEPOWER—Rate at which work is done when 33,000 pounds are raised 1 foot per minute, or 550 pounds raised 1 foot per second. A horsepower is equal to 746 watts.

HOT BOX DETECTOR—A wayside system for detecting excessive heat from an overheated wheel bearing on a rail car axle due to a lack of lubricant or other defect.

HUMP YARD—A yard in which switching is performed by gravity. Cars are pushed over a low hill and allowed to roll into individual tracks to be joined with other cars for the same destination or area.

INDUSTRIAL CARRIER— INDUSTRIAL LINE— INDUSTRIAL ROAD—A short railroad owned or controlled by one or more of the principal industries served by it. It may be either a common carrier with all the rights and obligations attached thereto, or merely a private carrier or plant facility. Moreover, it may, whether a common carrier or a plant facility, be separately incorporated or operated merely as a department of the operating company's business.

INDUSTRIAL TRACK—A switching track serving industries, such as mines, mills, smelters, and factories.

INDUSTRY SWITCHING—The operation of local pickup and delivery of railroad cars.

INTERCHANGE POINT—A station at which freight in the course of transportation is delivered by one transportation line to another.

INTERCHANGE—The transfer of cars from one railroad to another so that they may be used on other railroads than that of the owner.

INTERLINE FREIGHT—Freight that moves from point of origin to destination over the line of two or more transportation companies.

INTERLINE TRAFFIC—Traffic routed over the lines of two or more carriers.

INTERMEDIATE CARRIER—A transportation line over which a shipment moves but on which neither the point of origin or destination is located. See overhead traffic.

INTERSTATE COMMERCE COMMISSION (ICC)—The federal body formerly charged with enforcing acts of Congress affecting interstate traffic. The ICC was terminated by Congress in 1995 and many of its duties regarding limited regulation of the rail industry were passed on to the Surface Transportation Board (STB).

INVENTORY (noun)—A list in detail of the units (land, roadway, and equipment) comprising the physical property of a carrier as of the date of valuation.

INVENTORY (verb)—The act of counting, computing, compiling, and recording fixed and movable property of a railway.

JOINT FACILITY—Railway property which two or more carriers either jointly own, maintain or operate by formal agreement.

JOINT RATE—A rate applicable from a point located on one transportation line to a point located on another transportation line, made by agreement or arrangement between and published in a single tariff under proper concurrence of all transportation lines over which the rate applies.

JOINT TRACK—Track which is used jointly by two or more carriers.

JOINT TRAFFIC—Traffic moving between stations located on one transportation line and stations located on another transportation line.

JUNCTION POINT— (1) Any point where two carriers interchange freight. (This includes any transfer point at such junction point.) (2) A point at which a branch-line track connects with a mainline track.

LCL—Less than railroad carload lot.

LTL—Less than truckload.

LADING—That which constitutes a load. The freight in a car or vessel.

LEAD TRACK— An extended track connecting either end of a yard with the main track.

LEVEL OF SERVICE—An index of the relative freedom of traffic movement which considers such factors as— speed and travel time, traffic interruption, freedom to maneuver, safety, driving comfort and convenience and operating costs.

LINE-HAUL—The movement of freight over the tracks of a transportation line from one town or city to another town or city (not a switching service).

LOCAL TRAFFIC—Traffic moving between stations located on the same transportation line.

LOCAL TRAIN—A train which stops at all stations on its route.

LOCOMOTIVE—A propulsion engine, using electricity, steam, diesel, or other form of energy, designed to push or pull a railroad train.

LOCOMOTIVE, DIESEL-ELECTRIC—A locomotive powered by a diesel engine connected to an electric generator which furnishes the current to operate electric motors geared to the truck axles.

MAIN LINE—That part of a transportation system (railway), exclusive of switch tracks, branches, yards and terminals.

MAIN TRACK—A track extending through and between stations upon which trains are operated. Main track of switching and terminal companies is all track kept clear for the passage of trains.

MAINTENANCE OF EQUIPMENT—Repair and depreciation of rolling stock.

