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*Committee to Save the Derry Rail Trail Tunnel Contact: Bob Spiegelman, 603.490.0012, robertspiegelman@comcast.net*  
*Rails to Trails Conservancy Contact: Brandi Horton, 703.307.8891, brandi@railstotrails.org*

## **Advocates Confirm Derry Rail Trail Tunnel Will Be Built**

### ***Settlement Reached With New Hampshire Department of Transportation and Federal Highway Administration, Protecting Historic Railroad Corridor and Paving the Way for Trail Tunnel***

**Concord, New Hampshire**—The Committee to Save the Derry Rail Trail Tunnel and Rails to Trails Conservancy announced today that a settlement has been reached in their lawsuit against the New Hampshire Department of Transportation (NHDOT) and the Federal Highway Administration (FHWA) challenging construction of Phase 2 of the Exit 4A I-93 expansion in Derry in order to protect the Manchester & Lawrence Railroad Historic District and the Derry Rail Trail.

The settlement requires NHDOT to proceed with construction of the Derry Rail Trail Tunnel as part of the expansion of Exit 4A on I-93, resolving the issue that was at the center of the complaint filed against NHDOT and FHWA [in August 2024](#).

“I’m grateful for this resolution. We’ve known that the law was on our side as we fought to protect the historic rail corridor, and create a seamless, safe walking and biking connection for the region. We’re looking forward to intentional engagement from NHDOT and FHWA as plans for tunnel construction move ahead,” said Dave Topham, president of the New Hampshire Rail Trails Coalition and a member of the committee that brought the lawsuit.

In [June 2025](#), United States District Judge Paul J. Barbadoro ruled in the advocates’ favor, “enjoin[ing] the defendants from performing construction in the immediate proximity of the Historic District that would in any way foreclose or substantially hinder the completion” of the original design, which included a tunnel to preserve the Manchester & Lawrence Railroad Historic District and allow further development of the Derry Rail Trail.

The complaint focused on a design change removing a tunnel, originally proposed by NHDOT and approved by FHWA, that would have protected the historic right-of-way from a six-lane exit road, replacing it with steep approaches, an at-grade crosswalk across six lanes of traffic, and a circuitous route that abandoned the historic railroad corridor. As a result of the settlement, NHDOT will implement the originally proposed design that includes an underpass in the project to allow for the planned expansion of the Derry Rail Trail through the Manchester & Lawrence Railroad Historic District. This decision prioritizes minimizing harm to the historic railroad corridor by providing a tunnel for the Derry Rail Trail along the corridor’s original alignment. This design also provides significant safety benefits to the many thousands of people who are expected to use the Derry Rail Trail.

“This settlement affirms the importance of federal laws like Section 4(f) in protecting trails and historic railroad corridors, ensuring that transportation projects are designed in ways that minimize harm to these assets so that they are available for public use,” said Ryan Chao, president of RTC, the foremost legal advocacy organization for rail-trails in the U.S. “We’re thrilled to see the Derry Rail Trail Tunnel be built. It will create safe walking and biking access for local residents, and it represents an important victory for rail-trails across the country. This outcome underscores the legal principles that advocates and civic leaders rely on to protect these

valuable public amenities—essential infrastructure for people to get outside and get around their communities.”

In its ruling last year, the Court held that FHWA’s “spaghetti loop” design violated historic preservation protections provided by federal law—specifically, Section 4(f), which forbids using federal funds for transportation projects that will damage parks or historic sites, unless there are no prudent and feasible alternatives that would avoid the historic site and the project includes all reasonable measures to minimize harm to the site. The court held that FHWA and NHDOT did not properly consider whether its new design minimized harm to the same extent as its original design plan, which advocates say will also improve the safety of the future rail-trail connection and create better trail system linkages.

“This lawsuit could have been prevented entirely had NHDOT and FHWA stuck to the original design that included the tunnel. That design protected the historic corridor, kept the best interest of the community in mind, and had the support of the public. Instead, they made a back-room deal that cost time and money, under the auspice that the net benefit of the project would supersede its deleterious effect. We were confident the courts would see through that approach, and they did,” said Alex Bernhard, a local resident and member of the committee.

The Committee to Save the Derry Rail Trail Tunnel is a New Hampshire not-for-profit corporation comprised of experienced cycling advocates and cyclists from throughout New Hampshire who are concerned about the safety of rail-trail users and the preservation of historic railroad corridors.

[Rails to Trails Conservancy](#) is the nation’s largest trails advocacy organization—with a grassroots community more than 1 million strong—dedicated to building a nation connected by trails, reimagining public and historic spaces to create safe ways for everyone to walk, bike and be active outdoors.

The Committee and RTC are represented in the lawsuit by WilmerHale, an international law firm.

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