

**REPORT TO THE TRANSPORTATION LEGISLATION REVIEW
COMMITTEE ON RAIL ABANDONMENTS
AND THE POTENTIAL FOR RAIL LINE ACQUISITIONS**

**PREPARED BY
THE COLORADO DEPARTMENT OF TRANSPORTATION**



September 2018

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Introduction

The purpose of this report is to provide the Transportation Legislation Review Committee (TLRC) with the Colorado Department of Transportation's (CDOT) report on rail abandonments and recommendations relative to possible rail line acquisitions. This is the 21st report submitted by the Executive Director of the Department to the TLRC on rail abandonment pursuant to 43-1-1303 (3) C.R.S.

Over the course of the past year, there have been a few notable new actions and/or developments pertaining to rail abandonments or potential rail line acquisitions within Colorado.

In December 2017, following the Surface Transportation Board's (STB's) ruling and arbitration, V & S Railway agreed to sell the rail line, tracks and facilities, formerly known as the NA Towner line, to KCVN and Colorado Pacific Railroad for \$10 million. KCVN intends to operate the line in the future for agricultural freight purposes.

As reported in the 2017 SB 37 Report, Union Pacific Railroad's Burnham Yard in central Denver is considered a high risk for abandonment or sale. The yard, adjacent tracks, and surrounding right-of way and property has potential opportunities for RTD, the City of Denver, CDOT's Central I-25 corridor and Front Range Passenger Rail.

The Tennessee Pass Line, owned by Union Pacific Railroad (UP), is included in this report. UP has not expressed any intentions of abandoning the line, despite the fact that it has not operated freight trains on the line in many years. However, several groups, both private and public, have inquired about utilizing the line for tourist train operations and bicycle trails.

Many of the general rail planning activities, which have appeared in prior reports, are no longer included in this report. Rail planning activities are documented in the 2018 State Freight and Passenger Rail Plan, which was approved by CDOT's Transportation Commission in August. The plan is currently under review by the Federal Railroad Administration (FRA). Once accepted by the FRA, the State Freight and Passenger Rail Plan will be published and posted on CDOT's Transportation Matters website.

Part I provides **Background Information** on Colorado's rail system and Legislative and Transportation Commission actions.

Part II describes **Abandonment Activities**, which have occurred over the past year.

Part III lists the **Recommendations** of the Department.

Part I: Background

(A) Rail System in Colorado

The Colorado rail system currently includes both a freight rail network and a limited passenger rail network. The role of the railroads and rail transportation in the state is to provide efficient and safe transportation choices for the movement of goods and people while connecting effectively to the other transportation modes. The rail system in the state is an interconnected component of much larger regional, national and global multimodal transportation systems and economies.

Currently 14 privately owned freight railroads operate in Colorado. These railroads own more than 2,800 miles of track in the state and currently operate on 2,684 miles of those tracks. This represents about 1.9 percent of the nation's 140,000 miles of network track. The extent of this network is also reflected in the fact that 48 of Colorado's 64 counties are directly served by the freight rail network. There are two Class I railroads in Colorado, BNSF Railway and Union Pacific (UP). Combined they operate over 80 percent of the freight track miles and carry the majority of rail freight in the state.

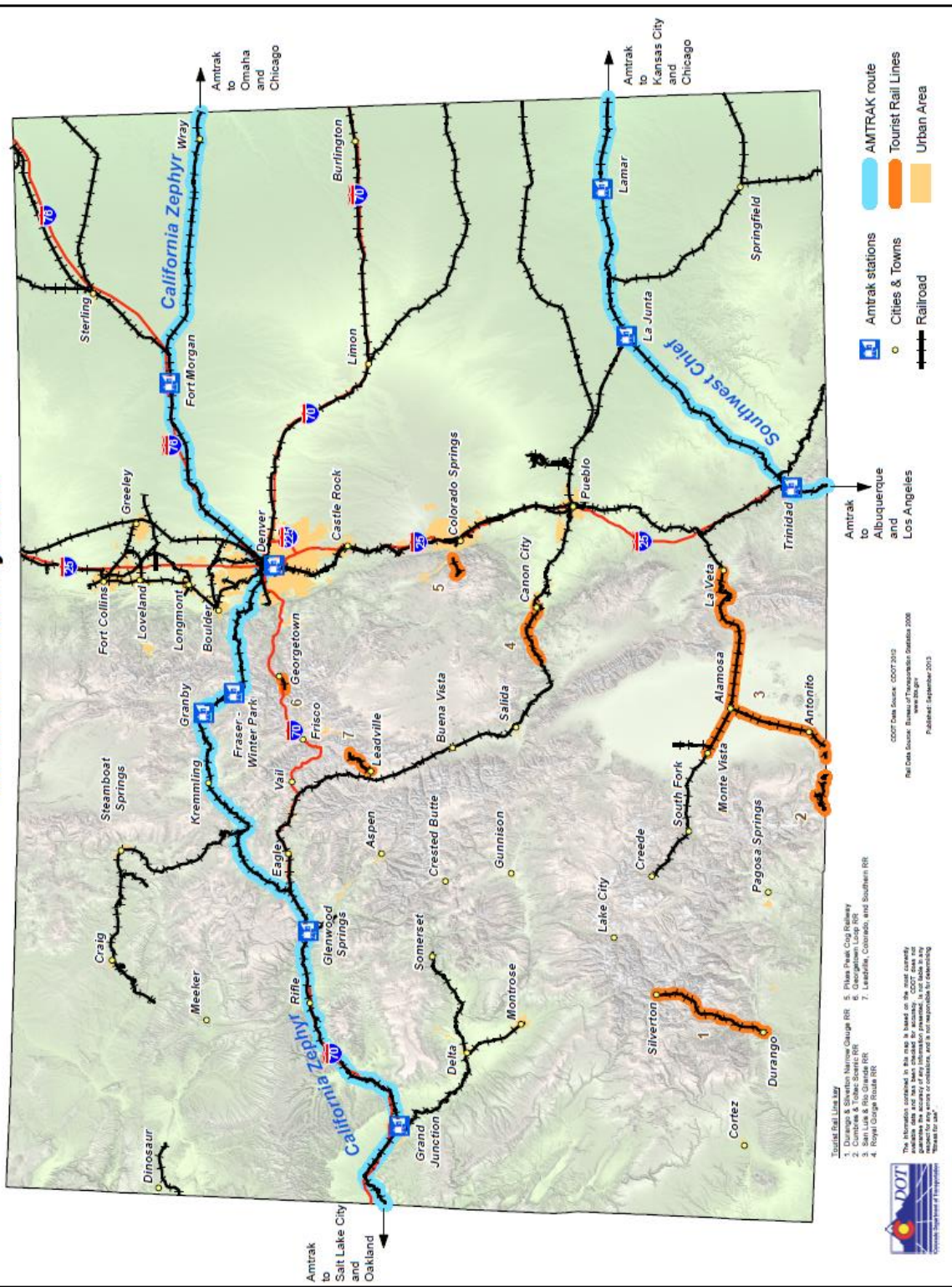
In addition, there are 12 short line railroads in Colorado comprising 20 percent of freight track miles in the state. They primarily provide localized service with connections to the Class I railroads. They principally serve the agricultural industry as well as the oil & gas industry and are very valuable assets to both local and statewide economies.

