# Aspen Branch
# of the
# Denver & Rio Grande Western
# Railroad Corridor

# ACCESS CONTROL PLAN

# UPDATE

Prepared for the

Roaring Fork Transportation Authority

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# I. OVERVIEW

This document contains the proposed Access Control Plan for the Roaring Fork Transportation Authority (RFTA)*. The plan area covers the Aspen Branch of the Denver & Rio Grande Western Railroad corridor between Glenwood Springs and Woody Creek, Colorado. The plan is intended to implement the planning requirements of the Great Outdoors Colorado Conservation Covenants, and contribute to the Comprehensive Plan for the Railroad Corridor.

The Access Control Plan describes the policies for managing Railroad Corridor Crossings. The document includes Railroad Corridor Access Control Plan Maps and State Highway 82 Access Control Plan Maps. It also includes memorandums with background information on Highway 82 crossings and existing railroad crossings.

The October 2005 Update of the Access Plan focuses on current conditions in the railroad corridor. While the overriding policy is to preserve the railroad corridor for the return of rail or other transit systems, the current plan emphasizes trail use. To the extent that trail use and transit use conflict, transit shall be the priority use of the Corridor.

* RFTA was previously the Roaring Fork Railroad Holding Authority (RFRHA)

## II. POLICIES FOR MANAGING RAILROAD CORRIDOR CROSSINGS

**1.0 Title.**

This Policy shall officially be known, cited, and referred to as the Policy for Managing Crossings of the railroad corridor owned by the Roaring Fork Transportation Authority, hereinafter "this Policy."

**2.0 Purpose and Intent.**

A. The purpose of this Policy is to:

1. Minimize the number of new road crossings over the railroad corridor.
2. Ensure the safe operation of existing railroad corridor crossings.
3. Consolidate existing railroad corridor crossings when practical.
4. Implement the Conservation Covenant objectives, by avoiding adverse impacts to the open space, recreation, scenic and wildlife values of the corridor, and adjacent lands that add to the scenic value and enjoyment of the corridor. When adverse impacts cannot be avoided, they shall be mitigated to the extent practicable.

B. This Policy is intended to promote stewardship of the railroad corridor by the Roaring Fork Transportation Authority (RFTA), and adjacent property owners, in cooperation with local governments.

**3.0 Authority.**

The Roaring Fork Transportation Authority Board of Directors, hereinafter "Board", is vested with the authority to review, approve, conditionally approve and disapprove applications for construction, reconstruction, realignment, consolidation, and modification of railroad corridor crossings. The Board's authority emanates from intergovernmental agreements, adopted pursuant to the Rural Transportation Authority Act, Section 43-4-601, et seq. Although the overriding policy is to preserve the corridor for the return of rail, or other transit systems, the current plan emphasizes trail use.

**4.0 Jurisdiction.**

This Policy applies to all railroad corridor crossings located within the Aspen branch of the Denver & Rio Grande Western Railroad Corridor (Railroad Corridor) owned by RFTA from County Road 18 in Woody Creek to the corridor's intersection with the Union Pacific main line in Glenwood Springs.

## 5.0 Interpretation, Conflict, and Separability.

A. ***Interpretation.*** In their interpretation and application, the provisions of this Policy shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This Policy shall be construed broadly to promote the purposes for which it is adopted.

B. ***Conflict.***

1. *Public Provisions.* This Policy is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in the Policy. Where any provision of this Policy imposes restrictions different from those imposed by any other provision of this Policy or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

2. *Private Provisions.* This Policy is not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of this Policy are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this Policy shall govern. Private provisions, when not in conflict with this Policy, shall be operative and supplemental to the Policy and determinations made under the Policy.

C. ***Separability.*** If any part or provision of this Policy or the application of the Policy to any person or circumstance is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of the Policy or the application of them to other persons or circumstances. The Board hereby declares that it would have enacted the remainder of the Policy even without any such part, provision, or application which is judged to be invalid.

**6.0 Amendments.**

For the purposes of protecting the public health, safety, and general welfare, and consistent with the purpose and intent in Section 2.0, the Board may adopt amendments to this Policy in accordance with RFTA procedures, every five years or sooner if needed.

