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CLUE Case Law Database

**NEPA Case Law for Highway, Transit and Rail Projects
2018 Year in Review**

April 2019

Overview

This report presents a sampling of 2018 court decisions involving National Environmental Policy Act (NEPA) reviews for surface transportation projects. The goal of this report is to provide NEPA practitioners, both lawyers and non-lawyers, with a general understanding of how courts have handled the types of issues that frequently arise in NEPA litigation. The report focuses mainly on NEPA reviews conducted by the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), or Federal Railroad Administration (FRA).

This report accompanies the case law summaries posted on [AASHTO's Case Law Updates \(CLUE\)](#) website. For a complete listing of the 2018 court decisions covered on the CLUE website, refer to the appendix to this report.¹

Purpose and Need

Several cases in recent years have acknowledged that a purpose statement can be based on goals established in transportation plans.² Courts also have generally allowed federal agencies to give weight to a project sponsor's goals when defining a project's purpose. These trends continued in 2018.

- **Basing Purpose on Transportation Plan.** In a case involving the West Waukesha Bypass in Wisconsin, the project's purpose was based in part on goals established in decades-old transportation plans. In upholding the purpose statement, the court noted that FHWA and the State DOT had "considered more than just the project's history in defining their purpose and need." The court also noted that FHWA "rejected the two-lane alternatives for many reasons, not just because they did not comport with old transportation plans."³
- **Sponsor's Objectives.** In a case involving the Brightline passenger rail project in Florida, the court held that FRA did not define the project's purpose too narrowly by mirroring the project sponsor's goals. The court acknowledged that FRA "considered [the sponsor's] central economic goal – that the project be 'sustainable as a private commercial enterprise'" – but held that it was "entirely appropriate" to do so. The court explained that when a federal agency is not itself the project sponsor, the agency may give "substantial weight" to the project sponsor's preferences in the siting and design of the project.⁴

Screening of Alternatives

Several cases in 2018 involved challenges to an agency's methodology for screening alternatives or to the rationale given for eliminating specific alternatives. Courts typically defer to the agencies on these issues as well, as reflected in the following examples:

¹ The CLUE website includes case summaries for nearly 300 court decisions involving NEPA reviews for transportation projects from the early 2000s through 2018. The CLUE website includes year-in-review reports from 2014 through 2018.

² See, e.g., *Protecting Arizona's Resources and Children v. Federal Highway Administration*, 718 Fed. Appx. 495 (9th Cir. 2017); *Honolulutraffic.com v. FTA*, 742 F.3d 1222 (9th Cir. 2014).

³ *Waukesha County Environmental Action League v. USDOT*, 348 F.Supp.3d 869 (E.D. Wis. 2018).

⁴ *Indian River County v. USDOT*, 348 F.Supp.3d 17 (D.D.C. 2018).

- Range of Alternatives – Too Narrow? In a case involving an intermodal project in Arkansas, the plaintiffs claimed that the range of alternatives was inadequate because the three main alternatives – each representing a different site – were all very similar. The court agreed that the alternatives were similar but found that there were legitimate reasons for FHWA to treat them as separate alternatives, including the fact that the alternatives had different boundaries and terrain and would cause different environmental and social impacts.⁵
- “Best in Family” Method for Screening. In a case involving improvements to US-95 in Idaho, FHWA considered multiple routes in three separate corridors and advanced the highest-ranked route in each corridor for detailed study in the EIS (i.e., a “best in family” approach). The plaintiff argued that FHWA should have selected the highest-ranked routes *overall*, rather than the highest-ranked route in each corridor. The court upheld the use of the “best-in-family” method, finding that “NEPA ‘does not require a separate analysis of alternatives which are not significantly distinguishable from alternatives considered, or which have substantially similar consequences.’”⁶
- Consideration of Hybrid Alternatives. In the West Waukesha Bypass case, the plaintiffs argued that FHWA erred by failing to consider whether a combination of rejected alternatives (i.e., a combination of improving existing roads, expanding transit, and adjusting signal timing) could meet the project’s purpose. The court held that FHWA did not need to evaluate a combination of rejected alternatives because there was no evidence in the administrative record that a combination of rejected alternatives would meet the project’s purpose.⁷
- Consideration of Minor Variations. In the Brightline case, a county in the project corridor claimed that FRA should have given detailed consideration to an alternative alignment proposed by the county. In the ROD, FRA explained that the county’s proposed alignment was not feasible for the same reasons that FRA had rejected another alternative considered in the EIS. The court explained that FRA was not required to further analyze the county’s proposed alternative because it shared dispositive features with the other alternative that FRA had rejected.⁸
- Consideration of Permitting Obstacles. In a case involving the Bonner Bridge project in North Carolina, FHWA rejected an alternative based in part on its concern that the U.S. Fish and Wildlife Service might not issue a permit for that alternative, which ran through a wildlife refuge managed by the Service. The court upheld that rationale: “Although NEPA requires the Agencies to assess all reasonable alternatives, NEPA does not require the Agencies to apply for a permit in spite of reasonable belief that

