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STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
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Bruce A. Van Note
COMMISSIONER

May 18, 2023

**Testimony of Meghan Russo
Maine Department of Transportation
Before the 131st Legislature, Joint Standing Committee on Transportation**

In Support of LD 404

***Resolve, to Direct the Department of Transportation to Implement the Recommendations of
the Mountain Division Rail Use Advisory Council***

Senator Chipman, Representative Williams and members of the Joint Standing Committee on Transportation, I am Meghan Russo, Manager of Legislative and Constituent Services at MaineDOT. MaineDOT supports this Resolve and is pleased to have brought it before you.

LD 404 directs MaineDOT to implement the recommendations of the Rail Use Advisory Council (RUAC) and remove 31 miles of state-owned inactive railroad track between the towns of Standish and Fryeburg and replace it with an interim bike/ped trail. This process is subject to available funding resources, permitting and municipal agreements.

This legislation is the result of the recommendation of the Mountain Division Rail Use Advisory Council which was officially formed in September 2021. After a 7- month review of potential rail and non-rail uses for the Mountain Division rail corridor from Standish to Fryeburg, the 12-member Mountain Division Rail Use Advisory Council voted 11-1 in favor of the interim conversion of 31 miles of the existing railroad track to a 10-foot-wide paved bicycle and pedestrian trail. The RUAC process was established last session during the 130th Legislature and can be found in 23 MRSA §75 (attached). It gives the Commissioner of the Maine Department of Transportation the authority to establish a Rail Use Advisory Council, upon the petition of one or more governmental entities.

The purpose of this council is to facilitate discussion, gather information, and provide advice to the commissioner regarding the future use of a rail corridor identified in the petition. These recommendations must include the benefits and costs of potential uses of the rail corridor, including rail and trail use, with the understanding that *any non-rail use of the corridor is considered interim in nature.*

The 12-member Mountain Division Rail Use Advisory Council was composed of representatives from each town along the section of rail corridor under consideration: Standish, Baldwin, Hiram, Brownfield, and Fryeburg. In addition, members included representatives from state agencies, regional planning organizations, the Portland Water District, and trail and rail advocates. A public hearing was held on March 31, 2022, in which over 150 individuals submitted written public comment for consideration. Generally, the trail use option had the most support from those who submitted comments.

As part of the RUAC process prescribed in law, Commissioner Van Note has reviewed the recommendation from the Council and have put forth this Resolve for your review. He is in agreement with the 11-members of the RUAC and hopes this project can move forward.

Should the legislature proceed with this resolve, the project would be dependent upon available resources. Funding options for the trail completion would need to be discussed among all interested parties. Any state funding contributions would be identified through our Three-Year Work Plan process. The estimated cost of completing this project is \$20.1 million. Completion would only occur once appropriate funding was identified and secured and is likely to span multiple years.

Thank you for your consideration. As always, we are more than happy to answer any questions you may have.

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Title 23: TRANSPORTATION
Part 1: STATE HIGHWAY LAW
Chapter 3: OFFICIALS AND THEIR DUTIES
Subchapter 1: DEPARTMENT OF TRANSPORTATION

§75. Rail corridor use advisory councils

1. Purpose. Upon petition by one or more governmental entities that represent communities along a state-owned rail corridor in which the department controls the right-of-way requesting the department to review a nonrail recreational or nonrecreational transportation use of that rail corridor, the Commissioner of Transportation, for each petition received, shall notify the joint standing committee of the Legislature having jurisdiction over transportation matters and may establish a rail corridor use advisory council, referred to in this section as "a council," to facilitate discussion, gather information and provide advice to the commissioner regarding future use of the rail corridor identified in the petition. The council shall review and make recommendations on the likelihood, benefits and costs of potential uses of the rail corridor, including, but not limited to, rail use, trail use or bikeways. Any nonrail use of a rail corridor must be considered by a council to be interim in nature, and all such rail corridors must be preserved for future rail use as provided in chapter 615 (../23/title23ch615sec0.html).