MAINTENANCE OF WAY AND STRUCTURE—Maintaining roadway to given standards.

MANIFEST—A document giving the description of the contents of a car or truck.

MILES OF TRACK—See Track Mileage.

MODAL SPLIT—The proportioning of trips between travel modes (i.e. truck or rail).

MODE—A particular form or method of travel for people or goods.

MULTIPLE UNIT—Two or more locomotives operating from single control point.

NARROW GAGE—A track gage less than the standard of 4 feet 8 ½ inches.

NET SALVAGE VALUE—The salvage value of a railroad's property that is retired, less the cost of removing it and recovering the salvage.

OFF-JUNCTION—The point at which forwarded or bridge traffic leaves a railroad.

ON-JUNCTION—The point at which received or bridge traffic enters a railroad.

OPERATING EXPENSES—The expense of furnishing service, including the expense of maintenance and depreciation of the plant and infrastructure used in the service.

OPERATING RATIO—The relation of a railroad's operating expenses to operating revenues.

ORIGIN—Road, segment, or station at which the freight enters the continental rail network.

OVERHEAD TRAFFIC—Revenue traffic, moving in line haul, received from and delivered to a connecting carrier. Also called "Bridge" or "Intermediate" traffic.

OWNER-OPERATOR—A truck owner and operator. Usually a single truck operator in truckload operations, frequently in competition with railroads.

PASSING TRACK—A track auxiliary to the main track for meeting of passing trains. See siding.

PER DIEM CHARGE—The rent or charge made by one transportation line against another for the use of its cars. The charge is based on a fixed rate per day.

PERISHABLE FREIGHT—Commodities subject to rapid deterioration or decay, such as fresh fruits and vegetables, dairy products, and meats, which require special protective services in transit, as refrigeration, heating and ventilation.

PHYSICAL LIMITATIONS—See “Capacity Constraints.”

PIGGY BACK—An intermodal form of transportation where trailers or containers are carried by rail and truck. See “TOFC/COFC”

PLATFORM-STATION—The prepared area adjacent to a station track for handling passengers and baggage, mail, and express, to and from trains.

POINT OF ORIGIN—The point at which freight is received from the shipper.

RAILROAD BOND—A bond issued by a railroad for the purpose of financing improvements, extensions, etc., and generally secured by mortgages on tracks, rolling stock, and other property.

RAILROAD CLASSIFICATION—See “Classification of Railroads.”

RATE—A unit charge for freight transport service.

RATE OF RETURN—The ratio of net operating income (entitled Net Railway Operating Income in railway accounting) to the value of the property in common carrier use, including allowance for working capital.

RECEIVED TRAFFIC—A railroad’s traffic which originates off the railroad and terminates on it.

RECEIVING TRACKS (YARD)—A system of tracks for receiving incoming freight trains, and from where train cars are switched to classification yard, industry tracks, team tracks, departure yard, or other points.

RECIPROCAL SWITCHING—A mutual interchange of inbound and outbound carload freight which is switched to or from a siding of another carrier under a regular switching charge. The charge is usually absorbed by the carrier receiving the line haul.

RELAY RAILS—Rails taken up from tracks where formerly used, which are suitable for relaying in other tracks.

RETIREMENT—The removal or abandonment of property which for any reason is taken out of service for which it was created or installed; fixed property moved from one valuation section to another.

REVENUE ALLOCATION—Distribution of a railroad's revenue to segments (based on mileage, etc.).

REVENUE—Income from all sources.

REVENUE TON-MILE—The movement of a ton (2,000 pounds) of revenue freight a distance of one mile.

RIGHT-OF-WAY—Lands or rights used or held for railroad operation.

ROADBED—The structure supporting the railroad track.

ROLLING STOCK—Transportation equipment on wheels.

SALVAGE—Material and its value recovered from property retired or from material used as a construction aid.

SALVAGE VALUE—The amount received for property retired, or for the material salvaged if sold; or if retained, the value at which the property or the material salvaged is credited to other asset accounts.

SCHEDULE—Table of departure and arrival times for a train.

