

# 39

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BOARD OF SUPERVISORS  
EL DORADO COUNTY  
9:14 am, Dec 07, 2010

**LATE DISTRIBUTION**  
Date 9:14 am, Dec 07, 2010

FW: Historical rail road tracks  
Matthew hunt  
to:  
bosthree  
12/05/2010 06:34 PM  
Show Details

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**From:** Matthew hunt [mailto:globalfloordesigns@sbcglobal.net]  
**Sent:** Sunday, December 05, 2010 6:33 PM  
**To:** 'bosone@edcgov.us'  
**Subject:** Historical rail road tracks

I have been in the county for 25 years graduated El Dorado High School in 1990.

These rail road tracks must not be removed!!!

Over this weekend the crowds of people were lined up to get their chance to ride. We need more of these kind of rare opportunity's in this county.

The county needs these tracks not more bike trails!!!

This is the foothills not suburbia.

Merry Christmas.

Matthew

Yes on Revised Trails Resolution (10-1169.2A.2)

Cris Alarcon

to:

John Knight, Ray Nutting, Jack Sweeney, Ron Briggs, Norma Santiago, Suzanne Allen De Sanchez

12/05/2010 07:48 AM

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*Yes on Revised Trails Resolution (10-1169.2A.2)*

Hello Board of Supervisors Members,

I have put together a short video explaining why I support the updated resolution for the Trails, and why Rails must have primacy under the Rails to Trails Act.

See this video:

<http://www.youtube.com/watch?v=HHsHxReJwhA>

Text of video:

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I support the new trails resolution, but not the November version.

Q: Is that because you are against trails?

A: Oh no. I love trails. Horse riding trails are the best.

Q: Then what was wrong with the November resolution?

A: It missed the point of the Rails to Trails act, and it was a power grab.

Q: Is not the Trails to Rails Act a way to convert rails to trails?

A: No!

Q: What?

A: No, in fact preserving the rails is one of the primary dictates of the Act.

Q: Are you sure? Where did you hear that?

A: What we call Rails to Trails Act, AKA, the 1983 amendment to the National Trails System Act, is actually U S code TITLE 16 CHAPTER 27 § 1247. And the main action is set out in sub-section (d).

Q: And?

A: The Act reads: "In furtherance of the national policy to preserve established railroad rights-of-way for future reactivation of rail service". And also: "use shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes".

Q: I read that Starting in the 1970s, our nation's rail corridor system was at risk of becoming irreparably fragmented.

Like the difficulty of putting Humpty Dumpty together again, it would be virtually impossible to recreate our national rail corridor system after it was broken into hundreds of parcels of land, due to the difficulties and costs. This led to the Rails-to-Trails Act.

A: Right on! Rail-trails are subject to a unique and complex, mix of federal and state law. Many rail-trail conversions are "railbanked" under Section 8(d) of the National Trails Systems Act, often called "the Railbanking Act" or the "Rails-to-Trails Act." This important federal law, enacted by Congress in 1983 to preserve established railroad corridors for interim trail and future rail use, preempts state or local laws that are inconsistent with these goals.

Q: If the goal is to preserve the rails, Then why is it called Rails to Trails?

A: Because on both side of the rails are easements between 60 and 120 feet wide. As well as preserving the rails for future re-activation, these easements are a great place to establish a large interconnected trail system.

Q: OK. Then it is NOT trails instead of rails. But it is trails added to rails.

A: That is right, it is a win win deal. Preserving the rails wins. And expanding the trails system wins.

Q: What was wrong with the old resolution?

A: It tried to eliminate the priority for rails.

Q: But I thought "Rails to trails" was to preserve the rails.

A: That is right.

Q: How did they fix the resolution?

A: It is a balanced compromise that clearly states that, first, we want a great trail system. Secondly, that we are complying with the letter and intent of the Act to preserve the rails for future use.

Q: I am glad that our law makers only make laws that comply with the law.

A: You pretty smart. Would you like to go on a hike?

Q: Yes. But I would rather mountain bike. Are you game?

A: You bet, let's hit the trail!