⁵ *City of Dardanelle v. USDOT*, 2018 WL 2771513 (E.D. Ark. 2018).

⁶ *Paradise Ridge Defense Coalition v. Hartman*, 2018 WL 6434787 (9th Cir. 2018).

⁷ *Waukesha County Environmental Action League v. USDOT*, 348 F.Supp.3d 869 (E.D. Wis. 2018).

⁸ *Indian River County v. USDOT*, 348 F.Supp.3d 17 (D.D.C. 2018).

such permit is likely to be denied nor include detailed analysis for a likely unsuccessful alternative in an EIS.”⁹

- Consideration of New Information After Screening. In the Bonner Bridge case, the plaintiffs argued that the FHWA should have reconsidered previously rejected alternatives based on new information regarding the cost and feasibility of those alternatives. The court held that FHWA was not required to reconsider those alternatives because there were other reasons – unaffected by the new information – that justified FHWA’s conclusion that those alternatives would not meet the project’s purpose.¹⁰

Impacts Analysis - Level of Detail

Most NEPA cases involve allegations that certain environmental impacts were not considered in sufficient detail or that a different impact assessment methodology should have been used. Courts tend to be deferential to agencies on such claims, and this year was no exception.

- Construction Impacts - Impacts Similar Among Alternatives. In the Bonner Bridge case, the plaintiffs argued that FHWA did not adequately consider environmental impacts from transporting construction materials to the project site. The court held that FHWA was not required to conduct a detailed comparative analysis of impacts from hauling construction materials where there was no basis to conclude that the alternatives differed with respect to those impacts. The court also explained that FHWA had discretion to determine the methodology and that NEPA did not require the agency to consider hauling impacts separately from other construction impacts.¹¹
- Air Quality - MSATs - Emissions Similar Among Alternatives. In a case involving improvements to I-70 in Denver, the plaintiffs argued that FHWA should have evaluated specific health effects from Mobile Source Air Toxics (MSATs). The court agreed with FHWA that, because all alternatives would have substantially the same MSAT emissions, FHWA’s decision-making would not be materially enhanced by additional analysis of health effects.¹²
- Hazardous Materials - Potential Effects if Mitigation Fails. In a case involving improvements to I-70 in Denver, the plaintiffs claimed that the EIS did not adequately address the health effects of hazardous materials if mitigation measures failed. The court noted that the EIS extensively documented contaminated areas that would be disturbed during construction, as well as procedures for handling and removing contaminated soil. The court explained that the EIS did not need to evaluate potential health impacts that would occur if mitigation measures for

⁹ *Save Our Sound OBX, Inc. v. North Carolina DOT*, 324 F. Supp. 3d 597 (E.D.N.C. 2018).

¹⁰ *Save Our Sound OBX, Inc. v. North Carolina DOT*, 324 F. Supp. 3d 597 (June 4, 2018).

¹¹ *Save Our Sound OBX, Inc. v. North Carolina DOT*, 324 F. Supp. 3d 597 (E.D.N.C. 2018).