[PL 2021, c. 239, §2 (NEW).]

2. Membership. The Commissioner of Transportation shall invite at least 9 and no more than 15 persons to serve on a council. Membership may include:

A. The Commissioner of Transportation or the commissioner's designee; [PL 2021, c. 239, §2 (NEW).]

B. The Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee; [PL 2021, c. 239, §2 (NEW).]

C. The Commissioner of Economic and Community Development or the commissioner's designee; [PL 2021, c. 239, §2 (NEW).]

D. The Commissioner of Health and Human Services or the commissioner's designee; [PL 2021, c. 239, §2 (NEW).]

E. One or more members representing other state agencies; [PL 2021, c. 239, §2 (NEW).]

F. One member representing a statewide tourism organization or a regional tourism organization of the geographic area containing the rail corridor; [PL 2021, c. 239, §2 (NEW).]

G. One member representing a chamber of commerce or other regional or local economic development entity of the geographic area containing the rail corridor; [PL 2021, c. 239, §2 (NEW).]

H. One member representing an organization advocating for rail use or preservation; [PL 2021, c. 239, §2 (NEW).]

I. One member representing an organization advocating for recreational trail use or advocating for bicyclist or pedestrian interests; and [PL 2021, c. 239, §2 (NEW).]

J. One or more municipal officials or staff from municipalities located on the rail corridor. [PL 2021, c. 239, §2 (NEW).]

[PL 2021, c. 239, §2 (NEW).]

3. Meetings; chair. The Commissioner of Transportation shall designate the chair of a council. The department shall provide staff support to the council. The council may adopt bylaws and other policies to effectively govern its proceedings. The council shall meet at the call of the chair and shall hold a minimum of one public hearing located in the geographic area along the rail corridor for which the council was formed.

[PL 2021, c. 239, §2 (NEW).]

4. Report. Within 9 months of convening its first meeting, a council shall submit a report to the Commissioner of Transportation on its findings and recommendations regarding the use of the rail corridor, including majority and minority reports if necessary. Upon conclusion of the council's work, the Commissioner of Transportation shall disband that council.

[PL 2021, c. 239, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 239, §2 (NEW).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.

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Mountain Division Trail, Fryeburg Maine; Photo Courtesy of the Town of Fryeburg

Mountain Division Rail Use Advisory Council

Summary and Recommendations

May 2022

Mountain Division Rail Use Advisory Council

Summary and Recommendations

Executive Summary

After a 7-month review of potential rail and non-rail uses for the Mountain Division rail corridor from Standish to Fryeburg, the 12-member Mountain Division Rail Use Advisory Council voted 11-1 to recommend the interim conversion of 31 miles of the existing railroad track to an interim 10'-wide paved bicycle and pedestrian trail. The committee further recommends that snowmobiles should remain an allowable use, under annual agreement with MaineDOT, within the corridor. The committee did not support expanding allowable uses to include ATVs or other motorized recreational vehicles.

I. Background

In June of 2021, two bills were signed into law that established a new process for reviewing a non-rail recreational or nonrecreational transportation use along state-owned rail corridors. Public Law 21, Chapter 239 gave the Maine Department of Transportation (MaineDOT) Commissioner the authority to establish a Rail Use Advisory Council, upon the petition of one or more governmental entities. The purpose of these councils is to facilitate discussion, gather information, and provide advice to the commissioner regarding the future use of a rail corridor identified in the petition. These recommendations will include the benefits and costs of potential uses of the rail corridor, including rail and trail use, with the understanding that any non-rail use of the corridor is considered interim in nature. Resolve, Chapter 52 specifically directed the department to establish an advisory council for the Mountain Division line between Standish and Fryeburg. The Joint Standing Committee on Transportation received 200 submissions of written testimony during public hearings.

