

Appendix D

Abandonment Process: Federal and State Legislation and Procedures

HB 221, passed by the Kentucky General Assembly in 2000, established the Rail Trail Development Office and funded the Kentucky Abandoned Railroad Corridor Inventory Project. The Rail Trail Office, at the present time, consists of one person: Lee Creech in the Department of Local Government. The responsibilities of the office include monitoring abandonment activity in the state, sharing abandonment information with affected and interested parties, and providing information and technical assistance to local agencies or citizens who would like to develop a trail or apply for funding. In addition, the office will coordinate and promote rails to trails efforts in various organizations at the state level.

The Surface Transportation Board processes all railroad abandonments. There are three types of rail line abandonments. The first is a Regulated Abandonment and this is used for lines that are still in service. This process is quite long and involves extensive documentation by the railroad to prove their loss of income and reasons for wanting to abandon the line. There is plenty of time for trail advocates to become involved in this process as it can take up to three years. This type of abandonment is not very common in Kentucky.

The second type of abandonment is a Notice of Exemption Abandonment. This is used in cases where the line has not seen service for two or more years. The railroad is exempt from many of the rules that apply to abandoning a line that was still in service. This is the most common type of abandonment in Kentucky and there is a limited window of opportunity for trail advocates to petition for reuse of the rail line.

Trail advocates have the opportunity to make a Trails Use request after the STB has permitted a railroad to abandon a corridor. If the railroad consents (it is optional) to negotiation on trail use, the parties have 180 days to negotiate. This time period may be extended for an additional 180 days if the parties request it to continue negotiations. When an organization wishes to make a Trails Use request it must supply a map of the rail corridor (including the mile posts) proposed for the trail, a statement that demonstrates its willingness to accept financial, management, and liability responsibility for the trail, and an acknowledgement that, under Railbanking laws, the corridor is subject to the possibility of future reactivation of rail use.

The third type of abandonment is a Petition for Exemption Abandonment. Although railbanking procedures are the same, this allows the railroad to use the procedure of an exempt abandonment for a line that has been in service in the previous two years. The company must petition the STB to be approved as an exempt line through economic and traffic documentation.

Traditionally, it has been difficult for local trail advocates to enter the abandonment process and request reuse of a rail line because of the complicated requirements and the limited time to respond. One of the goals of the creation of the state Rail Trail Development Office is to assist local communities with this process and by monitoring abandonment activity so that communities can be notified in a timely manner. The Kentucky Rails to Trails Council has also begun to provide assistance to local groups in this matter.

More information on this procedure is available from the State Rail Trail Development Office, Kentucky Rails to Trails Council, and the national Rails to Trails Conservancy.