



# INDIANA DEPARTMENT OF TRANSPORTATION

*Driving Indiana's Economic Growth*

100 North Senate Avenue  
Room N758  
Indianapolis, Indiana 46204

PHONE: (317) 234-0408  
FAX: (317) 234-1930

**Mitchell E. Daniels, Jr., Governor**  
**Michael B. Cline, Commissioner**

July 9, 2012

Dear Local Public Agency and Consultant Partners,

I write to inform you of a recent Indiana Supreme Court opinion that may impact some of your trail projects.

On March 20, 2012 the Court issued an opinion (Howard vs. U.S.) regarding the use of easements for the purpose of trail projects.

We encourage you to have your own legal counsel read the opinion, but we read the Court to say that if a railroad holds an easement for the purpose of operating a rail line, a public trail is not within the scope of such an easement. This is true even if the rail line is "railbanked" under federal law for interim trail use. Transformation from rail use to trail use, according to the Indiana Supreme Court, is not permitted because the trail purpose (recreation) is too different from the purpose of the original rail use (transportation.)

The Federal Highway Administration requires INDOT to submit a right of way certification for trails in which federal funds are used. To avoid and eliminate right of way certification problems, INDOT is instructing LPAs with active trail projects currently in development to follow the instructions below:

- If your trail project is located on a railroad easement, even if that easement is railbanked, the trail right-of-way must be purchased from land owner(s) in accordance with federal and state laws as described in INDOT's various manuals including: Appraisal Manual, Buying Manual, Relocation Manual, Property Management Manual and INDOT's Right-of-Way Engineering Manual.
- Once purchased, the right-of-way must be certified as described in the above noted manuals and the LPA Guidance Document.

The staff at INDOT understands this court ruling may change project schedules and costs. We are committed to working with you to promote the best possible outcomes within the constraints of this recent determination and all other applicable laws and regulations.

If you have questions regarding how this recent determination may impact your project, please contact your INDOT District Local Program Coordinator.

Sincerely,

A handwritten signature in cursive script that reads "Audra Blasdel". The signature is written in black ink and is positioned above the printed name and title.

Audra Blasdel  
INDOT Director LPA/MPO and Grants Administration

CC: Troy Woodruff, INDOT Chief of Staff  
Mark Ahearn, INDOT Chief Legal Counsel