The passenger rail system in Colorado is presently very limited. Outside of the Regional Transportation District's (RTD) light rail and commuter rail lines in the Denver metro area, Amtrak provides passenger rail service with two routes that pass through the state. The Amtrak routes use existing freight tracks and rely on freight railroad infrastructure to be maintained and/or upgraded for efficient service. These two routes are:

- The California Zephyr, which runs daily between Chicago and San Francisco. Colorado stops include Fort Morgan, Denver, Fraser/Winter Park, Granby, Glenwood Springs and Grand Junction. Much of this service operates over Union Pacific track.
- The Southwest Chief runs daily between Chicago and Los Angeles. Colorado stops include Lamar, La Junta and Trinidad. Much of this service operates over BNSF Railway track.

Colorado previously had two additional Amtrak routes that were discontinued in 1997 due to reductions in federal funds. These two trains were the Pioneer, operating between Denver and Seattle and the Desert Wind, operating between Denver and Los Angeles by way of Salt Lake City and Las Vegas.

Colorado Rail System



Colorado has eight tourist railroads, which showcase Colorado’s history and offer trips through Colorado’s scenic outdoors. These scenic & tourist lines are located in Cripple Creek/Victor, Durango/Silverton, Georgetown, Leadville, Manitou Springs/Colorado Springs, Cañon City, and two near Alamosa. The Pikes Peak Cog Railway closed during the 2018 season due to infrastructure and equipment concerns. At present, the railroad is determining actions necessary for service resumption. Fires and storm damage affected the Durango & Silverton and the San Luis and Rio Grande Scenic railroads during the summer of 2018 but the railroads remain in operation, albeit with modified service.

(B) Colorado Legislative Actions

1997 SB 37 / CRS 43-1-13-3 CDOT Report to Legislature

In 1997, the General Assembly enacted Senate Bill (SB) 37, concerning the disposition of abandoned freight and passenger railroad rights-of-way in Colorado. According to this legislation and resulting state statute (CRS Title 43, Part 13 – Acquisition of Abandoned Railroad Rights-of-Way, 43-1-1303 rev. 2013), an existing rail line, railroad right-of-way or an abandoned railroad right-of-way is eligible for acquisition by the Department, if the Executive Director determines it serves one or more of the following purposes:

- (1) Preservation of the rail line for freight or passenger service;
- (2) Maintenance of a rail corridor for future transportation purposes or interim recreational purposes;
- (3) Access to surrounding state manufacturing facilities, agricultural areas or other locales that may be adversely affected by the loss of rail service or loss of railroad corridor; or
- (4) Any public use of the rail line or railroad right-of-way that is compatible with the future use as a railroad or other transportation system.

The legislation also requires the Colorado Transportation Commission to review any property determined to be eligible for acquisition and approve the acquisition before the Executive Director submits the prioritized list of rail lines or rights-of-way to be acquired to the Transportation Legislation Review Committee (TLRC) (43-1-1303)(2)). Policy Directive 1607, and the State Freight & Passenger Rail Plan, both described further below, are CDOT Commission and staff-level implementation of the SB 37 legislation.

43-1-1308 C.R.S., states, “the members of the TLRC shall make a written report setting forth its recommendations, findings, and comments as to each recommendation for the acquisition of railroad rights-of-way and their uses and submit the report to the General Assembly.”

43-1-1301(3) C.R.S., stipulates that the “Executive Director shall submit a prioritized list with recommendations to the TLRC concerning the railroad rights-of-way or rail lines to be acquired by the state and their proposed use.”

2017 SB 17-153 / CRS 43-4-1001 Southwest Chief and Front Range Passenger Rail Commission

On May 22, 2017, Governor Hickenlooper signed into law, this replacement and expansion of the former Southwest Chief Commission. In addition to CRS 43-4-1001, the bill amended sections of law pertaining to the relationship of this Commission with CDOT. See 24-1-128.7 8(a) and 8(b).

The original five voting members are appointed by the governor (see 1-5) and six additional voting members were added (see 6-11), appointed by their organizations. Two non-voting members are retained (see 12-13).