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Cris Alarcon

World Wide Business Services  
<http://www.current-events-news.com/managingnews-1.2/>



To the El Dorado County Board of Supervisors:

I urge you to formally add the "no rail removal" provision to the former Southern Pacific El Dorado County right-of-way "trail priority" resolution. The track and trail will complement each other in many ways, such as:

Trains can carry bicycles. Trail users would have the option of using the train for part of a trip (perhaps in the uphill direction), and the trail for the rest.

Costs and volunteer labor synergies exist for maintenance of the right of way with both track and trail.

Train and rail users can watch out for each other's safety. In tight spots where the trail must be close to the track, trains or railcars can slow down and possibly put out flag persons.

Also, I have heard that some dialog has begun between rail and trail advocates on matters such as these.

PLEASE don't rip up the rails

Michelle Herzog

to:

bosone, bostwo, bosthree, bosfour, bosfive

12/06/2010 07:57 AM

Show Details

Dear Supervisors,

My wife and I were raised in El Dorado County. I've been here since 1960. Military service and other work took us away for several years, but we returned to raise our kids. I've watched the heritage and history of the county being paved over, and watched large areas of the county turned into East Sacramento suburbs.

There is an effort now to further the rape of El Dorado County's history. Well meaning city people want to rip up the rails west of Missouri Flat to extend the paved bicycle trail. This effort is misguided!! I have walked and bicycled the rail right of way between Shingles and Misouri Flat Road. It's a good path, and could be improved without ripping out the historic rail lines.

I have also ridden the rails this weekend on the rail utility cars running from Shingle Springs. What fun for my son and I!! Both days of this event drew large crowds, which has to have boosted business in Shingle Springs. Can you imagine when restoration of the old Shay engine is complete? Wouldn't it be great to see that historic steam engine pulling a passenger car along the tracks, between El Dorado and Shingle Springs, and potentially all the way to Folsom?

I appreciate people's enjoyment of the paved bike trail. I walk and bike that trail, and periodically take trash grabbers and bag to collect trash along the trail to clean it up. ( No doubt you've read the Mountain Democrat articles detailing the problems that trail has created for it's neighbors. As one of the folks who clean it up, I can tell you those reports are not exaggerated. )

There is sufficient room on the rail right of way to improve the existing bike/hike trail west towards Folsom without ripping up the tracks. Private fundraising...not tax dollars or selling rails, should pay for that. **In tomorrow's BOS discussion of the future of the bike trail, Please include language to prevent removal of the rails.**

**Thank you for your consideration of this effort to preserve a living piece of El Dorado County's history for our future generations.**

Sincerely,

Steve Herzog  
Somerset  
(530) 957-1307



**Item 10-1169 on Today's Meeting Agenda**

**Bill Wilde** to: bostwo

Cc: bosthree

12/07/2010 06:13 AM

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Dear Supervisor Nutting:

I would really like to attend the meeting today but I cannot as I am out of town at attending a funeral.

I have a few brief comments as a county resident that I would appreciate your considering on the resolution about the rail corridor:

I fully support the retention and use of the rails and appreciate the Supervisors adding language to the resolution to do this.

Regarding the trails having "priority", can this be worded in the resolution in such a way as to not hinder any additional incremental construction of railroad infrastructure such as sidings (passing tracks) and station facilities that may be necessary to running a viable railroad? With most of the right of way at 100 feet or greater, there is room for both uses.

Thank you very much for your consideration of this item. I feel the railroad and trail with both benefit the county and I look forward to using both.

Bill Wilde

Railroad Tracks

Thelma White

to:

bosthree

12/05/2010 04:03 PM

Show Details

Dear Mr. Sweeney

My family and I moved from the Bay Area to El Dorado County six years ago. Our five-acre property backs onto the railroad tracks that are currently being debated by the county. One of the main reasons we moved here was because of the wonderful California history this county can lay claim to-including the historical railroad tracks.

If these tracks are removed, a part of our county and state history will go with them. WE URGE YOU TO SUPPORT A MULTI-USE PROGRAM TO SAVE THE RAILS. There is plenty of room in the corridor for both rail and trail enthusiasts. Please don't chink away at our history until all we have left are memories.

