



May 18, 2023

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Senator Benjamin Chipman, Senate Chair
Representative Lynne Williams, House Chair
Joint Standing Committee on Transportation
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

Re: Opposition of TrainRiders Northeast to Passage of LD 209, An Act to Authorize an Interim Use Trail on the Berlin Subdivision Rail Corridor LD 404, Resolve, to Direct the Department of Transportation to Implement the Recommendations of the Mountain Division Rail Use Advisory Council, and LD 1450, An Act to Fund the Recommendations of the Mountain Division Rail Use Advisory Council

Dear Senator Chipman and Representative Williams:

I am the President of TrainRiders Northeast. TrainRiders is the grass roots citizens' organization that was the driving force behind the initiation of the Downeaster passenger rail service between Brunswick and Boston and which continues to strongly support that service to this day. It also supports improvements and expansion of passenger rail service in Maine and throughout the Northeast where such expansion is rationally justifiable given current and potential economic and social conditions. TrainRiders Northeast strongly and absolutely opposes the passage of any of the above-captioned bills.

LD 209 seeks the removal of track and other rail infrastructure along the rail line on that part of the "Berlin Subdivision" between Portland and Auburn formerly owned by the St. Lawrence & Atlantic Railroad and now owned by the State of Maine, with that infrastructure to be replaced with a trail. LD 404 seeks the removal of such infrastructure on that part of the "Mountain Division" between Standish and Fryeburg. LD 1450 seeks the appropriation of \$18 million for the removal of that infrastructure from the Mountain Division, and

its replacement with a trail. Because these bills deal with a common theme and involve similar issues, TrainRiders is submitting this one letter in opposition to all three bills as follows:

I. General

- A. In 2021, the Maine Legislature passed what became 23 M.R.S. § 75, providing for the creation by the Commissioner of Transportation of a rail use advisory council (a "RUAC") upon the petition of one or more governmental entities along a state owned rail corridor. Each RUAC is to make recommendations regarding the potential uses of the corridor for which it was created, including, but not limited to, rail use, trail use, or bikeways. Each RUAC is then required to submit a report to the Commissioner on its findings and recommendations regarding the use of that corridor within nine months of the convening of its first meeting. If that report includes a recommendation of track removal or nonrail use of the corridor and the Commissioner concurs with that recommendation, then the Commissioner is required to submit legislation to be evaluated by this Committee prior to track removal or other change in use of the line for nonrail purposes.

- B. In the spring of 2022, the Mountain Division RUAC issued a report recommending the removal of rail on that line and its replacement with a trail between Standish and Fryeburg. The Commissioner concurred with this recommendation and filed what is now LD 404. LD 1450 was submitted to fund this removal and replacement of track from the Mountain Division. That bill was not submitted by the Commissioner and it appears that MDOT will be testifying against its passage. In December 2023, another RUAC recommended the removal of the rail on the Berlin Subdivision between Portland and Auburn. Although the Commissioner rejected this recommendation, LD 209 was submitted to this Legislature seeking the removal of this track and its replacement with a trail. It appears that MDOT will be testifying in opposition to passage of LD 209.

- C. TrainRiders does not oppose trails; TrainRiders only opposes removal of rails and rail infrastructure from the Mountain Division and the Berlin Subdivision and their wholesale replacement by trails. TrainRiders encourages the construction and use of properly positioned and fenced trails beside rail lines and infrastructure.

- D. As a legal matter, Maine law provides that removal of rail from these lines will be “interim” in nature and of the lines will be “preserved for future rail use”. See 23 M.R.S. §§ 75(1), 7107. **As a practical matter, however, removal of rail infrastructure from these corridors will mean that those lines will never again be used for rail.** Experience across the country shows that reconversion of a line to rail use simply becomes too expensive after rail, ballast, and other infrastructure has been ripped away, even where future rail use of the line would otherwise have been economically or socially justified. Tearing up rails destroys any future economic, social, and environmental benefits that rail use of a line could otherwise provide. On the other hand, rail with trail allows for current and future trail use, with or without rail use, while at the same time preserving future rail use as an irreplaceable economic and social asset.
- E. Whether funded by a bond issue or from general funds money, the State explicitly purchased these lines to preserve them for rail use. Therefore, the effective ability to continue to use these lines for rail purposes was a basic premise of those purchases, and any deviation from this would constitute a failure to keep faith with Maine voters and the Maine Legislature. Ripping up the rail infrastructure along these lines would constitute such a deviation by eliminating any possible future use of the lines for rail purposes.
- F. The Maine Legislature has determined that “a viable and efficient rail transportation system is necessary to the economic well-being of the State” and that “the State must take active steps to protect and promote rail transportation in order to further the general welfare”. 23 M.R.S. § 7102. The legislation authorizing the creation of RUAC’s states that any non-rail use of a State-owned rail line must be interim in nature and must preserve the corridor for future rail use as provided for in 23 M.R.S. § 75(1), 7107. At the very least, this puts a heavy burden on those who advocate for the removal of rail, ballast and other infrastructure from a State-owned rail corridor to unquestionably demonstrate that this removal will not interfere with future rail use of that line. No such demonstration has been for either of these lines.
- G. Maine law currently provides that MDOT may not convert a state-owned rail corridor to a nonrail recreational or non-recreational transportation use without following the RUAC process. See 23 M.R.S. § 7107. That same