1. Public rail transportation advocate
2. Public rail transportation advocate [more general description replaced one previously targeting tourism representative]
3. Representative of Class I Freight Railroads (i.e. BNSF Railway)
4. Representative of Class I Freight Railroads (i.e. Union Pacific Railroad)
5. Resident of Huerfano, Las Animas, Otero, Prowers, or Pueblo County
6. Representative of North Front Range Metropolitan Planning Organization (NFRMPO)
7. Representative of Denver Regional Council of Governments (DRCOG)
8. Representative of Pikes Peak Area Council of Governments (PPACG)
9. Representative of Pueblo Area Council of Governments (PACOG)
10. Representative of South Central Council of Governments (SCCOG)
11. Representative of the Regional Transportation District (RTD)
12. Representative of Amtrak (non-voting)
13. Representative of Colorado Department of Transportation (CDOT) (non-voting)

This Commission has a two-part responsibility:

1. Assume and complete the mission of the Southwest Chief Rail Line Economic Development, Rural Tourism, and Infrastructure Repair & Maintenance Commission, as it existed prior to July 1, 2017, by continuing to coordinate and oversee efforts by the State and local governments and cooperate with the states of Kansas and New Mexico, Amtrak, and the BNSF Railway to ensure that the track repairs and upgrades required for the continuation of existing Southwest Chief Rail Service in Colorado are completed, that such service is extended to Pueblo, and that benefits of extending such service to Walsenburg are fully explored; AND
2. Facilitate the future of Front Range Passenger Rail and, in so doing, to specifically develop draft legislation to facilitate the development of a Front Range passenger rail system that provides passenger rail service in and along the Interstate 25 corridor and that is a well-integrated component of a modern, efficient, and cost-effective multimodal transportation system

(C) Past Transportation Commission Actions

The Transportation Commission believes that certain significant rail corridors represent an irreplaceable state transportation resource and that it is critical to preserve them. That is because once they are lost; the cost of recreating equivalent corridors in the future will be prohibitive.

In June 2000, the Colorado Transportation Commission first approved a **Rail Corridor Preservation Policy, also known as Policy Directive 1607**. The policy directive was updated, and approved by the CDOT Transportation Commission in August 2014. The updated policy directive states the reasons why rail transportation is important to Colorado. (See Attachment A.)

In order to facilitate a more comprehensive examination of which rail corridors are of interest to the State, the Transportation Commission directed CDOT staff to identify State Significant Rail Corridors. In November 2000, CDOT prepared a list of **State Significant Rail Corridors**, which were adopted by the Transportation Commission as part of the Statewide Transportation Plan. The criteria used to identify these State Significant Rail Corridors included existing and potential future demand for passenger and freight services and local/regional support for the preservation of the corridor.

In August 2018, the Transportation Commission approved the updated Colorado State Freight and Passenger Rail Plan. The Plan serves as a framework for future freight and passenger rail planning in Colorado. The plan is currently under review by the FRA. It contains the most recent information concerning the forecast growth of freight and passenger rail operations and includes an updated short-term (4-year) investment plan, and a long-term (20-year) investment vision. The Rail Plan identifies the State's priority strategies and actions to implement them.

Part II: Abandonment Activity “Watch List”

When a rail line is not economically viable to operate, the result is often either (1) the sale of the line, usually from the two Class I national railroads (UP and/or BNSF Railway (BNSF), to small, regional railroad companies; or, (2) a formal request for abandonment to the federal Surface Transportation Board (STB) by the owner of the rail line. Rather than abandon a line, a larger railroad company will usually solicit bidders for the purchase of the line by a short line operator or regional railroad in an effort to maintain rail service along the line. These smaller railroad companies usually have lower operating costs and do not need the same volume of business on the line as the larger railroads to be profitable.

The ability to respond quickly to a potential abandonment can be an important factor in ensuring corridor preservation: once a Request to Abandon has been formally filed with the STB, abandonment can take place in as little as 90 days.

The issue of rail lines being abandoned is of statewide importance due to the impact these abandonments may have on the remainder of the transportation system. As lines are lost, the freight that was being moved by rail must then be moved by truck, causing additional deterioration (i.e. pavement surface condition and/or traffic volumes) of the local roadways and/or state highways. In addition, some businesses cannot survive without access to a rail line, thereby causing these businesses either to relocate to another area in the state or to move out of state, resulting in negative economic impacts, locally or statewide. In addition, once a railroad corridor is abandoned, it is unlikely it will be returned to rail service or be available for any transportation purpose, especially if the rail tracks are salvaged and the Right-of Way (ROW) is sold or reverts to adjoining property owners.

The Department will continue to monitor short line railroads in the State to ascertain their current financial status and to examine the prospects for their continued survival because they continue to be an important part of Colorado’s future.

Towner Line

During the 1998 Legislative Session, HB-98-1395 was passed by the Legislature and signed by Governor Romer, allocating \$10.4 million to the State Rail Bank to purchase the Towner Rail Line, which runs from NA Junction to Towner, from the UP and to subsequently lease or sell the line to a short line operator. The line was purchased from the UP in July 1998 and subsequently advertised for sale. In March 2000, CDOT leased the Towner Line to the Colorado Kansas and Pacific Railway Company (CKP) for five years with an option to buy. CKP operated rail service on the line from April 2000 until June 2004.

In 2005, CDOT signed a lease-purchase agreement with Victoria & Southern Railway (V&S). Details of the purchase agreement specify that V&S Railway would operate the line for six years in adherence with State and Federal regulations. The lease specified that CDOT had the first

right to repurchase the line, should V&S Railway be unwilling or unable to continue operations post-purchase agreement.