As a side note, my family and I have tried twice this weekend (both Saturday and Sunday)to buy tickets for the rail rides (jitneys) being staged at the Shingle Springs Depot. These rides were offered between 10:00 am and 4:00 pm, but by 1:00 pm, the rides were completely sold out. What does that tell you?

Thank you for your time and consideration to support the multi-use rail/trail system.

Thelma White

Shingle Springs

(530) 676-1380

Re: My response to "Friends of El Dorado Trail resolution

Bob Snyder

to:

Ron Briggs, John Knight, Ray Nutting, Norman Santiago, James Sweeney

12/06/2010 03:15 PM

Show Details

12-06-2010. 3 PM

Evidently I had the wrong e-mail saddress for some of you, so I'll try again!

Attached, plaes find my response to the upcoming "Friends of El Dorado Trail" resolution.

Bob Snyder



Bob Snyder

Box 99

El Dorado, Ca. 95623

530-344-7842

Dec 04-2010

An open letter to counter the recent e-mail from "Friends of the El Dorado Trail".

To whom it may concern;

I urge you to vote FOR Jack Sweeney's addition to the proposal submitted by "Friends of El Dorado Trail". It is ONLY by adopting this addition that there is a guarantee that "friends" won't remove rails, because it "costs less to use the rail fill that is there, vs. building an entirely new trail bed" as Mike White told me.

For the past 6 months this "Friends" group has been strongly campaigning to "Extend the Class 1 bicycle trail". They have been told several times that, "Extending the Trail is a good thing, but because there are others who want to use the RAILS, it cannot be done IF the rails have to be removed". Yet, even after professing a desire to "share" at the special meetings with Russ Nygaard, here they send out another e-mail complaining about unfair treatment because Jack Sweeney added an unwelcome phrase when he proposed an amendment to the resolution, stating that it was ok to extend the Trail, so long as the Rails Remain in Place!

I couldn't help but notice the 2 DIFFERENT sides this group is taking! In one part of the e-mail they are saying that the trails extension is in jeopardy because of the addition. Yet the last sentence states that they profess an "...attempt to put trails on an even playing fields with trains". Now I ask you, "If they are so intent upon a 'level playing field' then Why does an addition to the resolution preventing them from removing rails put them in so much 'jeopardy'?? If they are willing to SHARE the corridor, why is removing the rails so important? Just how do they expect a train to operate without rails? I fail to see where that constitutes a "Level playing field"!

Now just WHAT is so "unfair"? Jack's resolve to Keep the present rail corridor open to all who are willing to SHARE it, or to this "Friends" group who ONLY want their Trail, even if it denies those who want to use the rails??

As Russ Nygaard, Tom Fossom, Jack Sweeney and others have REPEATEDLY stated, "There is plenty of room for a Trail alongside the present tracks. Sure, there are places that are going to require some extra effort, but that is what a "Multi Use Trail Corridor" is all about. It means "Learn to share".

If they are unable to share this corridor, then I suggest they move their sights a few miles to the north and link up with the trail that is there now! It's also a part of the El Dorado County Trail system.

While I'm at it, may I also point out that according to a recent presentation before the Board of Supervisors, some 5 MILLION dollars that is dedicated toward the El Dorado County Trails system is currently sitting UNUSED!

Bob Snyder

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Takings Issues: Revised Trails Resolution (10-1169.2A.2)

Cris Alarcon

to:

John Knight, Ray Nutting, Jack Sweeney, Ron Briggs, Norma Santiago, Suzanne Allen De Sanchez

12/06/2010 06:35 AM

Show Details

Takings Issue related to trails Priority over Rails.

For most of those with property adjacent to the tracks, this is a private property takings issue.

I want to add this to the record as it relates to the Taking of property easements for the use of public trails.

In many cases, about 150 years ago, the federal government established the railway system and easements on both sides of the railway to service and maintain the railway. These easements were often upon the adjoining landowner's property and were to be reverted if the trains went away.

This worked well until the 1970's when our nation's rail corridor system was at risk of becoming irreparably fragmented. Some rail lines became underused and unprofitable. Several major railroads went bankrupt, and carriers began abandoning rail lines at an alarming rate. Like the difficulty of putting Humpty Dumpty together again, it would be virtually impossible to recreate our national rail corridor system after it was broken into hundreds disconnected segments.

