



Local Highway Technical
Assistance Council
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LHTAC
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NEWSLETTER

LHTACTimes

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PHOTO CONTEST

The winner of this year's photo contest is **Andy Zahrn** from Civil Science with a construction photo of Fremont County's Ora Bridge. It is published as our next cover photo on the LHTAC website and will be used in the FY20 Annual Report. The 1st, 2nd, and 3rd place photos will be printed, framed and displayed in the LHTAC office with credit to the photographers. All photos submitted will be used in future LHTAC marketing materials, including the 2021 LHTAC promotional calendar.

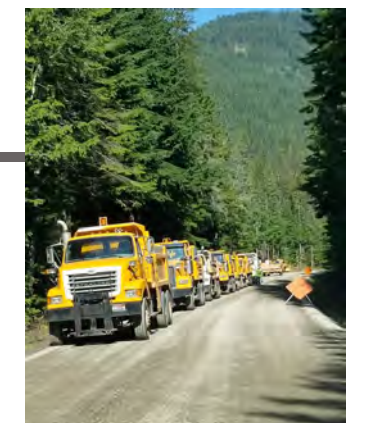
2020 LHTAC Local Roads Photo Contest Winners Announced



1st Place
Project: KN 12122 Ora Bridge
Type: Federal-aid Off-System Bridge
Photographer: Andy Zahrn, Civil Science
Local Sponsor: Fremont County



2nd Place
Project: Schweitzer Mountain Road Overlays
Type: 2019 Local Strategic Initiatives (LSI)
Photographer: Ryan Luttmann, Century West Engineering
Local Sponsor: Independent Highway District



3rd Place
Project: Meadow Cr Moyie River Chip Seal
Type: Local Rural Highway Investment Program (LRHIP)
Photographer: Renee Nelson, Boundary County
Local Sponsor: Boundary County

POCATELLO SAFETY FEST

The 2021 Pocatello Safety Fest is tentatively scheduled for April 6-8, 2020 at the Red Lion Event Center in Pocatello. We are planning to hold a socially distanced in-person event in conjunction with virtual classes. The T2 Center will update you as we know more.

For more information on the 2021 Safety Fest events visit <https://lhtac.org/training/safety-fest/>

Calendar of Events

Date	Event	Location
October 7, 13, 21	October LHTAC Workshops	Virtual Sessions (See page 3)
November 11	Veterans Day	Office Closed
November 19	LRHIP Deadline	LHTAC 3330 Grace St Boise, ID 83703
November 26 & 27	Thanksgiving Holiday	Office Closed
December 11	LHTAC Quarterly Council Meeting	LHTAC 3330 Grace St Boise, ID 83703

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September is National Preparedness Month



www.ready.gov/september

Child Passenger Safety Week
September 20-26, 2020

National Seat Check Saturday
September 26, 2020

www.trafficsafetymarketing.gov/get-materials/child-safety

www.LHTAC.org

T2 Center Fall 2020 Update

Registration is open

The LHTAC T2 Center is pleased to announce that we will be offering a combination of in-person training and instructor-led online classes this fall. Please be assured that both our instructors, and your safety will be our top priority. In order for us to adhere to the State of Idaho and local Health Department guidelines regarding COVID-19, we will be making some changes to the class setting.

Class size:

To allow for social distancing, and the hosting agency's requirements, the number of students allowed will be reduced.

Personal protective equipment and health screenings:

We kindly ask all participants to be diligent in respecting one another's health. Masks are required attire for indoor T2 classes. Everyone should bring their own mask or appropriate face covering. If you do not have a mask, one will be provided to you. In addition; all participants must complete a screening questionnaire upon arrival to class for potential COVID-19 symptoms. Any individual that exhibits COVID-19 symptoms, has a fever, or has been exposed to COVID-19, should not come to class.

Disinfectant:

Disinfectant will be available at the class location and frequent hand washing is recommended.

Food and beverage:

Bottled water & individually wrapped food may be provided at some locations. Students are responsible for their own lunch.

Please note that classes and locations may be subject to change depending on varying COVID-19 situations.