SHIPPER—The individual or institution that originates a shipment.

SIDE-TRACK AGREEMENT—Contract between railroad and shipper establishing rights as to use and operation of a siding.

SIDE-TRACK—A short track extending alongside often connecting at both ends with main track.

SIDING—A track auxiliary to the main track for meeting or passing trains. See passing track.

SINGLE TRACK—A main track upon which trains are operated in both directions.

SLOW ORDER—An order to train crews to restrict the speed of operations to below a specified speed usually because of track conditions.

SPUR TRACK—A short track extending out from or alongside, and connecting only at one end with another track.

STANDARD GAGE (GAUGE)—The established distance between the rails of a railroad, 4 ft. 8 ½ in. Actual gage in place will vary under traffic.

STATION—A place designated in the timetable by name, at which a train may stop for traffic, or to enter or leave the main track; or from which fixed signals are operated.

STORAGE TRACK— A track on which cars are placed when not in service, or when held awaiting disposition.

STUB TRACK— A track connected with another track at one end only. See *spur track*.

SURFACE TRANSPORTATION BOARD (STB)—The federal agency given responsibility for oversight of the national rail transportation system. The STB is an independent agency of the United States government that is housed within the U. S. Department of Transportation. One responsibility of the STB is to decide whether or not to approve abandonment and discontinuance of service applications by railroad companies.

SWITCH—A track structure between two lines of track to permit cars or trains to pass from one track to another.

SWITCHING AND TERMINAL COMPANY—A company performing switching service, furnishing terminal trackage, bridges, or other facilities such as union passenger or freight stations, operating ferries, or performing any one or combination of these functions. It may incidentally conduct a regular freight or passenger service.

TANK CAR—A car used for transporting liquid in bulk.

TARE WEIGHT— (a) The weight of a container and the material used for packing; (b) As applied to a carload, the weight of the car exclusive of its contents.

TERMINAL—Facilities provided by a railway at a terminus or at an intermediate point on its line for the handling of passengers or freight; and for the breaking up, making up, forwarding and servicing trains, and interchanging with other carriers.

TERMINAL CARRIER—The transportation line making delivery of a shipment at its destination.

TERMINAL SWITCHING—The moving of cars originating at and destined to points within yard or switching limits.

TIMETABLE—The authority for the movement of trains and their schedule subject to the general rules and special instructions.

TOFC (Trailer on Flat Car)— A highway truck trailer moving via rail on a railroad flat car. Usually two trailers are moved on each flat car for intermodal movement once arriving at a rail yard where the trailers can be removed from the train and continue to their destination via truck. See COFC.

TOFC/COFC—Trailer-On-Flat Car/Container-On-Flat Car—terms, used for truck/rail intermodal interchanges and the related rail traffic. See Piggy Back.

TON-MILE—(a) A unit used in comparing freight earnings or expenses—the amount earned from, or the cost of, hauling one ton of freight one mile. (b) The movement of a ton of freight one mile.

TON-MILE REVENUE— Amount of freight revenue divided by number of revenue ton-miles. Also called revenue per ton-mile.

TRACK—An assembly of rails, ties, and fastenings over which cars, locomotives, and trains are moved. For track outside the yard environment, it may be described by its track classification, function, and average weight per yard. See Track Classification and Average Weight of Rail. Several terms for different track functions are listed below.

Bad Order—A track on which bad order cars are placed either for light running repairs or for subsequent movement to repair tracks.

Classification—One of the body tracks in a classification yard, or a track used for classification purposes.

Connecting—Two turnouts with the track between the frogs arranged to form a continuous passage between one track and another intersecting or oblique track or another remote parallel track.

Crossover—Two turnouts with track between, connecting two nearby and usually parallel tracks.

Holding—One of the body tracks in a hold yard or a track used for hold purposes.

Industrial—A track serving one or more industries.

Interchange—A track on which cars are delivered or received, as between railways.

Passing—A track auxiliary to the main track for meeting or passing trains. Same as a “Siding.”

