

Rails to trails

by Bryan Holley
Ariel Rubissow

By stepping in as an intermediary, The Trust for Public Land broke the deadlock over property valuation.

Ariel Rubissow is a freelance writer in the the San Francisco Bay Area specializing in environmental and urban issues. Over the past three years she has worked closely with the Trust for Public Land on a variety of publications.

Bryan Holley is Editor for TPL's TPL Update Newsletter. He also is active in TPL's public relations efforts.

When Southern Pacific Railroad announced its intention to abandon a 25-mile right-of-way between Susanville and Westwood, California, local federal agencies jumped at the chance to acquire it. The right-of-way not only afforded easy conversion to a recreational trail but also linked fragmented federal lands in the area. Acquisition of these properties had strong community support, reflecting increasing public demand for park and recreational facilities in Lassen County.

Originally built in the early 1900s to haul lumber, the old Fernley and Lassen Railroad line skirts the Susan River, slicing through the Sierra and Cascade Ranges. Massive railroad cuts left dramatic granite faces exposed at intervals along the Susan River Canyon. Abandoned in 1978, the railroad line appeared to be ideal for a trail since accessways already lie cleared, graded and engineered.

The Susan River below invites fishermen and swimmers to its banks while cross-country skiers, equestrians and hikers on the trail above enjoy views of the river's rapids and calm pools. The property's many attributes made it an exceptional candidate for expansion of recreational opportunities in northern California.

The Susanville Bureau of Land Management district office began negotiations with Southern Pacific in 1978. During the process of appraising the land, a conflict arose over how to value SP's improvements to the property — the bridges, tunnels, rails and ties. Despite months of dialog between the railroad and the government, the two could not agree on whether to value these improvements as real or personal property.

Southern Pacific viewed them as personal property, wishing either to maintain the right to remove these improvements (selling the materials for salvage) or to be reimbursed for them at replacement value. BLM viewed the improvements as real property, claiming the bridges and tunnels were attached to the land. BLM argued that since these particular improvements were non-removable they had been abandoned at

the same time as the railroad line. The disparity in asking price reflecting these opposing viewpoints brought negotiations to a standstill. BLM valued the improvements at \$547,000 while SP wanted \$1,900,000. Ironically, BLM needed the bridges and tunnels for the trail and Southern Pacific found the prospect of a complete salvage operation undesirable. Impasse.

In December, 1979, BLM State Director Jim Ruch turned to the Trust for Public Land (TPL) for help. The Trust, a non-profit organization working closely with urban and rural groups, property owners and government agencies, acquires and preserves open space using non-profit land acquisition techniques. To date, TPL has completed over 250 projects, preserving over 300,000 acres whose fair market value amounts to some \$140 million. By acquiring properties at below fair market value and later selling them into public ownership, the Trust has saved public agencies nearly \$30 million in land acquisition funds.

The Trust for Public Land ultimately played a key role in the successful acquisition of the abandoned right-of-way. By stepping in as an intermediary, the Trust broke the deadlock over property valuation and came up with an acceptable



alternative. Most importantly, TPL's strategy side-stepped the real property versus personal property issue. Looking ahead to future right-of-way abandonments, SP preferred not to set a costly precedent by selling to a public agency at a price disregarding the replacement value of the improvements. Similarly, BLM preferred not to set a precedent for other right-of-way acquisitions. A package deal for a lump sum with an independent, non-profit organization as an intermediary avoided the problem of precedents altogether.

The deadlock broke during a critical April 1980 meeting between TPL and Greg Linde, President of Southern Pacific. From the Trust's point of view, approaching Linde directly served an important purpose. Decision makers in a large corporate bureaucracy are often more accustomed to dealing with non-profits and community groups than their real estate brokers. The railroad's real estate staff — hired to sell land at the best price — could not respond to TPL's unusual proposals with as much flexibility. Linde's larger view of the picture coupled with his willingness to deal with TPL in a direct, open and cooperative manner pushed the Rails-to-Trails project back on track. Linde instructed his staff to negotiate.

In addition to the prospect of resolving the conflict over improvements, SP saw several other important advantages in selling the abandoned right-of-way to TPL. First, the Trust had a reputation for moving fast. Rights-of-way can be expensive to dispose of, particularly when underlying ownership is fragmented. The shape of the property also limited its development potential. Selling a strip of land 25 miles long and 100 feet wide would be a challenge for any landowner. TPL's timely purchase of the Susanville parcel promised to offset costs of an extended negotiation period. In addition, SP had been concerned that people straying onto the bridges or climbing on the trestles might fall off. If negotiations had dragged on, SP's liability would have continued to plague them.