Online Courses - Registration Opened September 8

Date	Course	Road Scholar Program
10/6-7/2020	Basic Plan Reading Part 1 of 2: 10/6/20 - 9:00 AM to 11:00 AM Mountain Time Part 2 of 2: 10/7/20 - 9:00 AM to 11:00 AM Mountain Time	Elective
10/13-14/2020	Pavement Maintenance and Preservation Part 1 of 2: 10/13/20 - 9:00 AM to 11:00 AM Mountain Time Part 2 of 2: 10/14/20 - 9:00 AM to 11:00 AM Mountain Time	Road Scholar
10/21-22/2020	Traffic Management through Signs and Markings Part 1 of 2: 10/21/20 - 9:00 AM to 11:00 AM Mountain Time Part 2 of 2: 10/22/20 - 9:00 AM to 11:00 AM Mountain Time	Elective
10/28/2020	Effective Communications Part 1 of 2: 9:00 AM to 11:00 AM Mountain Time Part 2 of 2: 2:00 PM to 4:00 PM Mountain Time	Road Scholar
11/17-18/2020	Winter Maintenance Part 1 of 2: 11/17/20 - 9:00 AM to 11:00 AM Mountain Time Part 2 of 2: 11/18/20 - 9:00 AM to 11:00 AM Mountain Time	Elective
12/9/2020	Supervising with Confidence Part 1 of 2: 9:00 AM to 11:00 AM Mountain Time Part 2 of 2: 2:00 PM to 4:00 PM Mountain Time	Elective

Transportation Training Available GET STARTED TODAY!

As new and innovative ways to manage highway construction programs enter the transportation landscape, so does the need to keep your transportation staff's knowledge up to date. The staff training necessary to prepare for the future, however, can be difficult for local and tribal transportation agencies to afford.

Luckily, there are **no-cost trainings available** in need-to-know transportation topics, many of which can be done anywhere, any time. Learn more about the options to find the ideal fit for your agency's needs.

National Highway Institute (NHI)

Recommended for **engineers and construction workers**



- 180+ online courses available.
- NO-COST access!
- NHI training for local and tribal transportation staff is sponsored by the Federal Highway Administration's Center for Local Aid Support.

Enter your government email when accessing NHI course offerings.

HOT TOPICS

Introduction to Safety Inspection of In-Service Bridges | Chip Seal Best Practices | Pipe Installation, Inspection, and Quality | Introduction to a Transportation Asset Management Plan | Hot In-Place Recycling

BROWSE COURSES AND REGISTER

<http://bit.ly/nhitraining>

TC3 – Transportation Curriculum Coordination Council, through AASHTO

Recommended for **engineers and construction workers**



- 190+ online training modules.
- NO-COST access!
- TC3 training for local and tribal transportation staff is sponsored by the Federal Highway Administration's Center for Local Aid Support.

Enter your government email and promotion code **D5X3-B3D9-52CB-4XCX** to access TC3 course offerings.

HOT TOPICS

Flexible Pavement Preservation Treatment Series | Improving the Daily Diary | Change Orders, Claims, and Dispute Resolutions | Flagger Training | Pavement Markings | Proper Plowing Techniques | Flexible Pavement Preservation Treatment Series: Crack Sealing and Fillings | Basic Construction Surveying

BROWSE COURSES AND REGISTER

<http://bit.ly/tc3training>

FAQs

Who is eligible? NO-COST training is available only to employees of local governments or tribes. Sponsorship does not extend to private companies or academia.

Why do I need to use my government email to register? Your eligibility for no-cost access is authenticated by your government email address.

May I share this with colleagues? Of course! Please email us if your colleague would like an electronic copy of this flyer.

How do I register? You can enroll in the web-based training through the registration links listed above.

Is there a limit on the number of courses I may take? There is no limit—learn away!

For more information:
Center for Local Aid Support | CLAS@dot.gov | 720-963-3522

Credits toward professional development hours (PDHs) or continuing education units (CEUs) are provided on a course-by-course basis.



U.S. Department of Transportation
Federal Highway Administration

T2 Road Scholar and Master Awards



City of Moscow

Steve Persell (Road Scholar), Ryan Debaun (Road Scholar/Master), Rich "Chardo" McReynolds (Road Scholar/Master)



Lemhi County Road and Bridge

Commissioner Rick Snyder, Claude (Jr) Miles (Road Master), Rick Pruett (Road Master), Jay Davis (Road Master), Sam Wing (Road Scholar/Master), Curt Rosin (Road Master), Richard Turner (Road Scholar), Tim Tolman (Road Scholar), Mike Saxton (Road Scholar), and Ed Tolman (Road Scholar/Master).