Receiving—One of the body tracks in a receiving yard or a track used for receiving trains.

Side—A track auxiliary to the main track for purposes other than for meeting and passing trains.

Sorting—One of the body tracks in a sorting yard or a track used for sorting purposes.

Spur—A stub track diverging from a main or other track.

Station—A track upon which trains are placed to receive or discharge passengers, baggage, mail, and express.

Storage—One of the body tracks in storage yards or one of the tracks used for storing equipment.

Team—A track on which cars are placed for transfer of freight between cars and highway vehicles.

TRACK CLASSIFICATION—The designated class of a track segment that determines the maximum speed at which a train may travel over it. Designation of each segment as a certain “class” is made by FRA track inspectors based upon the condition of the rails, the condition of the roadbed, the geometric design of the right-of-way and other safety factors. The current FRA classifications of track are listed below:

<u>Track Class</u>	<u>Maximum Speed</u>	
	<u>Freight</u>	<u>Passenger</u>
Class 1*	10 mph	15 mph
Class 2	25 mph	30 mph
Class 3	40 mph	60 mph
Class 4	60 mph	80 mph
Class 5	80 mph	90 mph
Class 6**	110 mph (all)	
Class 7	125 mph (all)	
Class 8	160 mph (all)	
Class 9	200 mph (all)	

*Excepted Track—Below the regular speed-rated classes of track, FRA has established a category known as *excepted track*, which has proven critical to the continued operation of short-line railroads created by the sale of marginal lines, often not well maintained, by the large railroads. Generally, excepted track must be limited to freight-only operations at 10 mph or lower speeds, with no more than 5 hazardous-material cars per train [49 C.F.R. 213.4]. Excepted track is allowed to have gage (between-rail width) tolerances greater than for classified track.

**At the Class 6 level or higher, special requirements regarding qualifications of inspectors and methods of inspection apply. There are also restrictions on carriage of hazardous materials in the higher speed classes.

TRACK CIRCUIT—An electrical circuit, the principal part of which is formed by the rails of the track. The principal purpose of the circuit is to detect the presence of a train or rolling stock on a given section of track incorporated in the track circuit. This in turn can activate a railroad grade crossing signal.

TRACK MILEAGE—The number of miles owned and operated by a railroad company can be defined in many ways. These ways include:

Miles of Road—The aggregate length of rail right-of-way, excluding yard tracks, sidings and spurs over which transportation service is conducted.

Miles of Road Operated—The single or first main track, measured by the distance between termini, over which railway transportation service is conducted.

Miles of Road Owned—The single or first main track, measured by the distance between termini, over which railway transportation service is conducted but excluding that over which it operates but does not own.

Miles of Track—The aggregate length of track owned, including yard tracks, sidings and spurs, over which railway transportation service is conducted.

Miles of Track Operated—Total track mileage consisting of first, second, and other main tracks, and of yard tracks and sidings operated in transportation service.

Miles of Track Owned—Total track mileage consisting of first, second, and other main tracks, and of yard tracks and sidings but excluding that over which it operates but does not own.

TRACK STORAGE—A charge made on cars held on carrier's track for loading or unloading after the expiration of free time allowed. The charge is generally made in addition to demurrage charges.

TRACKAGE RIGHT—an agreement through which a railroad obtains access and provides service over tracks owned by another railroad where the owning railroad retains the responsibility for operating and maintaining the tracks.

TRAIN—A locomotive with or without cars, displaying markers.

TRAINMASTER—Directs train and switching operations in terminals, on the road, at stations, and at yards. Generally reports to a division superintendent.

TRANSPORTATION—Generally speaking, that part of a railroad's operation which is related to train movements.

TRANSPORTATION EXPENSES—The expenses directly associated with the operations of a railroad. They generally include the expenses of crews, fuel, and other related items.

TRUNK LINE—A transportation line operating over an extensive territory.

TWO OR MORE TRACKS— Used in railway operation to denote two or more main tracks upon any of which the current of traffic may be in either specified direction.

UNBALANCED TRAFFIC— A greater movement of traffic in one direction than in the other.

