

## Practice Update

# NEPA Requirements Narrowed in New SCOTUS Ruling

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By [Matt Schroeder](#) and [Valerie E. Lott](#)

On May 29, 2025, the U.S. Supreme Court (SCOTUS) issued an opinion in *Seven County Infrastructure Coalition et al. v. Eagle County, Colorado et al.*,<sup>[1]</sup> which narrowed the requirements of environmental review under the National Environmental Policy Act (NEPA). Specifically, in reversing the lower court's decision, SCOTUS held NEPA cases require substantial judicial deference, which means the NEPA does not require courts to review the environmental effects of upstream and downstream projects separate in time or place from proposed projects under review.<sup>[2]</sup> The ruling could significantly impact upstream and downstream parties, as well as environmental groups, from challenging rules and regulations under the NEPA. Justice Kavanaugh wrote the opinion in an 8-0 decision.<sup>[3]</sup> Justice Gorsuch did not participate in the decision.

## Background

The Seven County Infrastructure Coalition (the Coalition) applied to the U.S. Surface Transportation Board (the Board), as required by federal law, for approval of a new 88-mile railroad project in Utah's Uinta Basin.<sup>[4]</sup> The Coalition sought to construct a new railroad to connect Utah to the national freight rail network, allowing transportation of crude oil to the Gulf Coast.<sup>[5]</sup>

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The NEPA requires the Board to prepare an Environmental Impact Statement (EIS) to address significant environmental effects and identify feasible alternatives to mitigate the effects of the proposed railroad.[6] The Board finalized a 3,600 page EIS after it held six public meetings and collected over 1,900 public comments.[7] The Board subsequently approved the railroad and concluded the transportation and economic benefits outweighed any environmental effects.[8]

Several environmental organizations and one Colorado county filed a petition in the U.S. Court of Appeals for the D.C. Circuit to challenge the Board's approval of the railroad.[9] The D.C. Circuit found deficiencies in the Board's EIS because it failed to evaluate environmental effects from increased upstream oil drilling and increased downstream oil refining.[10] Thus, the D.C. Circuit vacated the Board's EIS and approval.[11] SCOTUS granted certiorari.[12]

### The SCOTUS Holding

In the EIS, the Board noted potential future effects of increased upstream oil drilling and downstream refining but said an extensive analysis of this issue was unnecessary.[13] The D.C. Circuit court, however, held the Board's EIS was insufficient.[14]

In its review, SCOTUS evaluated the NEPA's requirements, noting "NEPA imposes no substantive environmental obligations or restrictions. The NEPA is a purely procedural statute that...simply requires an agency to prepare an EIS..."[15] SCOTUS critiqued inconsistent judicial applications of the NEPA in which some courts engage in "overly intrusive" reviews of NEPA cases.[16] SCOTUS indicated "[c]ourts should afford substantial judicial deference and should not micromanage those agency choices so long as they fall within a broad zone of reasonableness." [17]

SCOTUS reasoned that a further analysis of upstream environmental effects was unnecessary because the railroad project was not a project for oil or well drilling.[18] Specifically, SCOTUS argued the NEPA only requires evaluation of the proposed project in an EIS, not a separate project.

[19] Additionally, further analysis of downstream environmental effects was unnecessary in the Board's EIS because oil refining projects are dependent on other markets to receive railcars and the Board has no authority or role in approving or regulating crude oil production and refining.[20] Accordingly, SCOTUS held the Board was not required to evaluate environmental effects of projects other than the at-issue, proposed railroad project presented by the Coalition, which was consistent with the Board's EIS.

## Implications

In the future, we may see fewer NEPA cases challenging agency evaluations of environmental effects. SCOTUS's holding requiring courts to provide substantial judicial deference to agency decisions in NEPA cases likely will limit the judiciary's future role in determining the sufficiency of an EIS under the NEPA. Notably, however, SCOTUS carefully distinguished the NEPA's purely *procedural* environmental obligations from other environmental acts, including the Clean Air Act, Clean Water Act, and Endangered Species Act, that contain environmental obligations and restrictions.

SCOTUS indicated that, historically, individuals and entities sometimes brought NEPA challenges in attempts to delay or prevent projects based on the alleged insufficiency of an EIS, even in projects designed to promote clean-energy. The import of SCOTUS's decision in *Seven County Infrastructure Coalition* is an effort to promote a more streamlined and efficient process for beginning and completing new business projects.

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[1] *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colorado*, No. 23-975, 2025 WL 1520964 (U.S. May 29, 2025).

[2] *See Seven Cnty. Infrastructure Coal.*, 2025 WL 1520964 at \*6.

[3] Chief Justice Roberts and Justices Thomas, Alito, and Barrett joined Justice Kavanaugh’s opinion. Justice Sotomayor concurred in the judgment and Justices Kagan and Jackson joined the concurrence.

[4] *Seven Cnty. Infrastructure Coal.*, 2025 WL 1520964 at \*3-4.

[5] *Id.* at \*3.

[6] *Id.*

[7] *Id.* at \*4.

[8] *Id.*

[9] *Id.* at \*5.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.* at \*4.

[14] *Id.* at \*3.

[15] *Id.*

[16] *Id.* at \*8.

[17] *Id.*

[18] *Id.* at \*4.

[19] *Id.* at \*10.

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