



TrainRiders NORTHEAST

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April 4, 2025

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Senator Tim Nangle, Senate Chair
Representative Lydia Crafts, House Chair
Joint Standing Committee on Transportation
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

Re: Testimony of TrainRiders Northeast in Opposition to LD 676, An Act to Fund the Recommendations of the Mountain Division Rail Use Advisory Council

Dear Senator Nangle and Representative Crafts:

I am the President of TrainRiders Northeast. TrainRiders is the grassroots citizens' organization that was the driving force behind the initiation of the Downeaster passenger rail service between Brunswick and Boston and 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 projected economic and social conditions.

TrainRiders Northeast strongly opposes the passage of LD 676. In the spring of 2022, a Rail Use Advisory Council (RUAC) recommended the removal of 31 miles of rail and its replacement with a trail between Standish and Fryeburg (part of the state-owned portion of what is known as the "Mountain Division"). MDOT's Commissioner concurred with this recommendation, and in 2023, the Legislature adopted a resolve directing MDOT "subject to available funding resources, permitting and municipal agreements" to remove this state-owned track between the Towns of Standish and Fryeburg and replace that track with a bicycle and pedestrian trail. Resolves 2023, ch. 89. Since that time, no rail has yet been physically removed, and no funds have, to TrainRiders' knowledge, been allocated for that removal, although planning for this is ongoing.

In 1989, the Maine Legislature enacted the State Railroad Preservation Act, which found that "a viable and efficient rail transportation system is necessary to the economic well-being of the State" and that the State of Maine "must take active steps to protect and promote rail transportation to further the general welfare." 23 M.R.S. § 7102. That Act also states that any track removal from a state-owned rail line must ensure "that the rail corridor will be preserved for future rail use." 23 M.R.S. § 7107. The statute

authorizing the creation of RUACs also provides that any legislation approving RUAC-recommended track removal or other change to nonrail use must provide that the removal be “interim in nature” and that the rail corridor will be “preserved for future rail use” even after that removal of rail or change in use, and this must be stated in the legislation approving the same. 23 M.R.S. § 75(1).

Ripping up rail to construct a trail obliterates any ability to preserve the line for potential rail use in the future. The cost of reinstalling rail after it has been ripped up is much higher than improving a rail line, even when the rail line is in terrible condition. For many years, federal law has provided a mechanism for rail banking in which rail, ballast, and other infrastructure are removed from a rail line and replaced by a trail, with the same legal requirement that it be held in readiness for trail removal if that becomes necessary for future rail use. Although thousands of miles of rail lines have been removed nationally, probably less than 100 miles of those lines have ever been reconverted to rail use. Instead, such reversion simply becomes too expensive after the removal of rail, ballast, and other infrastructure, and this has made renewed rail use too costly to pursue even though it would otherwise have been economically or socially justified. MDOT itself recognized this in the December 2022 draft of the Maine State Rail plan, which stated on page 60 that “once a rail corridor is converted to a different use, it does not return to rail use”. Additionally, despite the legal right for renewal of rail activities on a rail-banked line, in some instances, the outcry from trail users, NIMBYs, and others has made reversion politically impossible even where economics and social need might otherwise favor it. This was recognized as far back as the 2002 final report issued by the task force on rail transportation created by the Maine Legislature (https://lldc.mainelegislature.org/Open/Rpts/he2771_m2m32_2002.PDF), which concluded on page 15 that “Once tracks are removed, it is likely that future opportunities for rail-based or rail supported business are gone. Preserving rail corridors should include retaining existing rail.” Contrary to the explicit terms of Maine law, ripping up rail from the Mountain Division will not “protect and promote rail transportation” or preserve these lines for future rail use but, instead, will eliminate and destroy the possibility of such use of that line, destroying rail service locally as well as undercutting regional rail use throughout this State.