**7.0 Permitted Crossings Defined.**

A "crossing" means a railroad corridor crossing by a public street, private drive, trail, utility, or similar facility. "Permitted crossings" are those that are recognized by RFTA as allowed, based on the following three criteria:

A. The crossing had a license agreement, easement, or pending contract effective at the time of RFTA's (previously RFRHA) purchase of the railroad from Southern Pacific Transportation Company (List "A" on file with RFTA); or

B. RFTA (previously RFRHA), CDOT, and GOCO approved the crossing as a "proposed new crossing" at the time of the railroad purchase (List "B" on file with RFTA); or

C. RFTA has approved an access permit and the crossing has been constructed in accordance with the permit and a license has been issued by RFTA. This includes crossings initiated by RFTA. Section 17.0 (C) RFTA Review Process for Private Crossings.

**8.0 New Crossings Defined.**

A "new crossing" means a new railroad corridor crossing by a public street, private drive, trail, utility, or similar facility approved by RFTA or the PUC (as applicable), which did not exist prior to the effective date of this Policy, that is June 24, 1999.

**9.0 Owner Defined.**

"Owner" means the owner of real property or the contract purchaser of real property of record as shown on the current assessment roll in the office of the county assessor; or the holder of an easement. Owners may include public bodies, as in the case of a street right-of-way, or a private entity (e.g., private land owners and utility companies).

## 10.0 Responsibility for Crossings.

A. ***Public and Utility Crossings.*** All public and utility crossings shall be maintained in good condition, and in a manner that does not conflict with trail or future transit operations. The owner(s) of a public street or utility crossing shall be responsible for maintaining and repairing their respective crossing(s), and obtaining required permits from the Colorado Public Utilities Commission (CPUC), RFTA and any other applicable permit authority (e.g., local government or CDOT) prior to commencing such work. The CPUC is the permit authority for public crossings, but RFTA may issue revocable licenses for public and utility crossings if mass transit is not operating on the corridor.

B. ***Private Crossings.*** The owner of a private crossing shall be responsible for repair and maintenance of the private crossings. RFTA is the permit authority for all private crossings.

## 11.0 Design Standards for Up-Grading Existing Crossings.

All crossings shall meet the minimum design standards in subsections A through D, below An owner may be required to upgrade an existing crossing that does not comply with the design standards when a subdivision or site development is proposed, or when the crossing itself is proposed to be improved, realigned, or reconstructed. RFTA shall coordinate with local jurisdictions and the CPUC to determine when improvements are required.

A. **Grade Separated Crossings**. *(This section reserved)*

B. ***Public At-Grade Street and Highway Crossings.*** All public at-grade street and highway crossings require improvements, constructed and maintained in conformance with the details, specifications and standards for the type of transit system in place, and subject to review and approval by the Colorado Public Utilities Commission (CPUC).

C. ***Private At-Grade Vehicle Crossings.*** Private at-grade vehicular crossings may require safety improvements.

D. ***Trail Crossings.*** Trail crossings of the railroad corridor shall comply with the Recreational Trails Plan.

E. ***Underground Utilities.*** All existing underground utility crossings shall continue to be underground. Any above-ground utilities may continue to cross the railroad corridor above ground, but shall comply with the vertical clearance standards per the CPUC, as a minimum.

## 12.0 Consolidation of Crossings.

RFTA encourages consolidation of existing crossings whenever practicable. RFTA may require consolidation of private crossings (i.e., a private crossing with another private crossing; or a private crossing with a public crossing) when a new crossing is proposed adjacent to one or more existing crossings under the same ownership or control; or when an opportunity for consolidation exists through a land division, joint railroad/other transportation improvements, or proposed site development. Private crossings shall be consolidated when the criteria in subsections A through E, below, are met. (The criteria may also be used in recommending the consolidation of public crossings, subject to PUC approval.)

A. ***Site Feasibility.*** Consolidation is feasible based on site topography, existing parcel configuration and use, right-of-way, and property ownership; or can be made feasible through reasonable requirements (e.g., lot line adjustments, dedication of right-of-way, easements, grading, or other improvements).

B. ***Out of Direction Travel.*** The out-of-direction travel which would result is a reasonable trade-off for the safety benefit to be gained from the consolidation.

C. ***State Highway 82.*** Consolidation would not adversely impact operation or safety of State Highway 82. Access consolidations that affect Highway 82 shall also be subject to review and approval by the issuing authority as defined in the State Highway Access Code (Volume 2, CCR 601-1).

