

## Supreme Court Rejects Government's Efforts to Derail Rails-to-Trails Claims

The U.S. Supreme Court has confirmed that fee owners of western lands burdened by certain now-abandoned railroad easements granted by the government in the nineteenth century also own the land underlying those railroad easements. In *Marvin M. Brandt Revocable Trust v. United States*, the Government claimed that it, and not the current fee owner, owned the reversionary interests for the railroad easements, and that it received title when the railroad abandoned any easement granted under the 1875 Railroad Act. Both the trial court and the Tenth Circuit agreed when this case was before them. The decision potentially affected thousands of miles of now-abandoned railroad easements in the West.

But the Supreme Court reversed, holding that the Government is bound by a decision it won in the Supreme Court seventy years ago:

*More than 70 years ago, the Government argued before this Court that a right of way granted under the 1875 Act was a simple easement. The Court was persuaded, and so ruled. Now the Government argues that such a right of way is tantamount to a limited fee with an implied reversionary interest. We decline to endorse such a stark change in position, especially given "the special need for certainty and predictability where land titles are concerned."*

The Brandts are pursuing a rails-to-trails just compensation case in the U.S. Court of Federal Claims, which has been stayed pending the outcome of this case.

You can read the opinion [here](#).

Nancie and Roger Marzulla reported on the oral argument of this case in a podcast sponsored by the Federalist Society, which you can listen to [here](#).