WAYBILL—Description of goods sent with a common carrier freight shipment. This is a negotiable document.

WAYBILL SAMPLE—A statistical sample of the waybill data that is filed by the railroad companies in the United States on a yearly basis with the FRA and the STB. The classified version of the waybill sample contains proprietary information that cannot be released to the public. Data derived from the classified waybill sample is utilized as an analysis tool by the FRA, state planners, and other transportation professionals in performing various studies, market surveys, and in planning for future rail needs as part of statewide transportation planning. An unclassified version of the waybill sample is also available for public use. This sample does not have the same level of detail in order to preserve confidentiality of a railroad companies' customers.

WYE TRACK—An arrangement of tracks in the form of a Y used for turning engines, cars, and trains.

Y TRACK—See wye track.

YARD— A system of tracks within defined limits, whether or not part of a terminal, designed for switching services, over which movements not authorized by time-table or by train order may be made, subject to prescribed signals and regulations. Different types of yards include:

Classification—A yard in which cars are classified or grouped in accordance with requirements.

Departure—A yard in which cars are assembled in trains for forwarding.

Flat—A yard in which the movement of cars is accomplished by a locomotive without material assistance by gravity.

Gravity—A yard in which the classification of cars is accomplished by a locomotive with the material assistance of gravity.

Holding —A yard for the temporary holding of cars.

Hump—A yard in which the classification of cars is accomplished by pushing them over a summit, beyond which they run by gravity.

Retarder—A hump yard provided with retarders to control the speed of the cars during their descent to the classification tracks.

Sorting—A yard in which cars are classified in greater detail after having passed through a classification yard.

Storage—A yard in which idle equipment is held awaiting disposition.

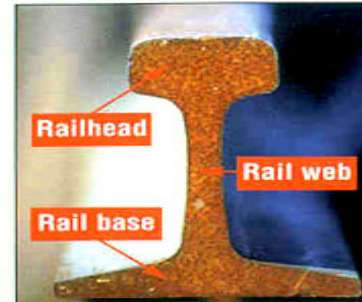
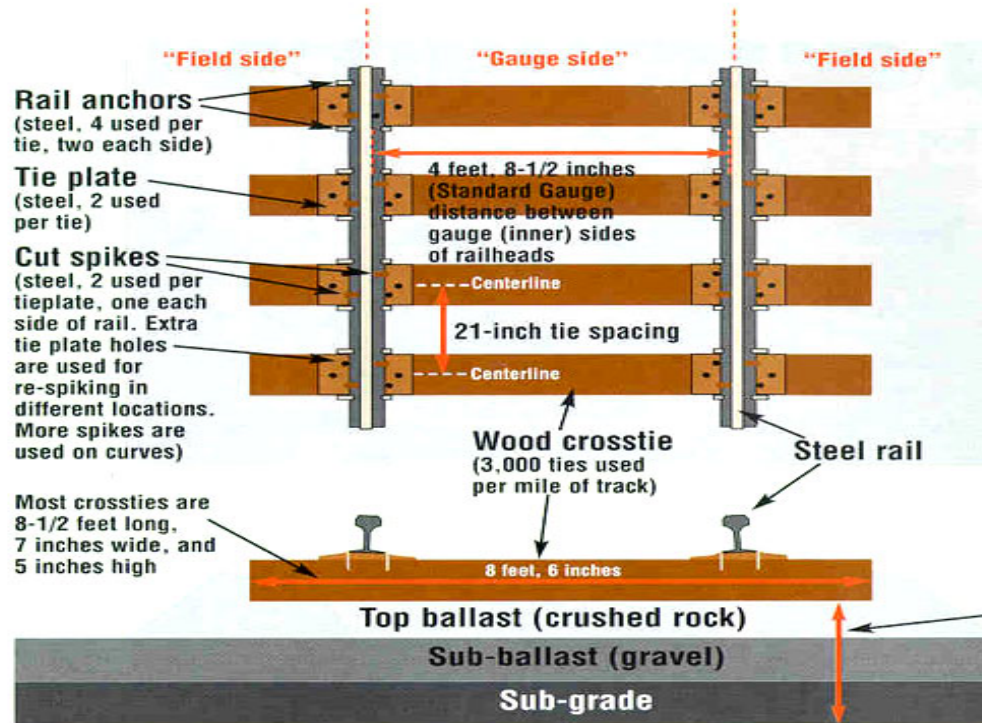
YARD WORKING CAPACITY—The number of cars that can be regularly dispatched from a yard in successive 24-hour periods.