¹² *Sierra Club v. FHWA*, 2018 WL 1610304 (D. Colo. 2018).

handling contaminated soil were unsuccessful, because there was no reason to believe that the mitigation measures would fail.¹³

- Health Impacts - Potential Effects if Control Measures Fail. In the I-70 case in Denver, the plaintiffs claimed that the cumulative impacts analysis in an EIS was inadequate because it did not discuss potential health impacts from fugitive dust during construction, when excavation could be occurring on two projects simultaneously (the project covered in the EIS and another project). The court held that there was no reason to believe that dust control measures would fail; thus, the potential for harmful release of contaminated dust was speculative. The court concluded that the plaintiffs were not likely to succeed on their challenge to the cumulative impacts analysis in the EIS.¹⁴
- Archeological Investigations - Deferral of Surveys. In a case involving construction of State Highway 31 in Texas, the plaintiffs claimed that the State DOT violated NEPA because the Environmental Assessment (EA) acknowledged that archaeological surveys had not been performed for approximately 41 acres of the project area due to landowner refusal. After the EA was published, the State DOT gained right of entry to that area, completed an archaeological survey, and determined that the project would not affect any historic properties; the State Historic Preservation Officer (SHPO) concurred with the State DOT's conclusions. The court concluded that the plaintiffs were not likely to succeed on their claim that the project would significantly affect cultural or historic resources.¹⁵

Impacts Analysis - Methodology

It is well-settled in the NEPA case law that agency decisions on the choice of methodology must be reviewed deferentially when the agency acts within its area of technical expertise. In 2018, courts applied this principle in several cases involving challenges to agencies' methodologies.

- Socioeconomics Analysis - Study Area. In the Bonner Bridge case, the plaintiffs claimed that FHWA had failed to consider socioeconomic effects on a specific community as a distinct unit, separate from other parts of the county or region in which the project was located. The court rejected this argument, explaining that "the Agencies have discretion to make policy judgments as to the proper geographic unit of analysis for economic and social effects."¹⁶
- Noise Methodology - Operating Assumptions. In the Brightline case, the plaintiffs argued that FRA's noise analysis was flawed because the analysis assumed that warning horns would only be used at grade crossings. Based on its review of the

¹³ *Zeppelin v. FHWA*, 305 F. Supp. 3d 1189 (D. Colo. 2018).

¹⁴ *Zeppelin v. FHWA*, 305 F. Supp. 3d 1189 (D. Colo. 2018).

¹⁵ *Bar J-B Co., Inc. v. Texas DOT*, 2018 WL 2971157 (May 15, 2018).

¹⁶ *Save Our Sound OBX, Inc. v. North Carolina DOT*, 324 F. Supp. 3d 597 (E.D.N.C. June 4, 2018).

record, the court concluded that FRA had adequate reasons for making this assumption:

Under the rule of reason, the Court must consider the practical limitations on the agency's analysis, including the information available at the time as well as the availability of appropriate modeling. Applying that principle, it makes sense for the agency to assume in its noise analysis that trains would use their warning horns on the mainline only in unpredictable 'emergency conditions.' Although the agency could have been more explicit in its reasoning, the Court can nevertheless discern why FRA did not consider the use of mainline warning horns.¹⁷

- Crash Projections - Lack of "Confidence Interval." In the case involving the US-95 project, the agencies predicted vehicle crashes for each alternative using the AASHTO Highway Safety Manual. The plaintiff argued that the agencies' vehicle crash projections were unreliable and that the agencies inappropriately compared the alternatives based on crash rates predicted by the model, without giving a "confidence interval" (i.e., margin of error) for the data. The court upheld the agencies' analysis, finding that "FHWA's reliance on the Highway Safety Manual for predicting the relative safety of each alternative route was reasonable given that it is the industry standard for highway safety, and the [plaintiff] does not argue that the FHWA should have used an alternative methodology...."¹⁸

Segmentation

When two or more projects are undertaken simultaneously in close proximity to one another, plaintiffs commonly raise the issue of segmentation. For highway and transit projects, courts typically assess whether the agency properly applied the segmentation criteria in FHWA and FTA's joint NEPA regulations, at 23 C.F.R. 771.111(f). A notable case this year involved the issue of whether the agencies must also apply criteria in the Council on Environmental Quality's NEPA regulations, at 40 C.F.R. 1508.25(a).

- Segmentation Criteria. In a case involving an interchange project in Texas, the plaintiffs claimed that the State DOT (acting on behalf of FHWA under an assignment MOU) should have applied not only the segmentation criteria in FHWA's regulations but also the separate criteria in the CEQ regulations. The court held that it was sufficient simply to apply the criteria in FHWA's regulations, explaining that "we read § 771.111(f) as having tailored the general policy of § 1508.25(a) to the specific question of whether multiple highway projects are 'in effect, a single course of action.'"¹⁹

¹⁷ *Indian River County v. USDOT*, 2018 WL 6736036 (Dec. 24, 2018).