Northern Idaho- Registration Opened September 8			
Date	Course	City	Road Scholar Program
9/29/2020	Improving Intersection Safety	Coeur d'Alene	Elective
9/30/2020	Winter Maintenance	Coeur d'Alene	Elective
10/1/2020	Roads 101	Lewiston	Elective
10/13/2020	ATSSA Traffic Control Technician	Coeur d'Alene	Road Master
10/14/2020	ATSSA Flagger Certification	Coeur d'Alene	Road Scholar
10/15/2020	ATSSA Flagger Certification	Moscow	Road Scholar
Western & Central Idaho - Registration Opened September 9			
Date	Course	City	Road Scholar Program
10/7/2020	Pavement Maintenance and Preservation	Twin Falls	Road Scholar
10/8/2020	Winter Maintenance	Boise	Elective
10/20-21/2020	Speed Limits & Speed Zones	Boise	Road Master
11/2/2020	Roadway Drainage	Twin Falls	Road Master
11/3/2020	Environmental BMPs	Boise	Road Master
11/10/2020	Roadway Safety Audits	Boise	Elective
11/17/2020	ATSSA Flagger Certification	Boise	Road Scholar
11/18-19/2020	ATSSA Traffic Control Supervisor	Boise	Elective
Eastern Idaho - Registration Opened September 10			
Date	Course	City	Road Scholar Program
10/6/2020	Contract Administration	Pocatello	Elective
10/8/2020	Environmental BMPs	Pocatello	Road Master
10/13/2020	ATSSA Flagger Certification	Ammon	Road Scholar
11/4/2020	Work-zones and Employee Safety	Ammon	Elective
11/5/2020	Roadway Drainage	Pocatello	Road Master

Extensions – To support the participants of the Road Scholar/Road Master program, the T2 Center is providing a one year extension to the four year completion requirement. If you have questions regarding transcripts or your completion status, please contact the T2 Center directly by email at IdahoT2@lhtac.org.

Online Training

During this time we want to remind our local agencies about various free online training options that are available. <https://lhtac.org/training/online-training/>

How can I receive T2 credits for these courses?

To receive credit for outside training, we ask participants to send us the class information prior to taking the training. This is so we can review the topics and make sure that it pertains to the courses offered in the Road Scholar program.

The amount of credit received can also depend on the length of time spent on training. If the training is two hours, you might receive .25 credit.

If you have any questions or would like us to review the training you're interested in, please contact our T2 Coordinator at IdahoT2@lhtac.org.

We will continue to post and share online trainings as they become available. Thank you for your patience.



Local Funding Opportunities

The Local Highway Technical Assistance Council (LHTAC) manages a variety of funding programs to assist Local Highway Jurisdictions in utilizing available resources for maintenance and construction of Idaho's Local Highway System. Applications will be posted online this month and available to download at www.lhtac.org.

Hand Deliver Deadline	Postmark Deadline	Program
November 19, 2020	November 16, 2020	Local Rural Highway Investment Program (LRHIP)
January 11, 2021	January 7, 2021	Federal-aid Urban Transportation Plan & Federal-aid Urban Construction
January 14, 2021	Electronic Application	Local Highway Safety Improvement Program (LHSIP)

Learn more about these applications at our workshops

LHTAC October Workshops - Virtual Sessions

Hear a firsthand update from LHTAC staff on pertinent information regarding the local transportation community. We will hold 3 virtual sessions (covering the same agenda) via Zoom in the month of October. After registering you will be sent detailed information, via email, for accessing the Zoom session.

October 7th
9 a.m. to 11:30 a.m. (Mountain Time)

October 13th
12:00 p.m. to 2:30 p.m. (Mountain Time)

October 21st
3:00 p.m. to 5:30 p.m. (Mountain Time)

Registration available at <https://lhtac.org/>

Topics Covered:

Funding Programs, Eligibility, Applications
 Federal-aid: Urban Construction and Urban Transport
 Local Highway Safety Improvement Program (LHSIP)
 Local Rural Highway Investment Program (LRHIP)
 129,000 lb. Trucking and Freight Update
 T2 Training Program Update
 Technical Assistance

These workshops are open to everyone: sponsors, clerks, consultants, local elected officials, etc. but you must register in advance.

Can't make any of these session? Don't worry, a recorded version of these workshops will be available in November 2020 and posted on our website.



2020 Innovation Idea Awards Announced

On behalf of the selection committee for the Innovation Idea Award, congratulations to all our 2020 Winners!