MaineDOT received letters of support from all communities along the rail corridor requesting the formation of a Rail Corridor Council and that the future use of the 31 miles of state-owned, inactive rail-line be studied and reviewed. The Mountain Division Rail Use Advisory Council was formed in August of 2021 and the initial meeting of the council occurred in September of 2021.

The 12-member Mountain Division Rail Use Advisory Council was composed of representatives from each town along the section of rail corridor under consideration: Standish, Baldwin, Hiram, Brownfield, and Fryeburg. In addition, members included representatives from state agencies, regional planning organizations, the Portland Water District, and trail and rail advocates:

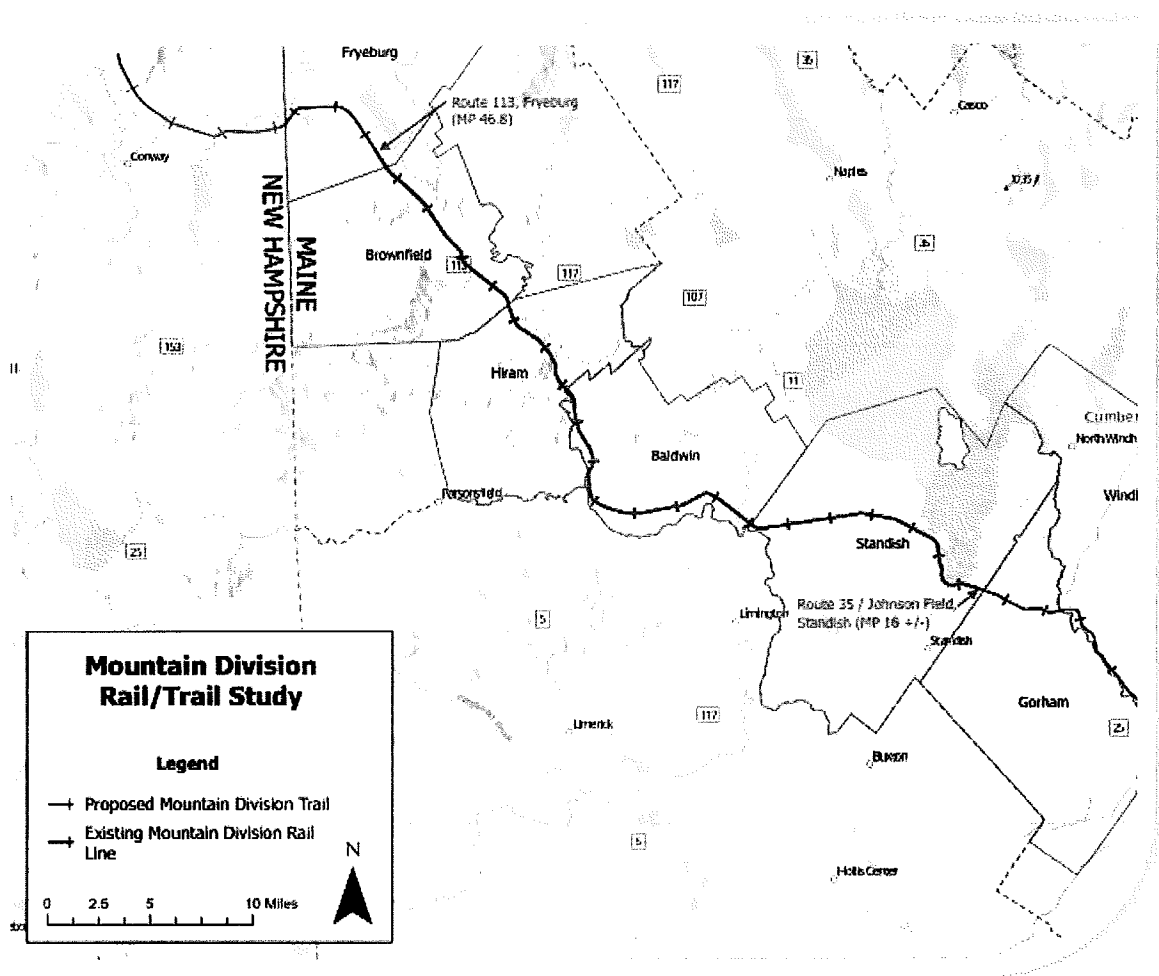
Paul Schumacher, Council Chair Executive Director, Southern Maine Planning and Development Commission	Dwight Warren Selectman Town of Baldwin
Terry Egan Brownfield Comprehensive Planning Committee	Zach Mosher Planning Director Town of Standish
David Kinsman President, Mountain Division Alliance	Paul Hunt Environmental Services Manager Portland Water District
Katie Haley Town Manager Town of Fryeburg	Carolann Ouellette Director, Maine Office of Outdoor Recreation Maine Department of Economic and Community Development
Daniel A. Hester Chairperson, Hiram Conservation Committee Member, Saco River Corridor Commission	Christopher Chop Transportation Director, Greater Portland Council of Governments (GPCOG)
Jack Sutton/Russ Barber Maine Rail Group	Douglas S. Beck Outdoor Recreation Supervisor, DACF, Bureau of Parks & Lands