¹⁸ *Paradise Ridge Defense Coalition v. Hartman*, 2018 WL 6434787 (9th Cir. 2018).

¹⁹ *Fath v. TxDOT*, 2018 WL 3433800 (5th Cir. 2018).

EAs and CEs

Several cases challenged FHWA's reliance on Environmental Assessments (EAs) or Categorical Exclusions (CEs). Of particular note, courts addressed the issue of whether cumulative impacts need to be considered in an EA or CE.

- Cumulative Impacts - Consideration in EA. In a case involving an interchange project in Austin, Texas, the plaintiffs claimed that an EA was inadequate because it did not address cumulative impacts. The U.S. Court of Appeals for the 5th Circuit explained that the extent of a cumulative impact analysis required depends on the scope and context of the project. Here, the court held, the State DOT (acting on behalf of FHWA under an assignment MOU) was not required to separately analyze cumulative impacts in the EA because it had determined that the project would have no significant direct or indirect impacts: "The proposed overpasses are a two-mile project in an area that is already heavily developed and trafficked.... If the project would have no significant impact by itself, it is unlikely to change the environmental status quo when 'added' to other actions."²⁰
- Cumulative Impacts - Consideration in CE. In a case involving a highway project in Wisconsin, the plaintiffs claimed that the CE documentation was inadequate because it did not analyze cumulative impacts. The U.S. Court of Appeals for the 7th Circuit ruled that FHWA was not required to consider cumulative impacts of a project that qualified for a CE; the court reasoned that FHWA had already considered cumulative impacts when it created the CE, so it did not need to consider cumulative impacts for each individual project that met the definition of the CE.²¹
- Reliance on State's CE Documentation. In the same Wisconsin highway project case, the plaintiffs also claimed that FHWA violated NEPA by relying on the State DOT's "environmental report" as the support for a CE, without conducting its own independent analysis of whether the CE criteria were met. The Seventh Circuit ruled that the lack of a separate explanation did not mean that FHWA failed to consider the project's impacts. In fact, the court noted, the administrative record demonstrated that FHWA was actively involved in reviewing drafts of the state's environmental report, and FHWA only signed off on the environmental report when it was satisfied with its contents.²²

Predetermination and Bias

Claims of predetermination and bias are frequently raised in NEPA litigation, and typically target actions taken by the project sponsor that indicate the project sponsor's support for a specific alternative and/or the lack of federal agency oversight of the NEPA process. In reviewing such claims, courts generally hold that it is permissible for the sponsor to have a favored alternative, as long as the federal agency retains control of the NEPA process and

²⁰ *Fath v. TxDOT*, 2018 WL 3433800 (5th Cir. 2018).

²¹ *Highway J Citizens Group v. USDOT*, 891 F.3d 697 (7th Cir. 2018).

²² *Highway J Citizens Group v. USDOT*, 891 F.3d 697 (7th Cir. 2018).

the sponsor's preference does not undermine the integrity of the NEPA document. Court decisions in 2018 were consistent with this approach to predetermination issues.

- Obtaining Local Approvals in Parallel with NEPA. In a case involving a light rail project in the Minneapolis area, the plaintiff argued that the project sponsor - a public transit agency - had prematurely committed to a specific alternative by obtaining "municipal consent" under State law for a specific route before the NEPA process was completed. The court held that the completion of the municipal consent process did not constitute predetermination because the process was not binding, as demonstrated by the transit agency's having obtained a second round of consent after making changes to the proposed route.²³ (As an aside, it is noteworthy - and unusual - that the court found viable a cause of action against the project sponsor for a NEPA violation, separate from any cause of action that could be brought against the federal action agency.)
- Settlement Agreement Committing Agency to Seek Approval for a Specific Alternative. In the Bonner Bridge case, the plaintiffs alleged that FHWA's selection of a specific alternative was predetermined by a settlement agreement reached with environmental groups in previous litigation regarding the same project. In rejecting this claim, the court noted that the settlement agreement was "conditional in nature" and did not bind the agencies to approve a specific alternative. The court also noted that the administrative record demonstrated that FHWA and the State DOT had adequately evaluated environmental effects of various alternatives and had not made any physical commitment of resources to a specific alternative before FHWA issued the ROD.²⁴
- Conflict-of-Interest. In the case involving an intermodal project in Arkansas, the project sponsor - a regional development authority - retained the consultant to prepare the EIS on for FHWA. The plaintiffs claimed that FHWA had violated the conflict-of-interest requirements in the CEQ regulations by allowed the project applicant to hire an outside contractor to prepare the EIS. The court agreed with the plaintiffs that a NEPA violation had occurred, but also ruled that "the error didn't compromise the objectivity and integrity of the NEPA process." The court noted that the contractor's disclosure statement indicated that it had no financial or other interest in the outcome of the project, and that FHWA had adequately supervised the contractor and exercised independent oversight of the EIS.²⁵

