

Supreme Court Ruling Clarifies NEPA Scope and Applicable Judicial Deference

June 3, 2025 John Fognani, Mary Mendoza, Jeff Civins

PRACTICES Environmental

On May 29, 2025, the Supreme Court of the United States issued an 8-0 opinion clarifying that the National Environmental Policy Act (NEPA) requires agencies to assess environmental impacts resulting only from the project at hand and need not consider those from separate upstream and downstream projects. In *Seven County Infrastructure Coalition v. Eagle County*, the Court held that NEPA is purely procedural and an agency can weigh environmental consequences in its decision-making as it sees fit. Notably, this holding limits the previously relied-on use of NEPA as a “substantive roadblock” to challenge agency decisions and delay or deny new projects based on environmental concerns. As the majority opinion by Justice Kavanaugh establishes, “the bedrock principle of judicial review in NEPA cases can be stated in a word: Deference.”

Case Background: Expanded Use of NEPA as a Challenge to Infrastructure Projects

At issue is a proposal by the Seven County Infrastructure Coalition to build an 88-mile railroad line in Utah to connect the Uinta Basin, a region with large crude oil reserves, to the national rail network. As part of the standard review for any new railroad construction, the U.S. Surface Transportation Board (the Board) prepared an environmental impact statement (EIS) as required by NEPA. The Board’s 3,600+ page EIS analyzed environmental impacts that could directly occur as a result of the railroad’s construction and operation, including “disruptions to local wetlands, land use and recreation”. The EIS also noted potential upstream and downstream impacts that could result from the project, specifically increased oil drilling and refining, but did not fully analyze those impacts. The Board ultimately concluded that the project’s substantial benefits outweighed the identified impacts and approved the project.

Eagle County and several environmental organizations petitioned the D.C. Circuit for review of the Board’s decision to approve the railway. The D.C. Circuit vacated both the EIS and the final approval order for the project and concluded that the Board “failed to take the requisite hard look at all of the environmental impacts of the railway.” The court held that the Board’s EIS analysis was too narrowly focused and should have considered environmental impacts from increased oil drilling and refining that were both “reasonably foreseeable” impacts of the project. The D.C. Circuit rejected the Board’s argument that the upstream and downstream impacts were arising out of other projects under different agency ownership and, as such, were not relevant to the EIS. The Seven County Infrastructure Coalition appealed.

The Supreme Court’s Reasoning and Holding

In a unanimous decision, the Supreme Court reversed the D.C. Circuit’s holding that the U.S. Surface Transportation Board’s EIS did not comply with NEPA.

Justice Kavanaugh’s majority opinion found that the D.C. Circuit (1) failed to afford the Board the “substantial judicial deference” required in NEPA cases and (2) incorrectly interpreted NEPA to

require the Board to consider the environmental effects of upstream and downstream projects separate in time and/or place from the Uinta Basin Railway.

The opinion emphasized that NEPA is a purely procedural statute that only requires agencies to prepare an EIS focused on the environmental effects of the project **at issue**, the scope of which is to be defined by the agency. The Court underscores that NEPA inherently includes a “rule of reason.” An agency will leverage its experience and expertise and “invariably make a series of fact-dependent, context-specific, and policy-laden choices about the depth and breadth of its inquiries”, which will impact the resulting EIS. Courts should then afford “substantial deference” to the agency choices “so long as they fall within a broad zone of reasonableness.” The Court noted, “The only role for a court is to confirm that the agency has addressed environmental consequences and feasible alternatives as to the relevant project.”

Interpreting the “relevant project” to be the construction and operation of the Uinta Basin railroad line, the Supreme Court found that the Board had comprehensively evaluated the environmental impacts of the railroad line and was not required to address the environmental impacts of the separate projects of upstream oil drilling in the Uinta Basin and downstream oil refining in the Gulf Coast.

Notably, this case is distinct from the *Loper Bright* decision, where the Supreme Court declared that courts have the responsibility of interpreting ambiguous law and need not defer to an agency’s interpretation. Unlike in *Loper*, where the Court reviewed an agency’s interpretation of an ambiguous statute, here, the Court was reviewing an agency’s exercise of discretion granted by statute. Judicial review in this circumstance is done under the deferential arbitrary-and-capricious standard, which requires a court to ask only whether the agency’s action was reasonable and reasonably explained. In cases such as *Seven Country Infrastructure Coalition*, where courts review an agency’s exercise of discretion rather than their interpretation of law, courts must defer to the agency’s decision-making.

Key Takeaways

- **Judicial Deference:** This Supreme Court decision requires courts to afford agencies substantial judicial deference in NEPA cases. This restraint on judicial review will limit challenges to approved construction and infrastructure projects as the courts are required to give more deference to agencies’ discretionary decision-making under NEPA.
- **Increased Agency Autonomy:** Through this decision, the Supreme Court has granted agencies more power to define the scope of a proposed project’s environmental impacts as part of the EIS.

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