

# Court ruling in land dispute could threaten bike trails

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(Photo: Michael Madrid, USA TODAY)

## Story Highlights

- justices rule land must revert to its owners
- Easements for railroads expired
- Program created more than 1,400 bike and nature trails

WASHINGTON — The Supreme Court's ruling in an obscure Wyoming land dispute Monday could result in the loss of thousands of miles of bicycle trails or cost the government millions of dollars in compensation.

The justices ruled 8-1 that government easements used for railroad beds over public and private land in the West expired once the railroads went out of business, and the land must revert to its owners.

Chief Justice John Roberts, writing for the majority, said the case was decided based on an 1875 act of Congress and a 1942 Supreme Court decision involving Great Northern Railway.

That ruling confirmed that the government merely had received easements without any long-term land rights, he said. The establishment in 1983 of the federal "rails to trails" program didn't change the court's interpretation for easements that expired earlier.

"We're going to stick with that today," Roberts said from the bench.

The decision could jeopardize the "rails to trails" program, responsible for creating more than 1,400 bike and nature trails, many of them built along railroad rights-of-way.

The ruling prompted a lone dissent from Justice Sonia Sotomayor.

"The court undermines the legality of thousands of miles of former rights of way that the public now enjoys as means of transportation and recreation," Sotomayor said. "Lawsuits challenging the conversion of former rails to recreational trails alone may well cost American taxpayers hundreds of millions of dollars."

The ruling came in a case brought by Wyoming landowner Marvin Brandt, whose 83-acre property is crossed by an old railroad line. Brandt's victory has implications for about 80 other cases involving about 8,000 claimants.

"Thousands of claims pertaining to 1875 Act rights-of-way have been filed," the Justice Department said in its brief to the court. "The United States will be obligated to pay just compensation on many claims in which ownership of the right-of-way is often a determining factor."

The Rails to Trails Conservancy had warned that a loss would block completion of the Medicine Bow Rail Trail that cuts through Brandt's property and would "threaten existing rail trails across America that utilize federally granted rights-of-way." Included are the George S. Mickelson Trail in South Dakota, the Foothills Trail and John Wayne Pioneer trails in Washington, the Weiser River Trail in Idaho and the Rio Grande Trail in Colorado.

The federal government or its state and local counterparts could exercise eminent domain proceedings to keep trails in operation and pay adjacent landowners, said Kevin Mills, senior vice president of policy and trail development for the conservancy. In other cases, trails could be shut down if landowners go to court.

"There probably will be an increase in litigation," Mills said. "At a minimum, it creates uncertainty and/or expense."

During oral arguments in the case in January, justices had a hard time getting information on the overall acreage or miles of trails involved. It "strikes me as pretty unusual that the government doesn't know what it owns," Roberts said at the time. Justice Antonin Scalia, who cast his lot with the landowners early on, called that "incredible."

Justice Stephen Breyer, who has had three bicycling accidents since 1993 — the last of which in April resulted in a shoulder replacement — envisioned a future in which landowners could be besieged by bikers.

"I certainly think bicycle paths are a good idea," he said, but "for all I know, there is some right-of-way that goes through people's houses, you know, and all of a sudden they are going to be living in their house, and suddenly a bicycle will run through it."