Title 23 Requirements

- Public Interest Determination - 23 USC 109(h). In addition to its obligations under NEPA itself, FHWA must comply with 23 U.S.C. § 109(h), which requires FHWA to ensure that "the final decisions on the project are made in the best overall public interest." In the I-70 case in Colorado, the plaintiffs argued that Section 109(h) required the agencies to prepare additional health impact analyses. The court held

²³ *Lakes and Parks Alliance of Minneapolis v. Met. Council*, 310 F. Supp. 3d 992 (D. Minn. 2018).

²⁴ *Save Our Sound OBX, Inc. v. North Carolina DOT*, 324 F. Supp. 3d 597 (E.D.N.C. 2018).

²⁵ *City of Dardanelle v. USDOT*, 2018 WL 2771513 (E.D. Ark. 2018).

that Section 109(h) did not create additional requirements apart from FHWA's NEPA process, and that FHWA's compliance with its NEPA regulations could satisfy its obligations under Section 109(h).²⁶

- Public Hearing Requirement - 23 USC 128. In the West Waukesha Bypass case, the plaintiffs claimed that the agencies violated the public hearing requirement in 23 U.S.C. § 128 because the format of the public hearing allegedly diluted opportunities for members of the public to hear others' viewpoints. The court disagreed. The court explained that even though other activities (the open house and an opportunity to provide private testimony to a court reporter) were occurring in other rooms at the same time as the formal hearing was held in the auditorium, the auditorium hearing allowed all members of the public an opportunity to provide public testimony to the agencies and to influence other interested individuals who chose to attend. The court held that this was sufficient to satisfy 23 U.S.C. § 128.²⁷

Section 106 Consultation

Claims under Section 106 of the National Historic Preservation Act typically allege procedural violations - for example, failure to conduct the consultation process in accordance with the Section 106 regulations. In 2018, a court addressed the somewhat unusual issue of whether a lawsuit could be brought to enforce compliance with a Section 106 programmatic agreement.

- Enforceability of Section 106 Programmatic Agreement. In the case involving replacement of an I-95 bridge in Rhode Island, an Indian tribe brought a lawsuit to enforce compliance with the State DOT's obligations under a Section 106 programmatic agreement (PA). The PA required the State to transfer three parcels of property to the tribe, but before transferring the properties, the State required the tribe to agree that the tribe would not assert sovereign immunity with respect to those parcels. The tribe refused to accept that condition, and the State therefore did not transfer the land. The court ruled that the tribe could not sue FHWA and the Advisory Council on Historic Preservation because as federal agencies, they were entitled to sovereign immunity. The court also ruled that the tribe could not sue the State DOT and SHPO in federal court for violating the PA because those claims essentially involved issues of state contract law, and federal courts lacked jurisdiction to hear those claims.²⁸

Administrative Records and Discovery

Challenges to federal agencies' NEPA compliance are brought under the Administrative Procedure Act (APA) and as such, judicial review is based on the agency's administrative record. NEPA cases often involve battles over the completeness of the administrative record, access to privileged documents, and whether there are "extraordinary

²⁶ *Sierra Club v. FHWA*, 2018 WL 1610304 (D. Colo. 2018).

²⁷ *Waukesha County Environmental Action League v. USDOT*, 348 F.Supp.3d 869 (E.D. Wis. 2018).