The following MaineDOT Staff provided technical support and administration for the council:

- Nate Moulton, Director, Office of Freight and Passenger Services
- Nathan Howard, Director, Rail Program
- Meghan Russo, Manager of Legislative and Constituent Services

II. Location

The section of the Mountain Division under consideration included approximately 31 miles of railroad between the Sebago to the Sea Trail near the Standish/Gorham town line and Mountain Division Trail parking area at Route 113 in Fryeburg. The section corresponds to railroad mile point 15.7 to 46.82.



III. Rail Use Advisory Council Process

The Mountain Rail Use Advisory Council met 9 times from September 2021 to April 2022. The Council was Chaired by Paul Schumacher from the Southern Maine Planning and Development Commission. MaineDOT staff provided technical support and administration. The civil engineering consulting firm, HNTB, provided engineering services and prepared the Feasibility study report (Section IV).

The Council reviewed the approximately 31-mile-long section of the Mountain Division Line from the Standish town line (where the current rail-trail ends) to Fryeburg (where the rail-trail begins) for potential rail and non-rail uses. At these meetings, HNTB presented the feasibility study for future rail, rail with trail and interim trail/bikeway use options and an economic benefits study. The Council also heard presentations on various rail and trail related topics from guest speakers, council members and MaineDOT staff.

Over the course of seven months the Council considered three primary uses of the railroad corridor:

1. **Rail Use.** This option includes the restoration of freight or passenger service (or both) on the Mountain Division line. Rail use also includes the “status quo” or “do nothing” scenario as MaineDOT will continue to maintain and preserve the corridor for future rail use as required by the State Rail Preservation Act.

The council reviewed engineering estimates to upgrade the Mountain Division to either FRA Class 1 (10 MPH) or Class 2 (25 MPH) standards. These two classes allow for the operating speeds necessary for efficient freight rail service. This level of service is consistent with most other active freight railroad corridors in the State of Maine and can be achieved without a complete reconstruction of the tracks. Passenger service, comparable to the Amtrack Downeaster service, would likely require a complete replacement of the existing tracks to achieve FRA Class 3 (60 miles-per-hour maximum). Additionally, railroad signal protection systems would be required to achieve operating speeds over 59 miles-per-hour.

Additionally, Jack Sutton, from the Maine Rail Group, proposed a seasonal passenger rail service, termed the *Crown of New England*, between Portland, Maine and St. Johnsbury, VT. Details of the proposal are contained in Section V.