D. ***Consistency with City and County Standards.*** Access consolidations that require city or county land use approval, or require a street access permit from a local jurisdiction, shall also be subject to review and approval by the applicable local jurisdiction(s). See also, subsection C, above.

E. ***Consistency with Conservation Covenants.*** Existing crossings shall be consolidated so long as the trail, open space, recreational, parks, and wildlife uses and values will not be impaired.

F. ***Permit Required.*** The owner shall obtain a permit in accordance with Section 17.0.

## 13.0 Crossing Improvements and Maintenance (Existing Crossings)

A. ***Improvements.*** It will be the responsibility of the owner to improve existing crossings either as part of a general transit system improvement initiated by RFTA, or by separate proceedings. RFTA shall review and approve the materials to be used and specifications for all construction, in accordance with this Policy. Improvements shall require a permit in accordance with Section 17.0.

B. ***Maintenance.*** It is the duty of each owner to maintain their roadway approach in good repair. Maintenance shall include, but not be limited to, removing rocks, soil, vegetation and other material that may fall, slide, wash, or be placed onto crossing areas; and maintaining the railroad crossing free of other obstructions (e.g., snow storage, parked vehicles, equipment, etc.). RFTA retains the right to undertake supplemental maintenance, as necessary.

C. Any construction will include the obligation to revegetate disturbed areas according to RFTA's Revegetation Policy, which is available through RFTA's website, www.rfta.com, or on file in the RFTA office.

## 14.0 Crossing Repair Permits.

RFTA shall issue Repair Permits upon receiving a written or verbal request from a private entity, public entity or utility company seeking to repair grade-crossings (i.e., roadways and rail platforms within RFTA right-of-way). The permit shall prescribe the kind of repair to be made, the material to be used, and specifications therefore. Any person desiring to construct or reconstruct a crossing shall first obtain a permit and license as prescribed in Section 17.0.

## 15.0 Closure of Crossings and Alternatives to Closure

RFTA shall have the authority, per existing license agreements and easements (as applicable), to close private crossings. In order to further the public health, safety, and welfare, RFTA will work cooperatively with property owners to identify options and alternatives to closure; e.g., crossing realignment, relocation, consolidation, grade separation, conditions on type of access, and similar measures, as appropriate. RFTA will also work cooperatively with the PUC and local governments to resolve conflicts related to public crossings.

## 16.0 Policy and Design Standards for New Crossings.

As a general policy, RFTA seeks to minimize the number of railroad corridor crossings to ensure the safe and efficient operation of the future transit system and to avoid adverse impacts to the open space, trail, recreational, parks and wildlife uses and values of the corridor. New crossings generally are prohibited, except that

they may be allowed for public street crossings when approved by the CPUC. New public crossings will be granted only if the landowner/entity will be financially responsible for providing safety improvements, possibly including grade separated crossings, should transit return. In special circumstances, private crossings may be approved by RFTA when property access cannot reasonably be provided by an existing permitted crossing or another route and the pertinent land use authority has approved the lot. Being exempt from subdivision regulation shall not automatically indicate an approved lot. Crossings may be improved either as part of a general railroad improvement initiated by RFTA, or by separate proceedings. RFTA shall review and approve the materials to be used and specifications for all construction, in accordance with this Policy.

A. *Permit for Consolidation.* The applicant shall receive a permit for consolidating crossings, in accordance with Section 17.0. PUC approval is required for public crossings and RFTA approval is required for private crossings.

B. *Restriction on New Crossings to Serve New Parcels or Lots.* No new at-grade crossings will be permitted to serve any new parcels or lots. "New" means the lot or parcel that was created (i.e., by plat or deed) after the effective date of this Policy. New at-grade crossings may be permitted to provide access to lots or parcels created prior to the effective date of this Policy if no other access is available.