In January 2006, the V&S (operating as VST) began rehabilitation and improvements of the Line, which included track repair and replacement, repair of active crossing equipment, and returning the track to Class II operating standards (25 mph max operating speed). Grain movements commenced in September 2006. In April 2008, the Line experienced the loss of two bridges and roadbed damage due to fires in the Ordway area. VST repaired the Line, and was able to restore full service. The two locomotives used on the line were moved to Mississippi for other V&S operations. V&S had a standing agreement with WATCO, an independent rail operator, to transport freight along the line, when required, under the VST name.

V&S exercised its right to purchase the line on October 4, 2011. On this date, V&S presented CDOT with certified funds of \$9,356,000. This money was deposited into the State Rail Bank. These funds were transferred by the legislature into the general fund.

On December 1, 2011, CDOT received formal notice of intent from the Victoria and Southern Railway to abandon 79.5 miles of the Towner Line, from N.A. Junction to Eads, Colorado. As required by 43-1 Part 13, CDOT notified the legislature of the availability of the line. The legislature chose not to exercise the State's right of first refusal.

In December 2012, V&S notified CDOT of its intent to abandon the remaining 39.5 miles of the line from Eads, Colorado to Towner, Colorado.

On May 14, 2014, V&S filed a notice of Exemption Abandonment with the STB to abandon the remaining 39.5 miles from Eads to Towner, Colorado. The STB rejected the petition on June 17, 2014 "because this transaction requires further scrutiny," based on filings made by interested parties claiming V&S has failed to meet all required legal requirements.

On July 28, 2014, KCVN LLC notified V&S, CDOT, and others of an offer to purchase the Towner Line from V&S for \$10.0 Million cash, and transferred \$1.0 Million in earnest money to V&S for that purpose. KCVN intended to have a third party perform an inspection of the track and property as a condition of purchase.

In mid-August 2014, V&S began removal of track between NA Junction and Haswell. V&S asserted the 2012 discontinuance of service entitled V&S the legal right to remove track. KCVN challenged that assertion. The case between the two companies went before an Administrative Law Judge with the Surface Transportation Board. On June 2, 2016, CDOT submitted a letter of support to the Surface Transportation Board in support of KCVN's proposed acquisition of the line. CDOT's support was reflective only of the merits of maintaining the line for transportation options and not regarding specific issues being debated before the Surface Transportation Board.

On July 31, 2017, the Surface Transportation Board issued a decision ordering the sale of the line from V&S to KCVN. The parties chose to participate in Board-sponsored arbitration to

determine the net liquidation value of the line. In December 2017, arbitration ended, resulting in an agreement for KCVN to purchase the line for \$10 million was approved by the STB.

Burnham Yard (UP)

In November 2015, Union Pacific (UP) made the decision to close the Burnham Shop repair yard in central Denver due to a decline in coal shipments and a desire to consolidate maintenance activities. Union Pacific plans to prepare the 70-acre locomotive repair yard, located east of Interstate 25 between West Sixth and West Eighth avenues, for sale. There are about two dozen buildings on the site, which is currently zoned for industrial use. The site is approximately 4,700 feet long on the longest side by 800 feet wide at the widest point.

The most important CDOT facilities in the vicinity are Colfax (US 40 Business) to the north, I-25 to the west, Santa Fe / Kalamath to the southeast (south of I-25 it is US 85), and 6th Avenue to the southwest (US 6 begins at I-25 and continues west). CDOT's interest relates to I-25 between Alameda and 6th Avenue, which is constrained by the South Platte River on one side, and the Consolidated Main Line (CML) on the other. If CDOT needs to expand I-25 in this section, the Burnham Yard could be used to relocate the CML or relocate industrial businesses nearby.

The relevance to CDOT's public sector partners of this site are as follows:

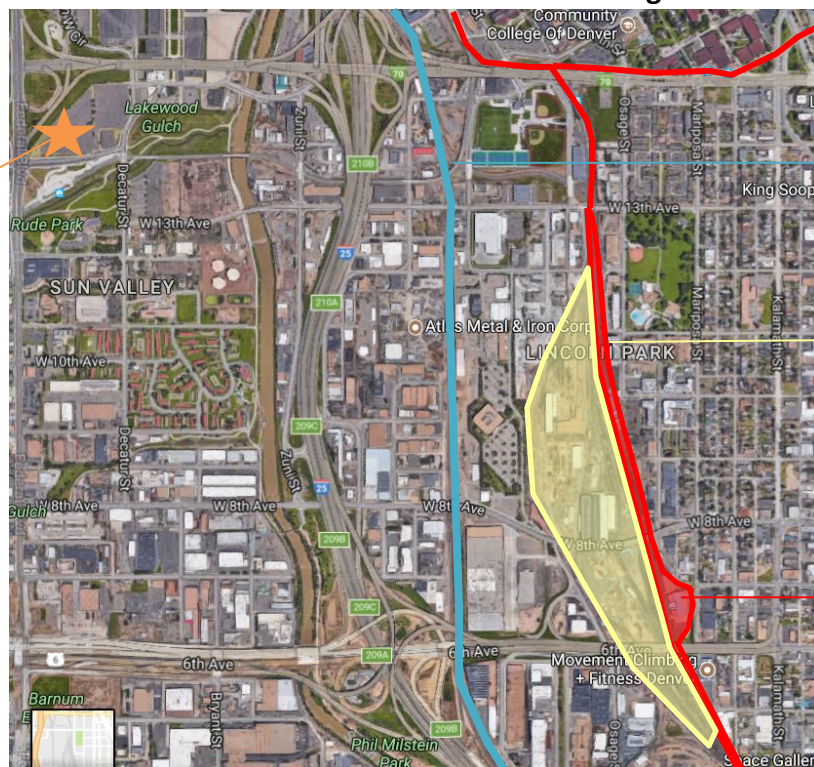
- For RTD, it is of importance to the ability of RTD to expand light rail operations. To expand service for both central downtown and Denver Union Station destinations, RTD needs quadruple tracks in this area. Although RTD does not need the entire Burnham Yard site, it would benefit from a right-of-way purchase west of, and along the existing light rail and Mariposa facility site. In its 2018 board-approved budget, RTD set aside \$6.87 million to purchase a 40-foot section of the Burnham Yard property adjacent to the RTD right-of-way between 4th Avenue and 13th Avenue, allowing for the addition of a third and fourth track in the Central Corridor.
- For intercity / Front Range commuter rail purposes, a 40 to 60-foot right of way purchase west of, and along existing RTD light rail and Mariposa facilities would be required for safety separation from through-freight trains. This would be in addition to the RTD need. CDOT's Interregional Connectivity Study (ICS), the high-speed rail study, makes note of this.
- For intercity / Front Range commuter or high-speed rail purposes, the whole site could potentially be acquired as the maintenance and storage facility for trains overnight.
- It is also of importance because it could potentially relieve freight train stoppages through the commercial & residential properties in Lower Downtown Denver. Freight rail shipments "stage" or hold trains in or near downtown to sequence the movements of trains south of Denver, over Monument Pass / Palmer Divide.