It was our pleasure to see so many outstanding nominations from local highway jurisdictions around the state. The nominations we received illustrated how hard the transportation community is continuously striving to develop both time and cost saving efficiencies.

- **Jeff Farner, City of Nampa, Street Sweeper**
- **Jay Davis, Lemhi County, Idaho Programmatic Project**
- **Independent Highway District, Extending Centerline Marking Life**

These submissions, along with the runner ups, will be highlighted on our website. You can find past submissions on our website under the [News](#) tab- within the [Innovation Idea Award](#) category.

T2 Center Road Scholar and Master Awards

With increased demand on the transportation system and new construction technologies comes the need for more diverse skills and knowledge necessary for maintenance and preservation activities on roadways and bridges. The LHTAC T2 Center focuses on education and training of local agency employees. The T2 Center program curriculum is designed to provide participants with the fundamentals of safety, maintenance, and professional development. There are two levels to the program Level 1 Road Scholar and Level 2 Road Master. Congratulations to these recent award recipients!



Filer Highway District
 Ryan Coonce (Road Scholar/Master)
 Pictured with Commissioner Will Meeks



Twin Falls Highway District
 Michael Nork (Road Scholar) and Kim Lee (Road Scholar)

The Virtues of Validation Continued

LESSONS LEARNED

If an LHJ and/or other parties are in a dispute about the existence, location, or width of a ROW, validation may be the preferred tool to resolve the dispute for the following reasons:

1. The LHJ has more control over validation procedures than over quiet title litigation;
2. Validation is likely to cost all parties less than quiet title litigation, especially if the validation decision is not appealed;
3. The LHJ makes the initial Findings of Fact and Conclusions of Law, instead of the courts;
4. The LHJ findings of fact are presumed to be correct if supported by substantial and competent evidence;
5. Richel lays out a “road map”. It shows the kinds of evidence that courts will find persuasive in the event of a court appeal;
6. It is possible the validation process may lead to a settlement agreement without having to resort to the courts;
7. You must enjoy being a history detective, or at least be willing to hire someone to research all available records. The exact facts are essential to the outcome with respect to both validation proceedings and quiet title litigation;
8. It is possible that validation proceedings will cause everyone involved to carefully research historical records and additional relevant facts may be presented at the hearing which were not previously known to the LHJ;
9. One case I handled involved a Hatfield/McCoy feud over a ROW. Both sides passionately believed they were absolutely correct. The validation process, and particularly the public hearing resulted in both sides hearing the facts and opinions of the other side and coming to a collective understanding that the issues were not as one-sided as each side previously believed. While they were all not quite to the point of singing “kumbaya”, the LHJ commissioners came to a decision whereby the Hatfields and McCoy’s stopped “shooting” at each other. That said, the process may result in passions rising to the surface, before hopefully subsiding.
10. More often than not, ROW disputes occur when there have been ownership changes to the adjoining properties. A newcomer buys a ranch or recreational property. The newcomer does not want “riff-raff” driving through his property and chasing his livestock or otherwise interfering with the quiet enjoyment of his property. However, the new fence and gate may prevent others from enjoying historic access to public lands, or even access to other private property. Inaction is likely not a viable option.
11. Validation cannot be used to create a new ROW where none previously existed. To do so could result in a taking requiring compensation to the adjoining property owner(s).
12. While the validation statute applies to highway districts and county road departments, there is an argument it may also apply to city streets in some circumstances. The statute does not apply to platted streets, but some city streets were located outside the city when the ROW was first created. Unplatted ROWs now within a city, but created prior to annexation, may be the subject of validation proceedings. A city street department is a highway district for purposes of Idaho Code Section 40-1323. CYA – Consult your attorney.

CONCLUSION

Richel articulates the value of validations. Validation proceedings may provide the best tool for resolving ROW disputes as quickly and inexpensively as possible.

