



# LEGAL AFFAIRS SEMINAR



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# *Seven County Infrastructure Coalition v. Eagle County: Implications of a “Course Correction” for Transit Projects*

APTA Legal Affairs Seminar

Philadelphia, PA

March 16, 2026

# ***Background of Seven County Case***

- 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
- Prepared an EIS, as new railroad construction and operation must be approved by the U.S. Surface Transportation Board (STB)



# 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 reasonably foreseeable
- The D.C. Circuit held that the STB should have considered broader scope of impacts from upstream oil drilling in Utah and downstream oil refining in Louisiana



# What Concepts Were Presented to the Supreme Court?

“overly intrusive (and unpredictable)” judicial review

“litigation averse agencies” take “more time” in NEPA review



# What did the Court do in *Seven County*?

- Supreme Court reversed and remanded D.C. Circuit’s decision based on two grounds:
  - Substantial judicial deference
  - Upstream and downstream projects that are separate in time or place
- 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.

# What did the Supreme Court ruling say?

“Contrary to the D. C. Circuit’s NEPA analysis, the Board’s determination that its EIS **need not evaluate possible environmental effects from upstream and downstream projects** separate from the Uinta Basin Railway complied with NEPA’s procedural requirements, particularly NEPA’s textually mandated focus on the “proposed action” under agency review. While indirect environmental effects of the project itself may fall within NEPA’s scope even if they might extend outside the geographical territory of the project or materialize later in time, the fact that **the project might foreseeably lead to the construction or increased use of a separate project does not mean the agency must consider that separate project’s environmental effects**. This is particularly true where, as here, those **separate projects fall outside the agency’s regulatory authority.**”

# Key Takeaways from Supreme Court's Ruling

- Limited scope of review to more direct impacts of a Proposed Action
  - *Application:* STB does not need to conduct extensive analysis of upstream and downstream impacts
- Judicial deference to agency decisions
  - *Application:* STB has broad discretion to define the scope and content of analysis
- NEPA is a procedural statute, not substantiative
  - *Application:* EIS process is only one aspect of the STB decision-making
- Consideration of impacts should relate to an agency's authority
  - *Application:* STB had no regulatory control over cargo to be shipped on the proposed rail line, and not authority over future oil drilling or refining

# 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

## The Supreme Court goes after NEPA

By Ming H. Parish, Hannah Northey, Michael Doyle | 05/29/2025 01:52 PM EDT

Federal agencies do not need to consider "every conceivable environmental consequence" of a federally backed project, the nation's top court ruled.

**Vox**  
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



## 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 judicial review change?

- The “central principle” must be “deference”; not a new concept, but language used by Court is clear
- Scope, impacts, and alternatives: Agency decides and should be upheld if reasonable
- “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 processes 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”



# Example – New Light Rail Project

Pre-Seven County Uncertainty		Post-Seven County Approach
What <b>upstream impacts</b> are reasonably included as part of NEPA scope? Include construction materials, transport to proposed site, etc.?	<b>Development of light rail track/stations</b>	Not required to analyze upstream impacts, as manufacturing of construction materials falls outside of agency authority
What <b>downstream impacts</b> are reasonably included as part of NEPA scope? Energy demands and waste streams related to operations?	<b>Energy usage and waste management</b>	Analyze direct impacts of connecting new transit facility, but analysis of potential new grid development likely outside of agency’s jurisdiction; waste management likely within scope
Analyze all reasonably foreseeable projects near the new light rail.	<b>Cumulative impacts</b>	Analyze a narrower view of cumulative impacts, with a higher-level review of induced growth

# Example – New Data Center with a Federal Nexus

Pre-Seven County Uncertainty		Post-Seven County Approach
Assess the impacts of a potential new power source (SMR, solar, geothermal)	<b>Major energy demand</b>	May not be required if not part of the project, or outside of agency authority
Analyze all reasonably foreseeable energy projects across the region or even nation	<b>Cumulative impacts</b>	Analyze a narrower view of cumulative impacts, only those in the immediate vicinity of the proposed data center or within agency's purview



# Questions?



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