Burnham Yard and Surrounding Area

Colfax Ave / US 40

New
CDOT HQ
& R1

6th Ave / US 6



Freight railroad
Consolidated Main
Line (CML)

UP Burnham Yard

RTD Light Rail &
Mariposa Facility

Source: underlay aerial photo by Google, overlay colors by CDOT.

Next Steps

- CDOT will remain in close contact with Union Pacific regarding abandonment schedule.
- The State Legislature will be notified if further action is needed before the next annual report on abandonments (before September 2019).
- CDOT is currently conducting a Planning and Environmental Linkages (PEL) Study of Central I-25 between Santa Fe Drive and 20th Street. This six-mile segment of I-25 is Colorado's primary urban transportation core. It is utilized for trips through the area and to regional and local connections, including downtown Denver employment, commerce, entertainment, and residences.
 - The PEL will identify causes of congestion and consider options to improve travel time and reliability in this highly congested corridor. A range of improvements will be evaluated and prioritized for future project development. The study also includes the evaluation of environmental impacts, coordination with federal, state, and local agencies, and public involvement.
 - The project team is working with local agency representatives and area stakeholders to identify needs and opportunities for this segment of I-25 and collecting data for existing and future traffic volumes, number and locations of traffic accidents, and environmental conditions.

Tennessee Pass Line (UP)

The Tennessee Pass line runs 178 miles from near Gypsum, through Eagle, Edwards, Avon, and Minturn, under Tennessee Pass (by tunnel) and along the Arkansas River via Leadville, Buena Vista, Salida, and Cañon City to Pueblo. The Tennessee Pass line has been identified as significant to CDOT because of its potential to carry both passengers and freight, and because it is the only existing trans-mountain alternative in Colorado to the Moffat Tunnel line, which often runs near capacity. The Tennessee Pass Line may serve as an alternate route as trans-mountain rail demand grows due to increased development on the Western Slope or if the Moffat Tunnel were damaged or closed for any reason. Such an event would have a significant impact on Colorado, particularly on the Western Slope, since the railroads would be forced to move freight through Wyoming.

The Royal Gorge Route Railroad currently offers scenic, tourist rail trips on 12 miles of the Tennessee Pass Line west of Cañon City. CDOT often receives inquiries from parties interested in operating commuter and/or tourist operations on the line. Additionally, the line is considered desirable by bicyclists as a rail-to-trail corridor and was identified as one of 16 priority trails by Governor Hickenlooper in 2016. Although no freight has been shipped across the full Tennessee Pass Line since 1996, recent conversations with the UP indicate that they do not intend to abandon this line in the near future.

Fort Collins Branch Line (UP)

The Fort Collins Branch line is a line that runs southeast from Fort Collins to Milliken and Dent, then east to La Salle. It is identified as a Rail Corridor of State Significance since it connects Greeley and Fort Collins to the North I-25 corridor, and was identified as part of the preferred alternative in the North Front Range Transportation Alternatives Feasibility Study (NFRTAFS, March 2000). This line does not appear to be at risk of abandonment at this time. However, it should be noted this branch line was not included in the Preferred Alternative of the North I-25 Environmental Impact Statement (December 2011). The North I-25 EIS does, though, recommend a new commuter rail line connecting the commuter rail line in Longmont and the north end of the RTD FasTracks North Metro Line. CDOT will continue to monitor activities on this rail line but it will not be considered a potential line for acquisition until such time as conditions may warrant.

Southwest Chief

Amtrak's long distance route, the Southwest Chief, is included in this 2018 SB37 report because there are still 48 miles of track in need of replacement in order to complete the project. In 2017, the Commission submitted an application for TIGER IX funding, with Colfax County, New Mexico as the lead. The TIGER IX award for the Amtrak Southwest Chief Stabilization Project will continue work along the route. Grant funds requested were \$17.5 million to be matched

with \$9.2 million in funding from the state of New Mexico, Colorado and Kansas; local communities and organizations along the route; and financial support from BNSF and Amtrak. Federal grant funding awarded to this project under TIGER IX totaled \$16 million, with a total project cost estimated at \$26.7 million. To date, the TIGER IX Grant has not been obligated due to ongoing negotiations with Amtrak.

Part III: Recommendations

There are no major rail lines in Colorado, which have been abandoned in the past year that impact the state's transportation system.