C. *Denial of Private Crossing.* RFTA retains the right to deny a private crossing request.

**17.0 Permits for New Crossings and Consolidations.**

When a private crossing is located within the RFTA railroad corridor, owners shall obtain permits from RFTA prior to commencing work on railroad corridor crossing improvements and consolidations. When the crossing is located within CDOT right-of-way, owners shall obtain permits from both CDOT and RFTA. When a public crossing is proposed, the owner shall obtain required permits from the CPUC unless transit is not operating in the rail corridor, in which case the applicant may apply for a license from RFTA. The following permit process applies only to RFTA permits:

**A**. ***Applications.*** Permit applications for private crossing improvements and consolidations within RFTA right-of-way shall provide the following:

1. Complete application form. RFTA shall keep a standard application form for crossing improvements and consolidations. The application form (available from RFTA offices) shall provide address and contact information for the owner and his/her contractor(s); contractor license/registration number(s); description of the proposed

improvements; construction schedule; proposed traffic control measures; and other pertinent information as deemed necessary by RFTA.

2. Application fee to cover the cost of processing the application. The fee schedule shall be kept on file at RFTA offices.

3. Site plan prepared by a qualified professional (e.g., engineer, surveyor, planner, landscape architect). The site plan shall be drawn to a scale of at least 1 inch equals 40 feet. It shall list materials to be used, and provide section details and construction specifications. Applications for crossing consolidation shall include two site plans: one for the proposed corridor crossing, and one for the corridor crossing(s) to be closed.

4. The RFTA Director of Trails or his/her designee shall be responsible for deeming an application complete when subsections one to three are met.

**B**. ***Approval Criteria.*** Permits for private corridor crossing improvements and consolidations shall comply with the following approval criteria:

1. All of the applicable standards of this policy;

2. The State Highway Access Code, as applicable;

3. Any applicable local government land use and access permit requirements (e.g., permit to construct in the public way);

4, Conservation Covenant requirements, including: avoidance of adverse impacts to the open space, recreational, parks, and wildlife uses and values of the railroad corridor crossing to the extent practicable. This shall be accomplished through careful consideration of alternative access alignments, consolidations, construction techniques, materials, and appropriate mitigation measures (e.g., erosion control, landscaping, screening, buffering, etc.).

5. The applicant agrees to enter into a license agreement to memorialize the crossing.

The RFTA Director of trails shall prepare an administrative determination that approves or denies the application for a private corridor crossing.

C. ***RFTA Review Process for Private Crossings.*** The following review procedures shall apply to applications for private corridor crossings (i.e., new crossings and consolidations). For public crossing application procedures, please refer to the PUC.

1. The RFTA Director of Trails shall review the applications submitted as per Section 17.0 (A) based on the approval criteria in Section 17.0 (B).

2. The RFTA Director of Trails shall prepare an administrative determination that approves or denies an application for a private corridor crossing.

3. The applicant may appeal the decision of the RFTA Director of Trails by filing an appeal of the administrative determination in writing, to the Board.

4. If the Board decides to address the ruling, the Board will inform the appellant of a hearing to be scheduled at the next Board meeting. (The Board may refuse to make any exception.)

5. In order for hearing standards to go outside of the Plan (exceptions), the Standards are as follows:
   a. The proposed crossing will protect the railroad corridor for future transit;
   b. The proposed crossing will not interfere with conservation or trails values; and
   c. The proposed crossing is a unique situation and will cause extreme hardship if not approved. (NOTE: Extreme hardship means more than economic loss or diminution of value).
   d. The landowner/entity will be financially responsible for all future upgrades of the crossing to meet the requirements of future transit systems in the corridor.

6. If the ruling on the crossing will set a precedent, the Board must attempt to amend the Access Plan so that the ruling is evenly

7. The Access Plan may be revised every five years or sooner if circumstances require.

**18.0 Adjustments to Standards.**

The RFTA Board may approve adjustments to this Policy upon finding that an adjustment is necessary to protect the public health, safety or welfare. "Adjustment"

means a modification, waiver, or exemption to a standard or procedure. RFTA shall prepare a notice when adjustments are made. The notice shall contain findings of fact, and be kept on file at RFTA offices.

## 19.0 Coordination of Development Review with Local Jurisdictions

It is the policy of RFTA to participate in the review of planning, zoning, and development applications, as necessary, to safeguard the interests of the railroad. RFTA will coordinate with property owners, local governments, CDOT, and other affected agencies, in order to identify railroad corridor crossing requirements at the earliest possible stage in the development review process (i.e., preferably before a formal application has been submitted to a local jurisdiction). Review by RFTA staff of local planning, zoning, and development proposals does not imply approval of RFTA permits or local land use applications.