statute provides that MDOT must also consult with a regional economic planning entity and a regional transportation advisory committee to determine that removal of a specific length of rail owned by the State will “not have a negative impact on a region or on future economic opportunities for that region” and must then seek review of any decision to dismantle or change this track for a nonrail use by this Committee. Id. It does not appear that any such consultation has occurred with respect to either the Mountain Division or the Berlin Subdivision. Therefore, each of these bills is premature.

II. Shortcomings of RUAC Reports

- A. Both the Mountain Division RUAC and the Berlin Subdivision RUAC produced reports; in both instances, these reports were substantially flawed.
- B. The RUAC reports do not provide any estimates for the value to the State of freight shipping that would be foregone if rail infrastructure were ripped from these lines. At no point was a survey conducted in either corridor as to what properties might be available for freight rail use, or what businesses along these lines might desire to use this service if it was available. Perhaps more importantly, no effort was made to determine how many businesses could be attracted to these corridors if they were improved for freight use. Conversely, no estimate of the value of the economic benefits that would be foregone if such service were not available was ever attempted by either RUAC. This is particularly important on the Mountain Division since various potential shippers have periodically shown interest in freight rail use of that line. Furthermore, Poland Spring has become a large user of rail to transport its water products and has a spring source in Fryeburg that might be a future source of freight use, particularly if a bottling facility were constructed in that locality.
- C. The RUAC reports assume that 23% of trail users would be non-local and would, on average, each spend about \$118 in the local economy around the trails. The reports include no additional local spending for rail passengers on the Berlin Subdivision and include only a minor amount of on-board spending while riders are actually onboard a train on the Mountain Division. This assumes that either: (a) rail passengers neither eat, drink, buy equipment, nor seek lodging when they reach their destinations; or (b) all

rail passengers are already making the same trip that they would be making by train and are spending no more on these items than they now do. The former assumption is ludicrous and the latter is unrealistic. Prior to COVID, 30-35% of riders on the Amtrak Downeaster service between Brunswick and Boston were monthly pass holders who were primarily commuters and who might otherwise travel along the route even if no rail service were available. This percentage has decreased since that time, leaving 70-75% of the Downeaster riders as non-pass holders. In February 2005, MDOT published a study (the "Economic Benefits Study") (available at <https://www.maine.gov/mdot/planning/docs/portlandnorth/Amtrak%20Downeaster1a.pdf>) entitled the Economic Benefits of Amtrak Downeaster Service. The Economic Benefits Study found that 22% of visitors to Maine who used the Downeaster service would not have made their trips if that service were not available. See Economic Benefits Study at pp. 3, 17, 18, Executive Summary at page b. Downeaster riders who resided outside of Maine spent an average of \$277 in this State for lodging, food, entertainment, retail and local transportation purchases on their trips. See Economic Benefits Study at pages 18, 19, 20, Executive Summary at page b. The Mountain Division RUAC report does not provide an estimate of passenger ridership along that line. However, using these figures, if 20 out-of-state non-commuter rail passengers used that line each day, then they would collectively spend \$5,540 per day, or \$2,022,100 per year in Maine. Correcting for the 54.55% increase in the Consumer Price Index from 2005 through 2023 increases these figures to \$8,562.07 per day and \$3,125,155.55 per year. Twenty such riders a day is a minimal estimate, particularly for the Mountain Division, which would be bound to include a high rate of tourist ridership. The Berlin Subdivision RUAC Report (at page 37) includes an estimate of between 76,650 to 87,600 passengers annually. Using the lower of these figures, and reducing the rate of those who would not make their trip in passenger service were not available on this line from 22% on the Downeaster to 10% on this Subdivision service, results in 7665 passengers, or an average of 21 per day, who would not have taken their trips if rail service were not offered. Multiplying this by \$277 results in new income in Maine of \$5,817 per day or \$2,123,205 per year. Correcting that \$277 figure for the CPI growth since 2005 increases these figures to \$8,990.17 per day or \$3,281,413.33 per year. Each RUAC report ignored this type of economic benefit for passenger rail use.

- D. The RUAC reports include estimates for the health effects of trail use. No such analysis was performed for rail use, ignoring the reduction in air pollution and resulting health benefits that would result from replacement of transportation by car with travel by train. Although trail use could also result in such a reduction, this would only be for short-range travel since traveling by trail over longer distances would simply not be a viable travel option for many people, including most commuters.