²⁸ *Narragansett Indian Tribe v Rhode Island DOT*, 903 F.3d 26 (1st Cir. Aug. 30, 2018).

circumstances” that justify allowing discovery on specific issues. Several decisions in 2018 addressed these issues:

- Allowing Discovery. In the case involving I-70 improvements in Denver, the plaintiffs argued that discovery was needed to reveal how and why FHWA adjusted its air quality model between the FEIS and the ROD. The court agreed and allowed the plaintiff to serve five interrogatories on FHWA and/or the State DOT related to this modeling decision, and required FHWA to produce all non-privileged documents on this topic.²⁹ By contrast, in a case involving the Westside Subway Extension in Los Angeles, the court denied the plaintiff’s request to conduct discovery because the plaintiff had not shown the extraordinary circumstances (e.g., bad faith) that would justify discovery.³⁰
- Website Documents. In the I-70 case, the plaintiffs sought to add five documents from FHWA’s website to the administrative record. The court held that the plaintiffs did not demonstrate that those documents were presented to or considered by FHWA. The court explained that the documents’ mere existence on FHWA’s website did not indicate that FHWA directly or indirectly considered the documents in its decision.³¹
- Privilege Log. Federal agencies normally do not provide a privilege log (i.e., a list of privileged documents excluded from its record) when submitting an administrative record in litigation. However, courts sometimes require submittal of such a log, as occurred in the Westside Subway Extension case. In that case, the court ordered FTA to submit a privilege log to “enable Plaintiff to provide the required specificity and/or challenge any assertion of privilege the defendants believe applies to documents that would otherwise be included in the [administrative record].”³²

Affirmative Defenses

- Standing to Challenge Section 404 Permit. In a case involving the State Highway 31 project in Texas, owners of oil wells located near the project challenged the Section 404 permit issued by the U.S. Army Corps of Engineers. The Corps moved to dismiss, arguing that the plaintiffs lacked standing because they would not be harmed by impacts to the specific water crossings covered by the permit. The court disagreed, holding that the plaintiffs’ alleged injuries – e.g., increased risk of petroleum spill – were fairly traceable to the Corps’ decision to issue the permit, because the permit allowed the State DOT to construct the project near the plaintiffs’ oil wells. In addition, the court determined that the plaintiffs’ asserted injuries could be redressed if the court vacated the permit, because vacating the permit would prevent the State DOT from constructing the project.³³ Therefore, the court held that the oil well owners had standing to challenge the Section 404 permit.

²⁹ *Sierra Club v. FHWA*, 2018 WL 1695402 (D. Colo. 2018).

³⁰ *Beverly Hills Unified School District v. FTA*. (C.D. Cal, No. 2:18-cv-716, ECF #70, Sept. 17, 2018).

³¹ *Sierra Club v. FHWA*, 2018 WL 1695402 (D. Colo. April 6, 2018).

³² *Beverly Hills Unified School District v. FTA*. (C.D. Cal, No. 2:18-cv-716, ECF #70, Sept. 17, 2018).

³³ *Bar J-B Co., Inc. v. Texas DOT*, 2018 WL 2971157 (May 15, 2018).

- Mootness - Project Under Construction. In several cases, courts have held that a NEPA case does not become moot even after a project is complete, because a court still could provide some relief.³⁴ In the Willits Bypass case, the court followed this reasoning: it held that the case was not moot because a portion of the project had not yet been built, and even if it had been, the court “could remand for additional environmental review and . . . ‘however cumbersome or costly it might be’ conceivably order the Willits Bypass closed or taken down.”³⁵

³⁴ See, e.g., *West v. Secretary of Department of Transportation*, 206 F.3d 920, 925 (9th Cir. 2000).

³⁵ *Coyote Valley Band of Pomo Indians of California v. USDOT*, 2018 WL 1569714 (N.D. Cal. 2018).

Appendix: List of 2018 Court Decision in CLUE Database

The following court decisions are included in the 2018 case law summaries posted in the CLUE database on the AASHTO Center for Environmental Excellence website. The full text of the court decision is posted along with each case law summary on the CLUE website.