A second determining factor for SP was the likelihood that a successful conclusion to the project would generate good public relations for the railroad. The Rails-to-Trails effort enjoyed enthu-



siastic community support in the form of local government resolutions, private endorsements, and the backing of Congressman Bizz Johnson. Johnson personally encouraged SP to contribute to the creation of a public resource, and supported BLM's efforts to acquire the land. In Washington, Johnson secured federal Land and Water Conservation Fund (L&WCF) monies to purchase the property.

Amid continuing quibbles over the value of every concrete culvert poured in 1916, TPL made a swift, decisive move, naming a final price in May with a two-day deadline for approval. TPL's firm 'take-it-or-leave-it' stance added a pivotal element to the decision-making process. Two days later Southern Pacific agreed to a bargain price. TPL optioned the right-of-way, scheduling closure for December 31, 1981. SP retained mineral rights and the right to salvage rails and ties. Within a short eight months, TPL had conveyed the land into public ownership.

Resolution of the impasse and the realization of a successful Rails-to-Trails conversion had something in it for everyone. SP disposed of its right-of-way in a timely fashion, cash in hand. BLM, responding to growing public need, acquired a property ready-made for recreational use at a good price. And the Trust for Public Land, reserving for itself a small profit on the transaction, gener-

ated revenue for future land conservation projects.

With the Southern Pacific land in place, negotiations began for other parcels slated for inclusion in the new recreational area. Though reversionary rights restored most of the remaining land to the government, a few parcels reverted to previous owners with adjacent land. In March, 1981, TPL acquired Hobo Camp, a 100-acre parcel owned by George Farris. A former BLM employee, Farris had long dreamed of combining his property with the railroad land and opening the canyon for public recreation.

For many years, Farris had managed Hobo Camp as a park, inviting the community to make free use of his land and facilities. When his dream came closer to reality with the SP right-of-way matter settled, Farris agreed to sell Hobo Camp for development as a trailhead facility. His interest in the project and generosity brought land acquisitions for the park a giant step closer to completion. Since 1982, TPL has continued to negotiate for the final parcels along the right-of-way, pursuing land exchanges and bargain sales.

BLM completed a trail management plan in 1983 emphasizing pedestrian and equestrian activities. Plans call for improving opportunities for bicycling and handicapped access, seeking to preserve the natural environment along the



trail corridor while enhancing public recreation. In the fall of 1983, local agencies staged a three-hour dedication ceremony celebrating creation of the trail and honoring Congressman Bizz Johnson. The Congressman's commitment to pushing the project through was recognized when the old railroad grade was renamed the Bizz Johnson Trail. Participants rode historic stagecoaches to the event, enjoyed a barbecue and heard a keynote address by guest of honor Congressman Bizz Johnson.

Today, northern Californians are packing away their cross-country skiing gear, waiting for next year to enjoy winter's stillness and the beauty of the Susan River Canyon. But hikers, anglers, bicyclists, equestrians and picnickers are getting out in growing numbers to enjoy a new 25-mile long park. The Rails-to-Trails project, like many other land conservation efforts of the Trust for Public Land, demonstrates the benefits of cooperation between public and private interests. TPL's vice president Harriet Burgess, who successfully guided the negotiations to fruition, attributes the

project's success to several factors: broad-based local, state and congressional support; direct negotiation with principal decision-makers and, critically, the appropriateness of the right-of-way for public ownership and conversion from rails to trails. On Burgess' desk in San Francisco sit two bookends cut from the seventy-year-old Susanville rail, given to her in appreciation for TPL's efforts to preserve and protect open space.

Another TPL rail project.

In West Virginia, the Trust for Public Land is working with the U.S. Forest Service to acquire a 29-mile right-of-way between Durban and Gladys, recently abandoned by Chesapeake Railroad. The 100-foot-wide strip shadows the south fork of the Greenbrier River in Monongahela National Forest. TPL took special care to select an appraiser known and respected by all parties.

Chesapeake intends to make a "bargain sale" of the property to the Trust, enabling eventual ownership by the Forest Service.

Final terms of the transaction include a creative legal device that will meet traffic concerns raised by nearby landowners. Many property owners with property adjacent to the right-of-way, worried about hunters on motorbikes using the proposed trail, were prepared to buy the land themselves to assure preservation of the area's natural serenity. However, another alternative was presented by the Trust for Public Land. Before selling the property to the Forest Service, these landowners can purchase legal easements on the property that would restrict use of the right-of-way to foot and ski traffic only. TPL would then sell the residual rights to the Forest Service, which lacks legal authority to prohibit motorbike use. Through this division of property rights, both the Forest Service and local landowners have found a way to continue a rails-to-trails conversion without erosion of natural resource values.