

# NORTH CAROLINA

## RAIL TRAILS

# Little Toot

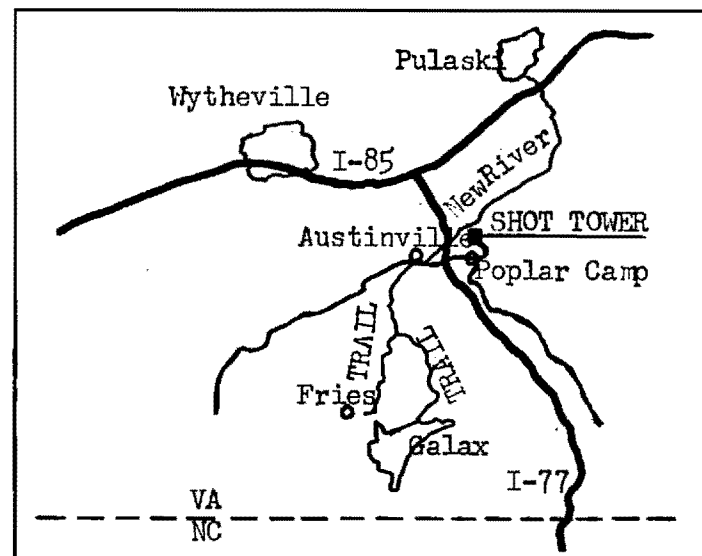
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## Join NCRT On May 26 New River Trail Outing

In recognition of "Trails Month," as proclaimed by Gov. James Martin and to showcase a nearby rail-trail conversion, NCRT is sponsoring a field trip to Virginia's New River State Park on May 26. The outing will coincide with the three-day Memorial Day holiday. It allows hikers, bicyclists and equestrians to sample the New River corridor and to experience the many miles of scenic overlooks along this evolving trail.

Although this former Norfolk Southern rail corridor is still being converted to a trail, sections are complete



and open to use. In partnership with local trails enthusiasts, many of the bridges and trestles have received decking and railings with state-supplied materials. Several of these bridges are hundreds of feet long and provide inspiring views of the river valley. One bridge, at the connection of the spur trail to Fries, is over 1,000 feet long.

When finalized, the trail will traverse a distance of

51 miles from Galax to Pulaski. The six-mile spur to Fries, already in use, brings the total to 57 miles. The project has two tunnels, 31 trestles and three major bridges, all to be completed later this year.

The U.S. Forest Service has plans for a \$900,000 campground, featuring hookups, swimming pool, concessions and equipment rentals near the trail at Billsby Dam. Local governments and citizens groups have been supportive of the trail and realize the benefits the trail offers to their communities.

Come join us May 26, 10 am at the Shot Tower State Park, directly adjacent to the Austinville-Poplar Camp exit off Interstate 77 about a one-hour drive north of Winston-Salem. Park Supt. Scott Flinkinger will be on hand to answer questions. Campgrounds and lodging are available in nearby communities. The parks department number is 703-699-6778.

Tom Potter, North Carolina state parks trail specialist, is coordinating this trip. His number is 919-778-9488.

## *Rapid Abandonment Protested, NCRT Files For 180-Day Delay*

Fighting a next-day deadline, North Carolina Rail Trails Inc. protested an exemption for abandonment of a 5.7-mile stretch of the Norfolk & Western rail corridor between Durham and Roxboro. If accepted as a legal objection, the Interstate Commerce Commission will delay the abandonment for 180 days while a interim use plan is submitted and considered.

NCRT learned of the railroad's request for quick abandonment approval through the national Rails-to-Trails Conservancy on April 18. The ICC notice had appeared in the April 10 Federal Register. With one day to go, NCRT Attorney Bryan Lessley and

*(Continued on back page)*

**"To Preserve Rail Corridors and Promote Rail - Trails"**

# Supreme Court Upholds Railbanking For Trails

Old news is good news, at least when it pertains the U.S. Supreme Court's February decision which upheld a railbanking statute passed by Congress in 1983. The unanimous decision upheld a Circuit Court of Appeals ruling that railbanking "is a valid exercise of congressional power."

The Vermont case, *Preseault vs Vermont*, challenged the ICC's authority to allow railbanking of an abandonment on which the City of Burlington developed an interim use trail. The plaintiff, a land developer, contended that a section of the right-of-way

## *Second court action clears way for 200-mile Missouri River Trail*

should revert to him.

And the news got better. Five days after that decision the high court dismissed without comment a similar Missouri challenge, thus clearing the way for developing the nation's longest rail-trail, the 200-mile Katy Missouri River Trail from St. Louis to Sedalia.

The Vermont decision is expected to boost nearly two dozen rail-trail projects underway in more than a dozen states, plus creating a positive legal climate for initiating new rail-trails. The court's opinion stated that "Congress was entitled to make the judgement that every line is a potentially valuable national asset that merits preservation even if no future rail use is currently foreseeable..."

The opinion also found that "by deeming interim trail use to be like discontinuance rather than abandonment...Congress prevented property inter-

*"That every line is a potentially  
valuable national asset..."*

ests from reverting under state law."

This also is a key point which the NCRT Legal Action Committee is addressing in its review of North Carolina abandonment statutes. The committee is preparing proposals to amend state laws to conform with the intent of the 1983 National Trails Act.

Bryan Lessley, NCRT attorney, points out that the Supreme Court decision validates the constitutionality of railbanking. Yet, says Lessley, the court did not

address what type of taking or compensation was involved. That, undoubtedly, will be taken up in the lower courts.