FHWA and State DOT Cases

1. *Bar J-B Co., Inc. v. Texas Department of Transportation*, 2018 WL 2971157, at *1 (N.D.Tex. 2018) (**State Highway 31 Project**; Texas)
2. *City of Dardanelle v. United States Department of Transportation*, 2018 WL 2771513 (E.D. Ark. 2018) (**River Valley Intermodal Facilities Project**; Arkansas).
3. *Coyote Valley Band of Pomo Indians of California v. United States Department of Transportation*, 2018 WL 1587212 (N.D.Cal. 2018) (**Willits Bypass Project**, California).
4. *Coyote Valley Band of Pomo Indians of California v. United States Department of Transportation*, 2018 WL 1569714 (N.D. Cal. 2018) (**Willits Bypass Project**, California).
5. *Fath v. Texas Department of Transportation*, 2018 WL 3433800 (5th Cir. 2018) (**MoPac South Interchange Project**; Texas).
6. *Highlands Ranch Neighborhood Coalition v. Cater*, unpublished. (D. Colo, Case No. 16-cv-1089, ECF # 63, Nov. 26, 2018) (**C-470 Project**; Colorado).
7. *Highway J Citizens Group v. United States Department of Transportation*, 891 F.3d 697 (7th Cir. 2018) (**State Highway 164 Project**; Wisconsin).
8. *Narragansett Indian Tribe by and through Narragansett Indian Tribal Historic Preservation Office v. Rhode Island Department of Transportation*, 903 F.3d 26 (1st Cir. 2018) (**I-95 Viaduct Replacement**; Rhode Island).
9. *Paradise Ridge Defense Coalition v. Hartman*, 2018 WL 6434787 (9th Cir. 2018) (**U.S. 95 Project**; Idaho).
10. *Petzel v. Kane County Department of Transportation*, 2018 WL 3740629 (N.D.Ill. 2018) (**Longmeadow Parkway**; Illinois).
11. *Save Our Sound OBX, Inc. v. North Carolina Department of Transportation*, 324 F. Supp. 3d 597 (E.D.N.C. 2018) (**Bonner Bridge/NC 12 Project**; North Carolina).

12. *Sierra Club v. Federal Highway Administration*, 2018 WL 1610304 (D. Colo. 2018) (**Central 70 Project**; Colorado).
13. *Sierra Club v. Federal Highway Administration*, 2018 WL 1695402 (D. Colo. 2018) (**Central 70 Project**; Colorado).
14. *Sierra Club v. North Carolina Department of Transportation*, 2018 WL 4955200 (E.D.N.C. 2018) (**U.S. 70 Havelock Bypass**; North Carolina).
15. *Waukesha County Environmental Action League v. United States Department of Transportation*, 348 F.Supp.3d 869 (E.D.Wis. 2018) (**West Waukesha Bypass**; Wisconsin).
16. *Wise v. U.S. Department of Transportation*, unpublished. (E.D. Ark., Case No. 18-cv-466, ECF # 17, July 27, 2018) (**I-630 Project**; Arkansas).
17. *Zeppelin v. Federal Highway Administration*, 305 F.Supp.3d 1189 (D. Colo. 2018) (**Central 70 Project**; Colorado).

FTA Cases

18. *Beverly Hills Unified School District v. FTA*, unpublished. (C.D. Cal, No. 2:18-cv-716, ECF #70, Sept. 17, 2018) (**Westside Subway Extension**).
19. *Lakes and Parks Alliance of Minneapolis v. Metropolitan Council*, 310 F.Supp.3d 992 (D.Minn. 2018) (**Southwest Light Rail**; Minnesota).

FRA Cases

20. *Indian River County, Fla. v. Department of Transportation*, 348 F.Supp.3d 17 (D.D.C., 2018) (**Brightline Rail**; Florida).

FAA Cases

21. *Informing Citizens Against Runway Airport Expansion v. Federal Aviation Administration*, 2018 WL 6649605 (9th Cir. 2018) (**Ravalli County Airport Runway Project**; Montana).
22. *Kaufmann v. Federal Aviation Administration*, 722 Fed.Appx. 438 (6th Cir. 2018) (**Bowman Field Airport Safety Program**; Kentucky).
23. *Vaughn v. Federal Aviation Administration*, 2018 WL 6430368 (D.C. Cir. 2018) (**Southern California Metroplex Flight Plans**; California).

Other Cases

24. *City of West Palm Beach v. United States Army Corps of Engineers*, 317 F.Supp.3d 150 (D.D.C. 2018) (**State Road 7 Extension**; Florida).
25. *Friends of Etna Turpentine Camp, Inc. v. U.S. Department of the Interior*, 2018 WL 3344405 (M.D.Fla. 2018) (**Suncoast Parkway**, Florida).