Appendix G:

BASIC RAILROAD TRACK TERMS CHART

Railroad track: The basics

Diagram by William C. Vantuono, based upon drawings by John H. Armstrong



Chuck Fox

Steel rail is formed in the shape of an upside-down "T." The basic design hasn't changed since the early 1800s! Shown is a cross-section.

Roadbed depth is between 6 and 30 inches, depending upon use. Heavy train traffic needs a deeper roadbed

Appendix G-1

There's more than one way to fasten a rail to a crosstie



William C. Vantuono



William C. Vantuono

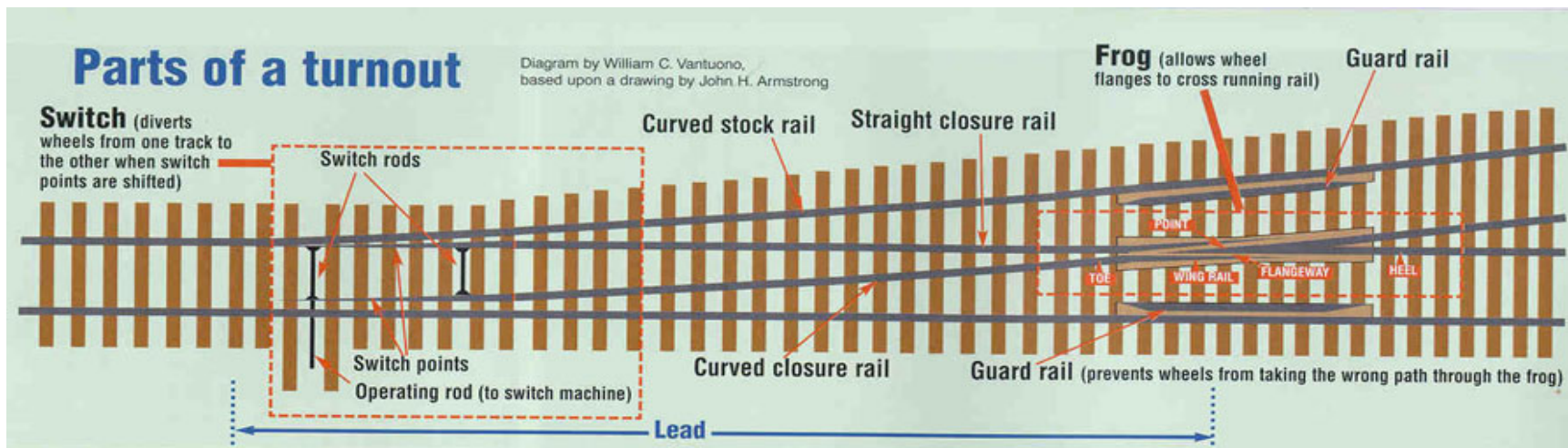


Pandrol USA



William C. Vantuono

Cut spikes (left) are used only on wood ties. "Elastic" fasteners, which are used on wood ties and concrete ties, have better holding power than spikes and are used on tracks where heavy or fast trains operate. The E-Clip (second from left), made by Pandrol, is the most popular. Pandrol's FastClip (third from left), which comes pre-installed on concrete ties, is clipped into place by a special machine after the rail is laid. The DE Surelok (right) is another popular style.



Source: U.S. House of Representatives Transportation Committee, Railroad Subcommittee Hearing on Railroad Track Safety Issues, briefing document, March 29, 2001, Available: <http://www.house.gov/transportation/ctisub3.html>.