2. **Trail Use (Trail until rail).** This option includes the removal of the existing track materials and replacement with a 10'-wide trail surfaced with either pavement or stone dust on the existing rail bed. The conversion of the Mountain Division railroad to a trail is considered an interim non-rail use under the Rail Preservation Act requiring legislative approval.

The proposed 31-mile trail would begin near Route 35 in Standish, Maine and end at Route 113 in Fryeburg, Maine. Improvements to the existing one-mile section of trail from Otter Ponds to Route 35 in Standish (the “Jeep Trail”) was also included in this option.

MaineDOT holds an easement for rail purposes only for approximately 3 miles of the corridor from a point just west of Route 35 (Chadbourne Road) to a point just east of Smith Mill Road in Standish. The Portland Water District (PWD) owns the underlying rail corridor. Through agreements signed in December 2002 between MaineDOT and PWD, the parties agreed that a trail cannot be constructed at the location of the current rail track. At this time, an alternative trail route through this section has not been determined. However, a majority of the PWD Board indicated a willingness to explore alternative trail locations on PWD property, away from the rail corridor and the shoreline.

- 3. Rail with Trail Use.** This option includes the rail uses outlined in Option 1 and the construction of a 10'-wide trail surfaced with either pavement or stone dust adjacent to the railroad. The near edge of the trail will be a minimum of 15 feet from the near rail, in accordance with MaineDOT standards for Development of "Trail with Rail". However, this setback may be reduced to 10.5 feet if a fence meeting MaineDOT standards is installed at the edge of trail shoulder between the trail and rail.

This option would also require consideration of alternative trail locations within the PWD property as outlined in Option 2.

A public hearing was held on March 31st, 2022 in which over 150 individuals submitted written public comment for consideration. Generally, the trail use option had the most support from those who submitted comments. However, a majority of the commentators who supported trail use did not distinguish whether they supported trail until rail (Option 2) or rail with trail (Option 3).

IV. Summary of Feasibility Study

Cost Estimates

The three uses for the corridor and their associated cost estimates were subdivided based on options for FRA class of track (Class 1 or Class 2) and trail surface (paved or stone dust). A conceptual cost estimate summary of each option for use of the Mountain Division Corridor is shown in Table 1-1. The least expensive option is the Trail Only option with a stone dust surface (\$16.9 million) and the most expensive option is the Rail with Trail option with Class 2 track and a paved trail surface (\$145.8 million).

Table 1-1 Conceptual Cost Estimate Summary		
No.	Potential Use	Total Cost
Rail Use		
1A	Rail (Class 1)	\$ 52,400,000
1B	Rail (Class 2)	\$ 60,100,000
Trail Only Use		
2A	Trail (Paved)	\$ 20,100,000
2B	Trail (Stone Dust)	\$ 16,900,000
Rail with Trail Use		
3A	Rail (Class 1) with Trail (Paved)	\$ 138,100,000
3B	Rail (Class 1) with Trail (Stone Dust)	\$ 134,800,000
3C	Rail (Class 2) with Trail (Paved)	\$ 145,800,000
3D	Rail (Class 2) with Trail (Stone Dust)	\$ 142,500,000

Economic Benefits: Summary

The economic analysis presented in the feasibility study (Table 6-1) shows the expected economic activities that the construction of the various alternatives is expected to create. Results indicate that, for the lowest cost alternative (Trail Use – Stone Dust), over 200 jobs, over \$10.2 million in labor income, over \$12.2 million in value added (gross regional product, or GRP), and over \$31.5 million in output (revenue) may be created and/or supported by the construction of the proposed trail. For the highest cost alternative (Rail with Trail-Paved), over 1,000 jobs, almost \$55.5 million in labor income, \$65 million in value added, and over \$168 million in output may be created and/or supported.

