



## BREIF HISTORY OF THE RFTA RAILROAD AND RAIL BANKED STATUS

By way of background, on June 30, 1997, the Roaring Fork Railroad Holding Authority (“RFRHA”), a multi-governmental entity, purchased the Aspen Branch of the Durango and Rio Grande Western (“D&RGW”) Railroad. The corridor was purchased by the local governments as a public asset to be used for future transportation needs and interim recreational purposes.

In 2001 the assets and liabilities of RFRHA including ownership of the former railroad corridor (“Corridor”) were transferred to the Roaring Fork Transportation Authority and the Corridor is under the jurisdiction of the federal Surface Transportation Board. The Corridor is not abandoned; it is, however, “rail banked”, meaning that it must be preserved for future rail use under federal statutes and Surface Transportation Board (STB) agency rules and also subject to related Colorado PUC obligations.

In addition, portions of the Corridor are protected by conservation covenants which were required in an agreement with the State Board of Great Outdoors Colorado (“GOCO”) which provided some funds for the purchase of the Corridor. The Covenant Areas are held to the highest standards and no footprint must be left behind, especially in these areas.

It is RFTA’s intent to preserve and utilize the corridor for future transit use. This process is designed to help protect the railroad asset and ensure none of the projects will impede our ability to run transit throughout the corridor.



## RFTA LAND USE APPLICATION PROCESS SUMMARY

The goal is for a 60-day review process from start to finish.

1. RFTA receives request from applicant to complete work/project within Railroad Right-of-Way.
  - a. The RFTA corridor is operated as a railroad per federal statute, subject to railroad reactivation. 16 USC § 1241 [1983] and 16USC1247(d) [1976]
2. RFTA provides applicant with application forms for the project, a link to the ACP with page number for Design Guidelines, Revegetation information and requests dates and times to schedule pre-application call with RFTA, Farnsworth Group (RFTA's Railroad Corridor consultant) and Applicant.
3. Pre-Application call is intended to answer questions in regards to completing the forms and meeting the Design Guidelines for that project, as well as setting the timelines for the review process.
4. Applicant completes forms and submits application and design plans to RFTA and Farnsworth for review with letter authorizing reimbursement to RFTA for any engineering and legal fees associated with the project review process.
5. Farnsworth completes review and provides RFTA with comment letter and/or plan markups, RFTA reviews letter and adds any additional comments then sends to Applicant for changes needed or if application is approved. If approved, skip to item 9.
6. If changes are required, Applicant revises forms and/or plans to meet Design Guidelines, address the Farnsworth and RFTA comments and then resubmits documentation.
7. Resubmittal documents are sent to Farnsworth for a second compliance review.



8. Farnsworth completes review and sends comments to RFTA. The goal is to have the second review be the final review and approve the project.
9. Once approved, RFTA sends letter to applicant with a draft license for the project and a caveat stating the annual fee structure will be corrected once the final as-built has been approved.
10. Applicant signs license and returns it to RFTA for signature.
  - a. Per usual railroad practice, RFTA will grant a license (contract) for accountability and risk management reasons. The contract is the responsibility of the landowner/ utility entity to update as to change of name, ownership or use. The contract does **not** “run with the land” in a real estate transaction.) Change of name or change of use is the responsibility of the licensee to notify RFTA for assignment of rights and obligations.
11. RFTA sends permit form to applicant for permission to begin project.
12. Applicant completes permit form and sends to RFTA for final signature. Applicant must submit the following for permit form to be complete:
  - i. Certificate of Insurance
  - ii. Traffic Control Plan
  - iii. Detailed Schedule for Project
  - iv. Detailed Schematic for Project
13. RFTA sends completed permit to Applicant with permission to begin project. Applicant and sub-contractors must have a copy of the permit on hand while working in RFTA’s Right-of-Way.
14. If applicable, an underground utility “Dig Ticket” shall be obtained and copy provided to RFTA prior to any construction. Between the Grand Avenue crossing in Glenwood Springs and the Colorado Hwy 133 crossing in Carbondale a **Union Pacific** “Call Before You Dig” (CBUD’s) ticket may also be required to protect a fiber optic line that has legacy commitment protection issues.
15. Once project has been completed, Applicant has 60 days to provide an as-built that is subject to review and approval by RFTA and



- Farnsworth Group. The as-built will be reviewed by RFTA and Farnsworth Group for compliance with the Design Guidelines, Survey Requirements and the As-Built Checklist which RFTA will provide along with the Permit.
16. Farnsworth completes the compliance review and sends comments to RFTA. Secondary reviews should only be necessary for insufficient compliance
  17. The approved As-built is added to License agreement as Exhibit. Final pricing structure is calculated based off of RFTA's fee structure and an invoice for current year fees is sent to Applicant.
  18. License is fully executed and. Applicant is responsible for yearly license fee as determined by as-built.

## ADDITIONAL ITEMS FOR A PUBLIC CROSSING OR UTILITY APPLICATION

An additional 60 days may be needed for a P.U.C application.

RFTA has the authority to review and approve a private crossing, the Colorado Public Utilities Commission (P.U.C.) is the only entity authorized to approve a public crossing. If the request is for a public access, then there will be additional steps involved in the application process. (By memorandum of agreement with STB/FRA the state regulates the public road crossing process (and soon the private crossing process by FRA Notice of Public Rulemaking- October 2019 HRGX&P Manual.) The utilities crossings of railroad corridors are are similarly regulated by the state which has adopted National Electrical Safety Code, PHMSA and AREMA guidelines – See 4-CCR-723-7. With utilities, the Colorado PUC only steps in when there is an unusual exception to the rules (variance) requested by the utility or pipeline company... See 4CCR723-2 thru 4CCR 723-5 and 4CCR723-11



19. Once the initial application is approved by RFTA, a P.U.C application must be completed and submitted to the P.U.C. by the government agency in a formal application and decision process. (The P.U.C has the final say on any crossing (utility or public road/pedestrian & vehicle) and typically will not get involved until the applicant and **RFTA** have a memorandum of understanding in place.)
20. The P.U.C. will post the project for a 30-day public notice. Once the 30-days public notice has passed, the P.U.C. will hold a public hearing to review the project and potentially assess costs to each entity involved in the project.
21. Once approved by P.U.C, RFTA will provide final documentation to the applicant for this project.