As the rails went away, so did the easements that went with them. Many landowners successfully reclaimed the rights to these abandoned easements.

The loss of these railways was seen as a National loss of a resource that could not be replicated in the future. In the 80's a new federal strategy to preserve rails and add infrastructure for recreational opportunities onto the easements was established.

The new strategy did two things: First it established a mechanism to preserve abandoned tracks; secondly, it established a mechanism allowing a new claim to be placed upon those easements in the form of non-motorized transportation. Many called this new claim a "Takings".

This Taking was upheld as lawful by the Courts when it ruled that the Federal Government had found: "Congress apparently believed that every line is a potentially valuable national asset that merits preservation even if no future rail use for it is currently foreseeable" [Preseault v. ICC, 494 U.S. 1 (1990).]. As such, the National priority of preserving the rails trumped private property rights in this case.

Andrea C. Ferster, the Washington, D.C. General Counsel of the Rails-to-Trails Conservancy since 1992 said, "The law on rails-to-trails conversions is still evolving, particularly in the 'takings' litigation". I am sure our own County Counsel would concur.

The plurality decision in the Preseault case held that the application of the Railbanking Law is a category of government action that constitutes a per se taking.

As the Supreme Court explained, "Under any view of takings law, ... some rail-to-trail conversions will amount to takings..." Subsequent "takings" cases have focused on whether claimants can establish, under the applicable state law, a property interest in the railroad corridor that would have become possessory but for the application of the Railbanking Law.

The fundamental premise of the railbanking program was that once a rail corridor is placed in railbanking status, the railroad is entitled to reinstitution rail service on the line. At the time of the initial rail-trail conversion, the possibility of rail service reactivation is, by definition, remote. Nonetheless, prudent trail managers must anticipate that contingency in order to protect their substantial investment in the acquisition and development of the trail and associated facilities in the event of rail service reactivation. Any removal of rail infrastructure would be considered as temporary and subject to restoration costs. In our county, the use of the rails by a train is real and happening now on limited sections. Its expansion from Placerville to Folsom is something that must be considered when analyzing the cost to restore any altered rail infrastructure.

If the County were to appear to subvert the fundamental premise of the rail to trail act by subrogating the preservation of the rails to the establishment of new trails then we may lose the authority of the Congressional Act and the private property takings protections offered by that enabling federal legislation.

In a World of many conflicting interest, priority is everything. If we pass a resolution that passes priority from Rails to Trails then it can be argued that we are not acting under the authorities of the Rails to Trails Act and therefore are Taking private property for public use without compensation.

If we ignore the purpose of the Act and establish a policy in conflict with the Act, not only do we expose the county to litigation, but also we are just wasting time and taxpayer's money. A key feature of the federal railbanking law is its express preemption of conflicting state law. This Act already predicted, and overruled any state or local government from establishing laws in contradiction with the Federal Act.

Today we are in a budget crisis and we cannot afford to waste any money on unnecessary lawsuits or unbudgeted repair or restoration to the rails. The resolution as revised fixes many, albeit not all, of the defects of the original version.

Cris Alarcon, Placerville, CA

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Cris Alarcon

World Wide Business Services

<http://www.placerville.info>

530.564.0006

**'In God We Trust'**

Will be on every e-mail I send out from now on because, I don't want to lose our right to say it!.

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Keep RR for the RR  
Lance & Angela Johnson  
to:  
bosfour  
12/04/2010 11:24 AM  
[Show Details](#)

Dr. Mr. Briggs,

I know that there is a push to make the RR right-of-way a trail for bikes and pedestrians, but if it is lost to that use, then procuring a new right-of-way for RR would be impossible in this day and age. It should be preserved for train use as that is the most efficient method of transporting goods long distance. Once the right-of-way is lost, you will never get it back.

Thank you,

Lance Johnson  
Cameron Park

Keep RR for the RR  
Lance & Angela Johnson  
to:  
bosfour  
12/04/2010 11:24 AM  
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Thank you,

Lance Johnson  
Cameron Park