

# 2015 FRA Rail Program Delivery



## NEPA Legal Issues



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# Topics for Discussion

- Role of FRA's Office of Chief Counsel in NEPA Reviews
- Interesting (and hopefully relevant) Recent Decisions
- Practice Tips from one Lawyer's Perspective





# Interesting Recent Decisions

- **Cascadia Wildlands v. Bureau of Indian Affairs (9<sup>th</sup> Circuit, Sept. 11, 2015)**
- **Defenders of Wildlife v. North Carolina Department of Transportation (4<sup>th</sup> Circuit, May 13, 2014)**
- **Lake and Parks Alliance of Minneapolis v. Federal Transit Administration (District of Minnesota, March 6, 2015)**
- **Openlands v, US Department of Transportation (Northern District of Illinois, June 6, 2015)**



# Practice Tips

- **Conduct thorough public and resource agency outreach and consultation at all stages in project development.**
- **Developing solid data and design reflecting environmental constraints early in the process leads to better documentation and decisions.**
- **Establish the approach to building a comprehensive project record early in the process.**
- **Consider ways to make documents shorter and more user friendly but be mindful of the requirements of various ways to present data (e.g. incorporation by reference vs. appendix).**
- **Project modifications should be brought to FRA's attention as early as they are discovered.**



# Thank You

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