

**To:** The Members of the House Transportation Committee

**From:** Michele Boomhower, Division Director, Policy Planning & Intermodal Development (Aviation, Rail, and Public Transit) Division, Agency of Transportation

**Date:** March 14<sup>th</sup>, 2025

**Re:** Rail Banking Status of the State of Vermont Rail Trails

As a follow-up to questions regarding this topic posed in Committee on Tuesday of this week, I offer the following:

1. Each of the [State owned Rail Trails](#) are indeed railbanked through the Surface Transportation Board [Railbanking](#) process.
2. For railbanked lines (e.g., LVRT), the trail sponsor (i.e., AOT) is under an obligation to maintain the corridor for possible resumption of active rail service and interim trail use. Although the meaning of availability for "interim trail use" is somewhat vague, the concept is elastic enough to allow for the corridor to be temporarily closed for repairs. If AOT wanted to permanently shed its trail sponsor obligations, it would have to obtain approval from the federal Surface Transportation Board (STB).
3. When the State owns a rail trail parcel in fee simple, there is no risk of reversion even if the rail trail use is discontinued. (Note that without railbanking parcels which the original railroad acquired by condemnation, generally these lands are deemed to be held as easements only, subject to reversion, while parcels acquired by negotiation by are held in fee simple unless the original deed had some kind of reversionary language.

On the railroads (and rail trails), the "fee" vs. "easement" determination has to be made on a parcel-by-parcel basis. Typically, each mile of railroad right-of-way will have at least a half dozen separate parcels (more in village areas that were already developed at the time of the railroad's construction).

Determination can be quite tedious. You start by looking at the railroad valuation plans (prepared by the railroads circa 1917-1919 under the supervision of the old Interstate Commerce Commission), [which VTrans has available online for the State-owned railroads and rail trails](#).

Each plan sheet covers a mile of railroad and shows the individual parcels making up the right-of-way, along with references to the book/page in the town land records for each original acquisition. Each parcel acquired by condemnation has a reference to a "Commissioners' Award" ("C.A."), which means that the parcel almost is certainly was acquired as an easement for railroad purposes. Each parcel acquired by deed will have a reference to the original acquisition deed, which

means that the parcel likely is held in "fee" unless the actual wording of the deed indicates intent to convey only an easement for railroad purposes. Parcels held through adverse possession (i.e., where there is no surviving documentation for the acquisition) generally are deemed "easements."

Keep in mind that even if a parcel was originally acquired as an easement for railroad purposes, it's also possible that the railroad subsequently acquired the underlying fee simple interest (for example, by purchasing the abutting land to build a yard or repair shop).

Nineteenth century land records are handwritten and can be quite challenging to interpret. (This is particularly so for the younger generation, who were not trained in cursive writing.)