The Rail Preservation Act also provides that MDOT cannot dismantle or change a state-owned track to nonrail use unless and until the RUAC process has been completed (which has occurred here) and MDOT has “in consultation with a regional economic planning entity and a regional transportation advisory committee” determined that removal of the track will not “have a negative impact on a region or on future economic opportunities for that region” and this Committee has reviewed that determination. 23 M.R.S. § 7107. MDOT has never made such a determination with respect to the Mountain Division. Instead, it argues that the RUAC process constitutes that determination and that the RUAC’s process constitutes the required consultation since its members include representatives from the required entities. MDOT points to the studies and recommendations issued by the RUAC to satisfy this requirement. Those studies and recommendations, however, are those of the RUAC, not of MDOT. Furthermore, no such conclusion has been stated in any of those studies or recommendations. Finally, although representatives of such an entity and such a committee may have served on each RUAC, there has been no showing that MDOT was ever “in consultation” with that entity or committee with

respect to any such determination, that the RUAC representatives were authorized to act on behalf of that entity or committee about that determination, or that the representative even knew that he or she was putatively acting in such a role. Until such a determination has been made, consideration of LD 676 by this Committee is premature.

Despite the above, in 2023, the Legislature approved the RUAC commendation to remove rail from the Mountain Division, pending available funds, permits, and municipal agreements. Resolves 2023, ch. 89. What, if anything, has changed since that time? Plenty:

1. The Conway Scenic Railroad (the "CSR") has been strongly engaged in an effort to move forward with improving the rail on this portion of the Mountain Division so that it can provide rail service on that line. That Railroad had indicated its interest in the line during the RUAC process, as well as during the 2023 Legislative debate over the Resolve to approve the removal of rail on that line. Since then, Conway Scenic has continued and expanded its efforts to improve and then use that line for rail service.
2. The CSR initially thought that it would use the line for tourist trains between Portland and North Conway. After further consideration and investigation, it has now concluded that the line's initial use after improvement would be for freight. This would permit service to resume after a less intense and timelier upgrade of the line than would be required for a tourist train. Moreover, the CSR has found that several potential shippers already located near or on the line favor rail service. The line could then be further developed for tourists or other passengers in the future.
3. CSX has purchased Pan Am's rail lines at the south end of the Mountain Division and has substantially improved the main line going north and south from the Portland end of the line. This upgrade to freight service linking to the state-owned portion of the Mountain Division makes service from that Division to the CSX mainline more desirable to shippers.
4. CSR currently operates rail service over the New Hampshire portion of the Mountain Division from North Conway north and west through Crawford's Notch towards the Mt. Washington Hotel area. It also operates along that line between North Conway and the Maine/New Hampshire border. Recently, the Vermont Rail System has proposed reopening the west end of that Division between St. Johnsbury, Vermont, to Whitefield, New Hampshire which could provide a westward linkage of rail freight to or from Portland or elsewhere along the Mountain Division line.
5. CSR's current plan is to use its own equipment to improve the line at no cost to the State of Maine but to seek public support for the acquisition of materials for that project. This substantially reduces the cost of those improvements to the State.
6. After the line is improved, CSR's current plan would be to lease it from the State of Maine for a lengthy period sufficient to permit it to recover its initial construction and other costs

from operational income. It would also agree to maintain the line during the lease term at no cost to the State.

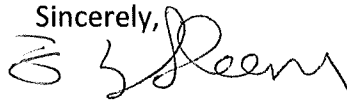
Given CSR's interest in using the state-owned portion of the Mountain Division, any efforts to obtain funds for the removal of rail from the Division must be paused until CSR can present a full-fledged proposal to MDOT, which MDOT could then review and comment upon. This is the only course of action that is consistent with Maine's Rail Preservation Act.

TrainRiders supports trails, but not if they eliminate the possibility of future use of potentially viable rail lines. Trails can be built beside rail lines within railroad rights-of-way without disturbing existing rail, as has already been done in portions of the Mountain Division running through Fryeburg, Windham, and Standish. Trail creation using this "rail with trail" option is more expensive than interim trail use but preserves the line for future rail use while allowing trails to be constructed and used. Thus, the rail with trail option, but not a trail on an interim basis, is consistent with the explicit wording and intent of the State Railroad Preservation Act since only rail with trail will preserve the rail line as a vital and irreplaceable asset for the future economic development of this State.

For all these reasons, as well as others, this Committee should vote out LD 676 as "Ought not to Pass".

TrainRiders appreciates the opportunity to comment upon this bill, and, as always, we are available as a resource to assist this Committee with passenger rail issues.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Bruce Sleeper", written in a cursive style.

F. Bruce Sleeper, President
TrainRiders Northeast
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