The Department is recommending the following actions as noted below:

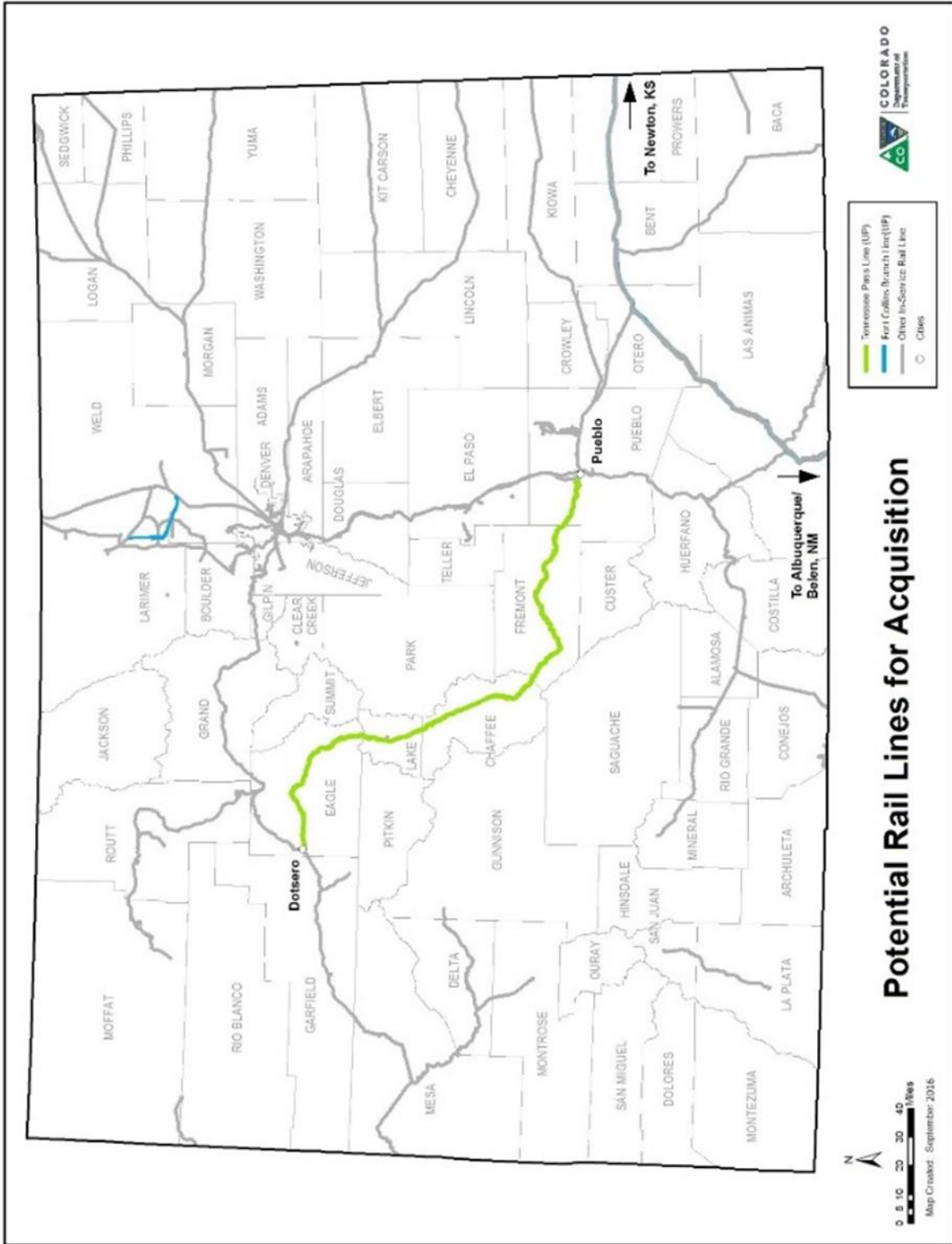
Abandonment/Acquisition Recommendations

The Burnham Yard in central Denver is considered to be at high risk of abandonment or sale at the current time. The Department of Transportation will continue to monitor this property and adjacent right-of-way through the Central I-25 Planning and Environmental Linkage Study. The site may also provide an opportunity for future Front Range Passenger Rail operations and will be considered in the Service Development Plan. *If/when the Burnham Yard is sold, the Department should evaluate the site to shift freight railroad operations to the east, which would allow for eventual widening of Central I-25, if necessary. The Southwest Chief and Front Range Passenger Rail Commission should also evaluate the yard for future passenger rail service.*

In addition, the Department of Transportation is recommending continued monitoring of activities on the Tennessee Pass and the Fort Collins Branch Lines. While there is no indication that the UP will abandon these lines in the near future, the Tennessee Pass Line has not been used for freight movements in over 15 years and interest has been expressed for other uses, such as passenger train service and a bicycle trail. *If either of these lines is abandoned the state should consider purchasing them to preserve them for freight and/or passenger service in the future.*

Maintenance Recommendations

The Southwest Chief and Front Range Passenger Rail Commission should pursue additional funding (e.g., TIGER/CRISI grants) to finance necessary repairs on the Raton Pass Line. It is estimated that the line will require further investment of \$41 million on 48 miles of track within the next 5 years in order to maintain adequate track quality, sufficient speeds, and continued operational reliability. It is critical that the Commission continue negotiations with Amtrak as it evaluates its long-distance routes.