Table 6-1 Expected Economic Impacts of Four Construction Alternatives				
IMPACT	EMPLOYMENT*	LABOR INCOME	VALUE ADDED	OUTPUT
Trail Use (Paved)				
Direct	110	\$5,930,000	\$3,857,000	\$17,694,000
Indirect	70	\$3,578,000	\$5,905,000	\$11,516,000
Induced	60	\$2,717,000	\$4,861,000	\$8,504,000
Total	240	\$12,226,000	\$14,623,000	\$37,714,000
Trail Use (Stone Dust)				
Direct	100	\$4,963,000	\$3,228,000	\$14,809,000
Indirect	60	\$2,995,000	\$4,942,000	\$9,638,000
Induced	50	\$2,274,000	\$4,068,000	\$7,118,000
Total	200	\$10,232,000	\$12,238,000	\$31,565,000
Rail With Trail Use (Paved)				
Direct	510	\$26,435,000	\$17,193,000	\$78,875,000
Indirect	310	\$15,951,000	\$26,321,000	\$51,336,000
Induced	250	\$12,113,000	\$21,669,000	\$37,910,000
Total	1,080	\$54,499,000	\$65,184,000	\$168,121,000
Rail With Trail Use (Stone Dust)				
Direct	490	\$25,468,000	\$16,565,000	\$75,989,000
Indirect	300	\$15,368,000	\$25,358,000	\$49,458,000
Induced	240	\$11,670,000	\$20,876,000	\$36,524,000
Total	1,040	\$52,506,000	\$62,799,000	\$161,971,000

*Employment values represent 1) annual average, not full time equivalent, and 2) temporary, not permanent, jobs. Refer to 6.2.1 for further details.

Overall, the expansion of Mountain Division Trail system as proposed for either trail use or rail with trail options is likely to result in positive economic benefits for those living near the trail, communities, and those traveling to the area for recreational purposes using the trail. Potential economic benefits include one-time construction impacts, potential property value impacts, economic impacts associated with increased visitation, and direct use and health benefits that accrue to the users of the trail.

Potential economic benefits of rail use on the Mountain Division include:

- Jobs created and additional spending associated with new rail development including rehabilitation of the 50-mile Mountain Division and construction of additional infrastructure expansion such as switching yards, maintenance facilities, etc.
- Increased local economic activities related to the ongoing maintenance of the railroad.
- Jobs created from direct employment at the railroad, support industries, and at shippers utilizing rail access.
- Lower transportation costs and expanded market opportunities for shippers
- Improved safety on public roads through reduced heavy truck traffic and reduction of highway maintenance expenditures.
- Potential for reduced air emissions from truck traffic

V. Council Recommendations to the MaineDOT Commissioner

Majority Recommendation: Option II, Trail Until Rail

The Rail Use Advisory Council recommends Option 2 –conversion of 31 miles of the existing railroad track to an interim 10'-wide paved bicycle and pedestrian trail. The recommendation was made by eleven out of twelve council members. Two members of the council were unable to attend the final Council meeting on April 14th, 2022 and voted in absentia.

This non-rail use recommendation by the Council for the rail corridor is considered interim in nature, because all such rail corridors must be preserved for future rail use as provided in the State Rail Preservation Act.

The Council felt that, such change in use will complement and add value to the existing segments of trail/bikeway on the corridor – specifically, the 4 miles of trail next to the rail in Fryeburg and the 5 miles of trail next to the rail in Windham, Gorham and Standish. With the realization of the Council's trail recommendation, a continuous, 40-mile trail/bikeway will be available for public benefit on the Mountain Division Corridor, from Windham to the New Hampshire State Line. This will bring an exceptional opportunity for economic development, public health, and outdoor recreation to an area of rural Maine in need of such investments.

Majority Recommendation: Trail surface materials

A second round of voting was conducted to determine whether the proposed interim trail should be surfaced with pavement or stone dust. The majority (7 of 12) members voted for a paved trail surface. Four (4) members indicated no preference. One (1) member voted for stone dust.