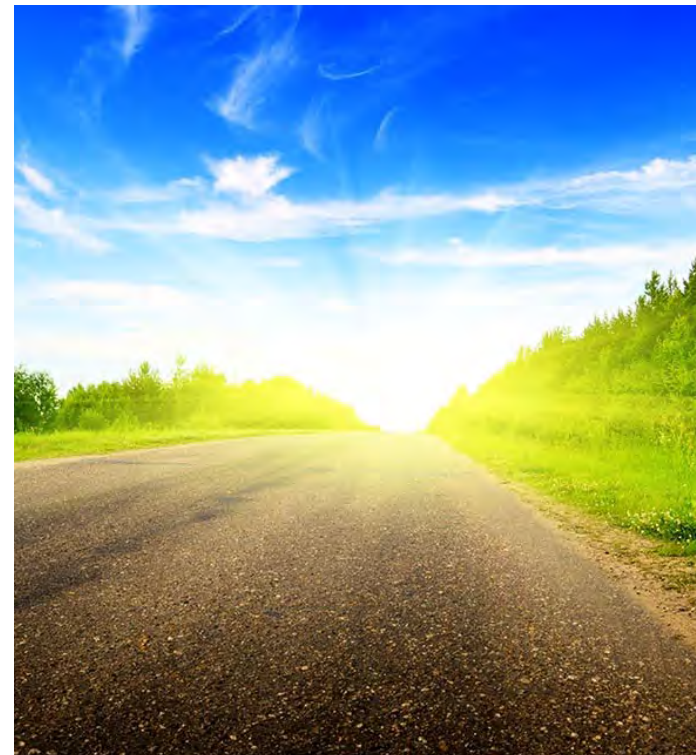
*Mr. Wynkoop has actively practiced as an Idaho attorney for 41 years. He represents numerous Idaho local highway agencies. Mr. Wynkoop previously served as General Counsel and Commissioner for the Ada County Highway District and is past Chairman of the Government Attorneys Section of the Idaho State Bar.

The Virtues of Validation

By David E. Wynkoop

Validation proceedings have long been a valuable tool for Idaho local highway jurisdictions (LHJ)^[1]. A validation may be initiated by a resident, property owner, or the LHJ where there may be doubt or a dispute regarding the existence, location, or dimensions of a public right-of-way (ROW). Validation is an administrative proceeding conducted by an LHJ, and may be preferable to a quiet title lawsuit conducted by a court. The importance of the tool was recently reinforced by the Idaho Supreme Court in the case of Richel Family Trust v. Worley Highway District, decided July 22, 2020.

^[1] I use the term Local Highway Jurisdictions to include highway districts, county road departments, and perhaps even city street departments. See Idaho Code Section 40-1323.



Idaho Code Section 40-203A sets forth the procedures for validation of ROWs as summarized in Richel:

Idaho Code section 40-203A gives a highway district authority to validate a public right-of-way in circumstances in which, “through omission or defect, doubt exists as to the legal establishment or evidence of establishment of a highway or public right-of-way[.]” Id. Further, the validation statute recognizes that a validation proceeding may be appropriate when “the location of the highway or public right-of-way cannot be accurately determined due to . . . loss or destruction of the original survey of the highways or public rights-of-way[.]” Id. (italics added). Finally, Idaho Code section 40-203A provides that during validation proceedings, “the commissioners shall consider all information relating to the proceedings and shall accept testimony from persons having an interest in the proposed validation.” I.C. § 40-203A(2)(e) (italics added). . . [T]he legislature created “a distinct mechanism . . . wherein a highway district may evaluate whether a highway or public right-of-way was previously established and may remove any remaining doubt surrounding its establishment.” This mechanism allows a highway district to “consider all information [.]” including extrinsic evidence, to determine the establishment of a public right-of-way. I.C. § 40-203A(2)(e). Richel, p. 17

Validation procedures are similar to the procedures for vacation of ROWs and, in the proper circumstances, validation and vacation proceedings may be considered simultaneously. After a validation petition is received, the LHJ should research the facts, set a hearing date, and provide notice of the hearing. After the hearing, the commissioners shall determine whether validation is in the public interest. Findings of Fact, Conclusions of Law and an Order should then be adopted by resolution. The LHJ order may be appealed to district court pursuant to Idaho Code Section 40-208. The court may reverse or modify the LHJ validation order only if “substantial rights of the appellant have been prejudiced...”. In other words, the LHJ validation order is entitled to a presumption of correctness, especially with respect to findings of fact.

Continues on pages 5, 6 & 7...

The Virtues of Validation Continued...

Compare a validation proceeding with a quiet title lawsuit. The LHJ or any other party may initiate a quiet title lawsuit in district court and the court will conduct judicial proceedings to gather evidence about the history of the ROW. The court will then make its own decision without the benefit of the LHJ having first made a decision regarding the ROW. This is a crucial difference. In a validation, the LHJ first gathers and determines the facts and the court, in its appellate capacity, decides whether the LHJ erred in its decision. In a quiet title action, the LHJ likely will have the burden to prove to the court what the facts are and the LHJ is not entitled to a presumption of correctness.