Part IV: Attachments

Policy Directive 1607 on Rail Corridor Preservation Policy

Surface Transportation Board Decision on KCVN, LLC and Colorado Pacific Railroad, LLC
(formerly known as the NA Towner Line)



COLORADO

Department of Transportation

Office of Policy and Government Relations

4201 E. Arkansas, Room 275
Denver, CO 80222

RELEASE MEMO

To: All CDOT Employees

From: Herman Stockinger / Mark Imhoff / Debra Perkins-Smith *AS*

Re: Updated Policy Directive 1607.0 "Rail Corridor Preservation Policy"

Date: August 22, 2014

-
1. Name of Policy Directive: 1607.0 "Rail Corridor Preservation Policy"
 2. Date of PD this Directive Supersedes: June 30, 2000
 3. Executive Summary: This updated Policy Directive provides identifying criteria to be used in identifying passenger and/or freight rail corridors of State interest and describes the respective activities in which CDOT may engage regarding the preservation or abandonment of rail corridors. It provides transparency to external public and private partners and guidance to internal staff implementing its terms.
 4. Office to Contact with Questions: Division of Transit and Rail
 5. Procedural Directive will be Implemented by: Division of Transit and Rail and Division of Transportation Development
 6. Effective Date: August 22, 2014



COLORADO DEPARTMENT OF TRANSPORTATION		<input checked="" type="checkbox"/> POLICY DIRECTIVE <input type="checkbox"/> PROCEDURAL DIRECTIVE	
Subject			Number
Rail Corridor Preservation Policy			1607.0
Effective	Supersedes	Originating Offices	
8.22.14	6.30.2000	Division of Transportation Development and Division of Transit & Rail	

I. PURPOSE

The purpose of this Policy Directive is to provide a framework for determining under what conditions CDOT will participate in passenger and/or freight rail transportation by identifying criteria to be used in defining passenger and/or freight rail corridors of State interest and describing passenger and/or freight rail activities in which CDOT may engage.

II. AUTHORITY

Transportation Commission pursuant to § 43-1-106(8)(a), C.R.S.

§ 43-1-104, C.R.S., (authority and responsibilities of Division of Transit & Rail)

§ 43-1-1301, *et seq.* C.R.S., (providing authority to CDOT to acquire abandoned rail rights-of-way)

III. APPLICABILITY

This Policy Directive applies to all Divisions and Regions of the Colorado Department of Transportation.

IV. POLICY

A. The Colorado Department of Transportation shall participate in passenger and/or freight rail transportation in a manner consistent with its legal authority, when such participation serves to advance statewide transportation or economic interests, which include but are not limited to:

1. Preserving rail corridors for future passenger and/or freight rail use where the state can avoid the purchase of an equivalent corridor in the future.
2. Passenger and/or freight rail transportation may be needed in certain corridors to supplement the highway system and to provide adequate mobility, market access and travel capacity.
3. Passenger and/or freight rail transportation can be demonstrated to be a cost-effective and/or environmentally preferable mode of transportation of significance to communities.

4. Preserving and/or enhancing existing freight rail service to reduce the state highway maintenance costs, and to avoid the transportation of displaced rail freight which may increase deterioration of the state highway system.

B. CDOT identifies state significant rail corridors in the State Freight & Passenger Rail Plan and the Statewide Long Range Transportation Plan. The following criteria shall be used to identify those corridors:

1. Existing or potential future demand for passenger/freight rail services.

a) Corridor significance can be presumed in the corridor if it is recommended in an adopted alternative analysis/feasibility study, planning & environmental linkage (PEL) study or similar study.

b) Corridor significance can be presumed if the rail corridor is within, adjacent or parallel to a transportation corridor identified in the Statewide Long Range Transportation Plan as needing significant capacity improvements.

c) Designation of a corridor for freight rail purposes should only be considered when freight rail is necessary for the economic health of a community, area or region. This is determined based on the following factors:

(1) When there are no other reasonable modes of transport that can economically serve the needs of the community; or

(2) When abandonment of freight service in a corridor significantly impacts a parallel state facility.

d) If the rail corridor has present/future use as a significant statewide or national freight corridor.

2. Local and regional support for corridor preservation.

a) Public support may be measured in terms of adopted land use plans supportive of rail transit or freight rail, local transportation and financial commitments.

b) Private support may be measured in terms of committed resources, personnel or other economic development strategies.

C. If a corridor is identified as a state significant rail corridor, CDOT shall, where feasible and prudent, design and construct roads and related structures to preserve right-of-way sufficient to accommodate future passenger / freight rail service.

1. In addition, if a corridor is identified as a state significant rail corridor, CDOT may engage in, but is not restricted to, preserving rail right-of-way through:

a) Purchase: CDOT may allocate funds to purchase currently operating, embargoed railroad rights-of-way, rail lines identified/proposed for abandonment, or newly designated rail corridors for rail.

b) Purchase/Lease Back: CDOT may purchase right-of-way/track and sell or lease back to another entity to operate in the corridor.

c) Coordination with Railroad Companies: Engage private railroad companies in partnership to ensure that private railroad improvements in state significant rail corridors accommodate reasonably anticipated future transportation activities that serve the state transportation interests.

d) Cost Sharing: CDOT may share the cost of reserving railroad right-of-way for future transportation improvements with other private or public entities.

D. If a corridor is not identified as a rail corridor of state significance, but is identified in an adopted regional plan, the state may:

1. Cost Share: Share the cost of reserving right-of-way for future transportation improvements with other private or public entities.

2. Incorporate future rail into highway design and construction: Where feasible and prudent, design and construct roads and related structures to preserve right-of-way sufficient to accommodate future passenger / freight rail service.

E. The following criteria should be considered when prioritizing the above activities for funding:

1. Magnitude of impacts upon adjacent highways. An estimate of the increased or decreased maintenance and reconstruction cost implications of diverting rail freight to truck transport on parallel state highway corridors should be evaluated considering present and future needs.