- E. The Mountain Division RUAC report discusses increases in property values, but then concludes that property values decrease near abandoned railway corridors since any such decrease has already occurred. This, however, misses the point, since the report should include the property value increases that would result from an active rail line and that would be foregone if the rail on that line were to be torn up.

- F. The Berlin Subdivision RUAC report also projects the development of only 37-58 new housing units around a proposed station site in Auburn, 17-26 units at Pineland, and 85-172 units at Yarmouth, would result from passenger rail service. This compares to over 400 units developed close to the Brunswick station, several hundred in Saco, 250 in Dover, New Hampshire, 100 in Durham, and 100 in Exeter after the initiation of the Downeaster service. Those numbers do not include a 60 unit residential apartment building that has been approved, or an additional 40-50 units for which a proposal is now being planned, both of which will involve construction within a few hundred feet of the Freeport station. Furthermore, the 2018 Lewiston-Auburn Passenger Rail Service Plan Transit Propensity Report prepared for NNEPRA and MDOT surveyed other studies, at least one of which concluded that by 2030 the extension of the Downeaster service north from Portland, through Freeport to Brunswick, with seasonal service to Rockland, would result in the construction or rehabilitation of over 42,000 housing units. Although many of the Downeaster stations support local populations that substantially exceed those at some of the past station stops along the Berlin Subdivision, these numbers still give a strong indication that the report issued for that RUAC has grossly undercounted the number of new housing units that should be anticipated as a result of passenger rail service on that line.

- G. The Berlin RUAC report indicates that it will cost \$274 million to upgrade the tracks between Portland and Auburn for passenger rail service. A

substantial portion of that (perhaps as much as \$60 million), however, would be for the cost of positive train control along the Berlin Subdivision, something that is only required if and when more than 6 passenger rail round trips per day utilize that corridor.

- H. The Conway Scenic Railroad made an informal oral offer to run along the Mountain Division down to Portland if the State improved it a class 2 status. That Railroad never formalized this offer, but it was not even mentioned as a consideration in the report for that line, and there is no indication that MDOT has followed up on the informal offer.

III. Other Points

- A. Membership of the Mountain Division RUAC was severely unbalanced. The statute allowing for the creation of RUAC's, 23 M.R.S. § 75(2), provides for one trail and one rail advocate to serve as members of each RUAC, along with, among others, representatives of various municipalities along the line. The Mountain Division RUAC includes David Kinsman, president of the Mountain Division Alliance as the designated trail advocate representative. Two other members of that RUAC, Terry Egan, representing Brownfield, and Dan Hester, representing Hiram, are also Mountain Division Alliance trustees. Katie Haley representing Fryeburg, is a community partner with the Alliance and Dwight Warrant, representing Baldwin, is a former "trailmaster" for the Baldwin Belt Burners, a snowmobile club. The following RUAC members also have trail backgrounds and, as far as can be determined, no rail related experience: (a) Carolann Ouellette, Director of the Maine Office of Outdoor Tourism, who was previously the Executive Director of Maine Huts and Trails for 6 years; and (b) Douglas Beck, who is the online contact person for the Recreational Trails Program of the Maine Bureau of Parks and Lands, and is included in the online posting of the Maine Trails Coalition leadership team. The Mountain Division RUAC contains no members who represent possible shippers along the line or any railroads. Thus, more than half of the members of this RUAC are affiliated with trails. Although two members of the Maine Rail Group are listed as members of that RUAC, only one, Jack Sutton, actually participated and was the lone dissenting member of the RUAC voting against interim trail use and for rail with trail. This contrasts with the more evenly balanced membership of the Berlin Subdivision RUAC, which resulted in a 7-4 vote in favor of rail

removal and replacement by a trail, with three members abstaining instead of the lopsided 12-1 vote by the Mountain Division RUAC.

- B. Rail lines cannot be considered in isolation and parts of such lines far less so. Their economic impact and operational requirements mandate study on a regional basis, since virtually all lines (including these two) connect to other rail. Neither report considered the positive impact of retention of future rail service on any area not directly contiguous to that line.
- C. This is not the time to consider ripping up the rails along either of these lines, or even rails with trails on those corridors. First, the Legislature has also directed MDOT to prepare a separate study of the potential for passenger rail use along the Berlin Subdivision. That study will not be completed until sometime next year at the earliest and its findings will have a substantial impact upon what should happen on that line. Second, COVID has changed transportation needs and desires. How this will affect future ridership trends is now unknown, so giving any decision about these lines the gift of time would enable all interested parties to make a far better decision than is now possible.

For the forgoing reasons, as well as others, TrainRiders would ask this Committee to vote out LD 209, LD 404, and LD 1450 as "Ought not to Pass".

TrainRiders appreciates this opportunity to express our views on these bills, and, as always, we are available as a resource to assist this Committee with passenger rail issues.

Sincerely,



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