- RICHEL CASE -

Now to the really good stuff!

In the Richel case, the district court affirmed an LHJ's validation of a ROW. Richel then appealed to the Idaho Supreme Court, which upheld the LHJ validation order. The Supreme Court stated that "this Court defers to the factual findings made below by either the highway district or district court unless they are unsupported by substantial and competent evidence. Richel, p. 7.

In Richel, there had been a 1913 survey and a viewer's report for Road No. 20. This was followed by a deed which referenced the survey and stated it was intended "to pass as the same was actually marked upon the ground, and according to the field notes of the survey of the public road thereof, as made on the 11th to 14th days of October A.D. 1913." Richel, p. 7. The problem is that the field notes and the survey were not recorded, and no one has been able to find a copy of the viewer's report or survey, and so the deed did not have a legal description associated with it as is usually required for a deed to be valid. The Court recognized the statutory language of Idaho

Code Section 40-203A and stated that the legislature created "a distinct mechanism . . . wherein a highway district may evaluate whether a highway or public right-of-way was previously established and may remove any remaining doubt surrounding its establishment." Richel, p. 15.

Notwithstanding the usually fatal deed description defect, both courts supported the LHJ findings and held that the evidence was strong enough to support the creation and location of the ROW. That evidence included:

- Road No. 20 was included in the Kootenai County Road Book which depicted "accepted public roads." Richel, p. 8. The road book showed a curved line, labeled as a road, which alignment was consistent with other evidence;
- There was evidence from a minutes' book of some public maintenance of Road No. 20 dated back to 1914;
- A 1914 survey of proposed roads showed Road No. 20 in a location consistent with other depictions of Road No. 20;
- In 1915 the Department of Interior approved Road No. 20 as a public road within the Coeur d'Alene Indian Reservation. This approval was supported by two maps showing a road in the location of Road No. 20;
- A 1930's aerial map shows a "light marking that could indicate a path or trail" in the approximate location of Road No. 20." Richel, p. 10. The court ruled that a second map was too blurry to draw any conclusions.
- Two Metsker maps from 1939 and 1959 depict lines (for roads) in a similar location to Road No. 20 as shown on other maps;
- No road surface exists today in the location of Road No. 20;

- Road No. 20 was never abandoned through statutory vacation proceedings. As an aside, the Court reaffirmed earlier case law that a dedicated ROW can only be vacated through statutory procedures and cannot be informally abandoned by lack of use and maintenance;
- Road No. 20 provides the only public access to a parcel of private property;
- A separate deed conveying a ROW to Kootenai County did not support the validation decision because there was no evidence in the record that the LHJ was the successor-in-interest to Kootenai County. The Court emphasized that "the commissioners of a highway district have exclusive jurisdiction over all highways and public right-of-way within their highway system", citing Idaho Code Section 40-1310. Had there been evidence in the record that the LHJ was the successor-in-interest to Kootenai County, the Court may have held the County deed to be relevant supporting evidence.



The Court went on to affirm the LHJ conclusion that validation of Road No. 20 was in the public interest. The Court then analyzed at length that Idaho Code Section 40-203A provides authority to Idaho LHJ's to validate a public road, despite the fact that there was no legal description attached to the deed. The Court noted that the conveyance of the ROW deed was governed by the laws in effect on the date of the conveyance (1914), not at the time of the lawsuit.

Finally, Mr. Richel argued that an unconstitutional taking of private property occurred. The Court dismissed this argument by holding that the validation decision only reaffirmed what had occurred early in the 1900's. The statute of limitations on a taking claim had long since passed. The Court noted that a validation proceeding cannot create a new ROW where one did not previously exist. Continues on page 7...

Local Rural Highway Investment Program (LRHIP)

Do you have an open LRHIP project?

Status Check Due September 30th

At the end of each Federal Fiscal Year (September 30th) we check in on all open LRHIP projects. If a project is complete, remember to send in before and after photos with your Project Document Summary (PDS) and have it signed by your Chairman or Mayor. If you had a LRHIP grant for a transportation plan, include the final copy for our records.

If your project is ongoing, an extension request must be filed; this is simply a written or emailed letter asking for an extension. An extension is good for 1 year and filed with the project.

If you have any questions please feel free to contact Dawn Christensen dchristensen@LHTAC.org or Laila Kral lkral@LHTAC.org.