

# **Bond Case Briefs**

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## **PUBLIC TRANSPORTATION - KENTUCKY**

### **Coalition for Advancement of Regional Transp. v. Federal Highway Admin.**

**United States District Court, W.D. Kentucky, at Louisville - July 17, 2013 - Slip Copy - 2013 WL 3776492**

Over the course of a decade, Defendants – a variety of state and federal agencies – investigated cross-river traffic issues and the possibility of alleviating problems by building a fourth bridge in East Louisville and reconstructing the existing transportation infrastructure. This culminated in the Project, which is a roughly \$2.6 billion construction and transportation management program designed to improve mobility across the Ohio River between Louisville and Southern Indiana.

Plaintiff, Coalition for the Advancement of Regional Transportation (“CART”), maintained twenty separate claims against Defendants. CART is a volunteer-member, tax exempt § 501(c)(3) organization that promotes modern transit planning, especially encouraging the introduction of light rail to urban transit systems. Though CART asserts a number of claims arguing that Defendants failed to comply with federal statutory mandates, and otherwise abused their discretion in the planning and implementation of the Project, its general contention is more normative. It believes that vehicular traffic will decline in future years, making the Project both unnecessary and in all likelihood, unable to obtain adequate funding to service construction loans taken out to finance the Project. CART maintains that other alternatives, even abandoning the Project altogether, would better serve the community.

CART advanced twenty claims against Defendants that can be generally grouped into four categories: the Project (1) violates the procedural mandates of NEPA; (2) violates various FAHA funding regulations, including the statute’s prohibition of federal participation in certain tolled facilities; (3) threatens the water and air quality of the region in violation of NEPA, the CWA and the CAA; and (4) intentionally discriminates against racial minorities in violation of Title VI.

The court stated, wearily, that “The discussion and debate over the Project, and specifically building a new bridge, has extended for several decades. Various interested parties have expressed every conceivable alternative, from doing nothing to demolishing and completely rebuilding our highway system.”

“The Court, and anyone associated with the Project, will concede that interested persons could reach different conclusions concerning the region’s transportation needs and their appropriate resolution. Again, the Court’s only role is to determine whether Defendants followed the applicable regulatory framework and reached conclusions that the Administrative Record supports. After closely examining the record and arguments, and based on the foregoing analysis, the Court finds that Defendants have met their burdens in that respect. As such, the Court concludes that Defendants reasonably exercised their discretion in making decisions about the Project’s scope, design and financing. Moreover, Defendants’ actions during the planning process and the final decisions do not suggest any actionable discriminatory intent.”