The North Carolina Attorney General has failed to take a position on the abandonment issue, even though the 1989 General Assembly charged NCDOT with preserving railroad corridors. The bill allows for trails as an interim use of railbanked lines.

## Deep River Trail Builds Support

Addressing a group of citizens, county recreation planners, news reporters and historic preservationists, NCRT recently provided insights to successful rail-trails to Lee and Chatham county residents. The meeting provided an opportunity to discuss potential greenway connections to Sanford in Lee County, as well to historic sites adjacent to the railroad bridge over the Deep River.

As a result of this meeting, volunteers have agreed to research the rail corridor land title status.

(Editors note: This trail initiative has gained the interest of William Coby, Secretary of Environment, Health and Natural Resources. This trail effort recently gained national attention when the Interstate Commerce Commission required the Norfolk Southern Railroad to replace a short bridge that was mistakenly removed by a salvage crew. The right-of-way improvements were under the protection of the 180-day public use condition while the ICC considers interim trial use. This ICC action is an important national precedent and may set the stage for increased ICC participation in rail-trail conversions.)

## Lincolnton Meeting Set June 9

The next quarterly meeting of the NCRT Steering Committee - and open to all who are interested in the rail-trail movement - will be Saturday, June 9 in Lincolnton. Starting time is 10 am at the Lincolnton Chamber of Commerce offices, directly across from the Lincoln County Courthouse on the corner of Main and Court. The local contact is Chafin Rhyne, 704-735-1746.

## Project Briefs

The Durham Urban Trails and Greenways Commission is working to acquire a part of the Norfolk Southern line, Durham to Bonal, through negotiations between the City of Durham and the railroad.

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The North Carolina DOT has placed a high priority on acquiring the Durham to Roxboro line under the state's new railbanking law. The DOT Rails Section is negotiating for purchase from Norfolk Southern.

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The 15-mile Newton to Lincolnton abandonment has developed a split personality. The NCDOT has expressed some low priority interest in railbanking the northern section of the Norfolk Southern line, foreseeing a possible tie-in to other lines for a future light rail transit route. The Corridor Coalition is urging the City of Lincolnton and Lincoln County to purchase the southern section. The Coalition is proposing a three-mile "greenway" in the city which would connect two city parks and several schools with the downtown area.

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The Deep River Park Association learned at a recent meeting that it was to receive a state Adopt-a-Trail grant to research titles on a 2-mile section of right-of-way in the Gulf community. Chatham County received a waiver for abandonment from the ICC in September, 1989.

## *Annual Meeting Sept. 7 and 8*

Mark it on your calendar: North Carolina Rail Trails, now with an "Inc." for incorporated, will hold an expanded two-day annual meeting and workshop, Sept. 7 and 8 at the Arts Council Building in downtown Durham.

Registration is \$40 for the entire conclave or \$30 for Saturday only. Both fees include continental breakfast, lunch, workshop materials and 1991 NCRT membership. Registrations can be sent to NCRT, Suite 124, 703 9th Street, Durham, NC 27705.

## *Greenway Session At Winston-Salem*

The North Carolina Greenways Conference will share the experiences of many groups who have been successful in implementing greenway systems in several communities. This year's conference, May 17 and 18 at the Ramada Inn in Winston-Salem, will focus on "Builders and Users." Trail activists will find this a useful opportunity to meet recreation professionals, trail planners and government officials.

The conference will feature sessions on funding, construction, volunteer power, user needs and will include field trips to local trails.

For more information, contact Judy Hunt or Margaret Bessette at 919-727-2087.

*Just Do It*  
P I e a s e

NCRT is gathering steam and needs your immediate support. Please send your membership, today.

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### NORTH CAROLINA RAIL TRAILS MEMBERSHIP FORM

Name \_\_\_\_\_ Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Telephone: Home \_\_\_\_\_ Work \_\_\_\_\_ Best Time \_\_\_\_\_

Reason for interest in rail-trails \_\_\_\_\_

Member of other conservation/recreation/historical group? \_\_\_\_\_

NCRT annual memberships: Individual - \$15, Family - \$20, Corporate - \$100  
Mail to North Carolina Rail Trails, Suite 124, 703 9th St., Durham, NC 27705

THANK YOU FOR JOINING NCRT

**"To Preserve Rail Corridors and Promote Rail - Trails"**

*Rapid Abandonment... (cont. from front)*

Jon Parker, president of Triangle Rails-to-Trails Conservancy, faxed a protest and public use request to the ICC.

The railroad's exemption justification stated that it had notified appropriate state offices, including the governor, and had not received a response regarding public use intent or of any state interest. The NCDOT Rails Section had previously said that the line had top railbanking priority and that the agency was negotiating to acquire the Durham-Roxboro line.

Mark Sullivan, NCDOT Rails Section Planner, says the entire line is still the state's top railbanking priority. He has been informed that the section in question has received abandonment approval as of May 14. The 5.7-mile section had been taken out of an earlier abandonment on the line because of potential indus-

trial service. When this failed to materialize, the railroad filed for another quick abandonment.

As part of the corridor between Old North Durham and Helena, the section between Helena and Picks Siding completes the line to within four miles of downtown Roxboro. In addition to trail potential, the line could serve as the Triangle Express Commuter Train northern artery.

In effect, NCRT's action could provide a measure of backup protection for a segment of the corridor in the event that negotiations between NCDOT and the railroad fail. In its ICC filing, NCRT assumed interim financial responsibility, pending the participation of Person County, NCDOT and NCDEHNR. If the state agencies fail to step forward, then NCRT sees its role as coordinating action by Roxboro, Durham, Person County and Durham County to create a regional park authority to protect the corridor.

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