Majority Recommendation: ATVs and Snowmobile Use

A third round of voting was conducted to solicit council opinions on motorized uses. The majority (10 of 12) members voted to allow snowmobile access in the winter and to prohibit ATVs on the proposed interim trail.

Minority Recommendation: Option III, Rail with Trail (with caveats)

A single member of the council voted for Option 3 (Rail with Trail) in locations where both uses can safely co-exist. Further, Jack Sutton recommended that MaineDOT partner with New Hampshire and Vermont to explore local freight and passenger rail opportunities along the entire length of the Mountain Division. The entire minority report can be found in Appendix A.

Appendix A.
Mountain Division Advisory Council
Minority Report, April 18, 2022

My name is John T. Sutton (Jack) of Belgrade Maine, a member of the Mountain Division Advisory Council and of the MRG, Inc. (Maine Rail Group) board of directors. I submit this report in disagreement with the Council's decision of April 14, 2022 to recommend conversion of Maine's portion of the Mountain Division railroad to a paved recreational trail.

The Mountain Division railroad operated to connect the seaport of Portland via other railroads at St. Johnsbury, Vermont for east-west freight and passenger rail traffic through Maine and Canada. Today it is owned separately by the States of Maine, New Hampshire and Vermont. A segment operates privately in the Portland area and another as the Conway Scenic Railroad in New Hampshire. Although other parts in Maine and Vermont are out of service, the Mountain Division corridor represents the last significant potential east-west railroad link through northern New England. At St. Johnsbury the corridor connects with active railroads running south through White River Junction, Vermont and northward to Montreal, PQ.

A decision by any of the three state owners to convert a portion of the corridor to non-rail use could effectively destroy the corridor as a potential rail link to other railroads. For example, Amtrak's *Downeaster* would be impossible if Maine's view ended at the New Hampshire border at Rollinsford, NH. The Advisory Council overlooks the true strategic/economic value of the Mountain Division as a continuous railroad corridor to the tri-state region by assessing its potential largely based on comparative costs of trail construction vs. rail restoration in Maine alone.

These tri-state initiatives, and possibly others should be explored jointly by Maine, New Hampshire and Vermont before any unilateral decision is taken to sever the corridor. Each one aims to enhance economic development in the tri-state region from tourism marketed throughout the national Amtrak system, including greater ridership on Amtrak's *Downeaster* and *Vermont* trains.

- A seasonal "Crown of New England" passenger link between the Amtrak-served stations at Portland and White River Junction, VT via Conway Scenic Railroad in NH and St. Johnsbury, VT, with stops at important tourist destinations throughout the route. A former Maine DOT initiative called for tourists to "Come to Maine Without Their Cars".
- Consider the existing rail link from Hazen (near Whitefield, NH) to Groveton, NH to connect with the operating St. Lawrence & Atlantic Railroad to Montreal. This route via Maine's Mountain Division segment and Conway Scenic Railroad would attract passenger rail traffic between Portland and Quebec through some of the most scenic railroad

territory in New England. It would not exclude consideration of the above route between Portland and White River Junction.

- Emphasizing the economic importance of Canadian visitors to the region, and that the Saint Lawrence & Atlantic line no longer serves downtown Portland, the Mountain Division route through the Conway Scenic Railroad via Groveton, NH or via the Amtrak *Vermont* at White River Junction, VT could become a passenger rail route between Montreal and Portland, ME.

Local freight and commuter services can be accommodated within these visions. However, long distance or overhead freight is not considered here because of competing operational freight lines already operating through Massachusetts to the south and west, and to Canadian railroads to the north and west.

Parallel recreational trails are welcome wherever the two modes can safely co-exist with mutual non-interference.

In summary, the State of Maine is advised to conduct full joint exploration with New Hampshire and Vermont of the Mountain Division's potential as a continuous railroad corridor, including transportation and tourism interests, before allowing it to be unilaterally severed by a paved trail.

Respectfully submitted,
Jack Sutton, April 18, 2022