

The New NEPA

Quick Hit Reactions to the Supreme Court's Ruling in *Seven County Infrastructure Coalition v. Eagle County*

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Jay serves clients in a wide range of infrastructure and natural resource contexts, both by guiding them past regulatory and environmental review obstacles to win agency approvals and by litigating the complex issues that often arise in such contexts.

Jay focuses on projects that attract scrutiny from both regulators and third-party groups, including mining, rail and surface transportation, and port projects.

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Fred focuses on environmental and natural resources issues concerning major infrastructure, including surface transportation, energy, mining, and commercial project development.

Prior to joining Jacobs, Fred represented a wide variety of developers, public entities, and businesses in environmental, land use, and natural resources litigation in courts across the country.

Fred was counsel for petitioners in *Seven County Infrastructure Coalition v. Eagle County*.

What is the Uinta Basin Railway?

- The Uinta Basin is an isolated part of Utah—only two-lane roads go in or out—that is larger than the state of Maryland
- The project is an 88-mile rail extension linking the basin to the national rail network
- This new transportation option would make shipping the basin's waxy crude oil more economic



What happened in the D.C. Circuit?



- *No challenges* to project impacts in Utah
- Opponents of the project—environmental groups and Eagle County, Colorado—argued that upstream, downstream, and downline impacts were foreseeable
- The D.C. Circuit held that the STB should have considered potential effects from upstream oil drilling in Utah and downstream oil refining in Louisiana

What problem did the Supreme Court see?



What did the Court do in *Seven County*?

- D.C. Circuit: reversed and remanded
- Breaking the cycle
- A “course correction”
- Judicial review should be deferential, not intrusive
- Agencies should focus on the project in front of them (and comply with timing and page limits)

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Opinion of the Court

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SUPREME COURT OF THE UNITED STATES

No. 23–975

SEVEN COUNTY INFRASTRUCTURE COALITION,
ET AL., PETITIONERS *v.* EAGLE COUNTY,
COLORADO, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[May 29, 2025]

JUSTICE KAVANAUGH delivered the opinion of the Court.

How will judicial review change?



- The “central principle” must be “deference”
- Scope, impacts, and alternatives: Agency decides
- “Brevity should not be mistaken for lack of detail.”
- By statute: 2 years, 150 pages
- Focus on the *final decision*; “an EIS is only one component”

How will agency process change?

- Timing and page limits
- Freedom to decide “what facts are relevant” to their decision
- No “potential future projects” or “geographically separate projects”
- No projects outside the agency’s “regulatory authority”
- Draw a “manageable line”



What just happened?

CLIMATE

The Supreme Court Just Started a Permitting Revolution

Justice Brett Kavanaugh’s decision in the case of *Seven County Infrastructure Coalition v. Eagle County, Colorado* enlists the nation’s highest court in the campaign to reform federal environmental enforcement

ROBINSON MEYER JUNE 02, 2025

Supreme Court scales back a key environmental law in a ruling that could speed development projects

The Supreme Court has backed a multibillion-dollar oil railroad expansion in Utah in a ruling that scales back a key environmental law and could speed development projects around the country

May 29, 2025



POLITICS / SUPREME COURT

The Supreme Court wants to make it easier to build

The Court's latest decision is a love letter to the abundance agenda.

by Ian Millhiser

May 29, 2025, 2:10 PM EDT



The Supreme Court goes after NEPA

By Nline N. Perch, Hannah Northey, Michael Doyle | 05/29/2025 01:02 PM EDT

Federal agencies do not need to consider “every conceivable environmental the nation’s top court ruled.

Supreme Court Curbs Scope of Environmental Reviews

The question for the justices was whether an agency had complied with a federal law by issuing a 3,600-page report on the impact of a proposed railway in Utah.

How will *Seven County* be implemented?

- Easier said than done:
Experience with *Sackett*
- CEQ and agency guidance is in development
- Knowledge of the rules
- Case-by-case planning
- Help from Washington when needed (and available)
- Prepare for litigation



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