2. Immediacy of the possible abandonment of an existing rail line that may result in subsequent private/public activity encroaching on the existing or future rail right-of-way. An estimate should be made to determine how soon actions may occur by public or private developers or railroads that are likely to jeopardize an existing or future rail corridor.
 3. The estimated price and cost-effectiveness of acquiring an existing or future corridor or preserving the option to implement rail service in an existing corridor.
 4. Public-Private Partnership (PPP or P3). The opportunity for participation in a public-private partnership that is beneficial to the traveling or freight-shipping public.
- F. Any financial commitment to purchase rail corridors shall be subject to such rail corridors being identified, justified and included in the State Freight and Passenger Rail Plan and the Statewide Long Range Transportation Plan. Such rail corridors shall be considered for acquisition consistent with § 43-1-1301 *et seq.*, C.R.S. Rail corridors shall be acquired only after specific budgetary action has been approved pursuant to Policy Directive 703.0.

V. IMPLEMENTATION PLAN

1. This policy shall be implemented jointly by the Division of Transit and Rail and the Division of Transportation Development.
2. DTD and DTR shall ensure that all employees who will be referencing this Directive shall be made aware of its revisions, including but not limited to all DTR staff, DTD Multimodal Planning Branch Mobility Unit staff, Region Planners, Safety & Traffic Engineering (Section 130 Program), Regional Transportation Directors, and the Senior Management Team.

VI. REVIEW DATE

This Policy Directive shall be reviewed on or before June 2019.

Norman J. Stocking III
Secretary, Transportation Commission

8-22-14
Date

Resolution # TC-3182

Adoption of Policy Directive 1607.0 “Rail Corridor Preservation Policy”

WHEREAS, pursuant to § 43-1-106(8)(a), C.R.S., the Colorado Transportation Commission is charged with formulating general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state; and

WHEREAS, the Transportation Commission approved Policy Directive 1607.0 on June 30, 2000; and

WHEREAS, the Rail Corridor Preservation Policy Directive provides identifying criteria to be used in defining passenger and/or freight rail corridors of State interest and describes passenger and/or freight rail activities in which CDOT may engage; and

WHEREAS, as part of the Department’s initiative to update older Policies and Procedural Directives, the Division of Transit and Rail (“DTR”) and the Division of Transportation Development (“DTD”) have collaborated to update Policy Directive 1607.0; and

WHEREAS, the revisions to the Policy Directive, while minor, reflect the ongoing commitment of the Department to work with external public and private stakeholders and execute a transparent process based on defined criteria for abandonment or preservation; and

WHEREAS, Policy Directive 1607.0 provides value to both Department staff and external partners regarding rail preservation for the implementation of the State Freight and Passenger Rail Plan and guidance for the Statewide Long Range Transportation Plan.

NOW THEREFORE BE IT RESOLVED, the Commission herein approves updated Policy Directive 1607.0 “Rail Corridor Preservation Policy”

Norman J. Stockinger III
Transportation Secretary

8-22-14
Date

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36005

KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC—FEEDER LINE
APPLICATION—LINE OF V AND S RAILWAY, LLC, LOCATED IN CROWLEY,
PUEBLO, OTERO, AND KIOWA COUNTIES, COLORADO

Digest:¹ The Board approves the purchase price and the closing terms that will apply to the sale of a rail line owned by V and S Railway, LLC, to Colorado Pacific Railroad, LLC.

Decided: December 18, 2017

On March 18, 2016, KCVN, LLC (KCVN), and its wholly owned subsidiary, Colorado Pacific Railroad, LLC (Colorado Pacific) (collectively, Applicants), jointly filed an application under the feeder line provision at 49 U.S.C. § 10907 for Colorado Pacific to acquire a rail line owned by V and S Railway, LLC (V&S), in southeast Colorado (the Line). The Line consists of approximately 121.9 miles of railroad line and approximately 12 miles of other tracks and facilities, between milepost 747.5, near Towner, and milepost 869.4, near NA Junction, in Pueblo, Crowley, Kiowa, and Otero Counties, Colo.

By decision served on July 31, 2017, the Board found that the application meets the statutory criteria for a forced sale under § 10907 and that Colorado Pacific is financially responsible and thus eligible to purchase the Line. The Board requested that the parties engage in Board-sponsored mediation to resolve the net liquidation value (NLV) of the Line and directed the parties to confirm by August 15, 2017, whether they agree to do so. Thereafter, both V&S and Applicants agreed to mediation. (V&S Letter 1, Aug. 10, 2017; Applicants Letter 2, Aug. 14, 2017.) The parties engaged in Board-sponsored mediation, and the mediation period closed on December 11, 2017.

On that day, Applicants and V&S filed a joint motion notifying the Board that they had reached an agreement on a NLV of \$10 million for the Line for purposes of this proceeding and

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

on closing terms applicable to the sale of the Line to Colorado Pacific. The parties request that the Board approve the NLV and closing terms that will apply to the sale of the Line.²

In light of the parties' agreement, the Board will grant the parties' request and will approve and incorporate here by reference the NLV and closing terms set forth in numbered paragraphs 1-8 on page 3 of the parties' December 11, 2017 joint motion.³

It is ordered:

1. The NLV and closing terms applicable to the sale of the Line set forth in numbered paragraphs 1-8 on page 3 of the parties' December 11, 2017 joint motion are approved and incorporated here by reference.

2. This decision is effective on its service date.

By the Board, Board Members Begeman and Miller.

² The parties have also entered into a confidential letter agreement addressing several other matters that are related to the sale, as well as to the parties' achievement of a final resolution of their dispute over the Line. Although the parties submitted that confidential letter agreement (under seal) with their joint motion, they do not request Board approval or endorsement of the matters set forth in it.

³ Given the record in this case, it does not appear that any further action under § 10907 is required.