

Client Alert

Environmental, Health and Safety

MAY 30, 2025

For more information, contact:

Ilana Saltzbar
+1 202 626 3745
isaltzbar@kslaw.com

Nikesh Jindal
+1 202 383 8933
njindal@kslaw.com

Zaheer H. Tajani
+1 202 626 9282
ztajani@kslaw.com

Sydney Weiss
+1 312 764 6907
sweiss@kslaw.com

King & Spalding

Washington, D.C.
1700 Pennsylvania Avenue, NW
Suite 900
Washington, D.C. 20006
T. +1 202 737 0500

Supreme Court Limits NEPA Scope and Emphasizes Deference to Agencies

OVERVIEW

On May 29, 2025, the Supreme Court issued its opinion in *Seven County Infrastructure Coalition v. Eagle County* that promises to significantly alter the scope of judicial review of environmental reviews performed under the National Environmental Policy Act (“NEPA”). The Court reversed a lower court decision vacating an environmental impact statement (“EIS”) and accompanying approval of a railway project that sought to facilitate the transportation of crude oil from the Uinta Basin to the national rail network with the ultimate goal of transporting that oil to refiners along the Gulf Coast.

The action agency, the U.S. Surface Transportation Board (the “Board”), compiled an EIS that spanned more than 3,600 pages and analyzed a number of significant impacts that could occur as a result of the railroad line’s construction and operation—including disruptions to local wetlands, land use, and recreation. The Board’s EIS, however, did not fully analyze the potential effects of increased upstream oil drilling in the Uinta Basin and increased downstream refining of crude oil carried by the railroad. On that basis, the United States Court of Appeals for the District of Columbia Circuit (“D.C. Cir.”) vacated the EIS for failing to adequately examine and consider these reasonably foreseeable effects associated with the railway project. The Supreme Court in yesterday’s decision overturned the D.C. Cir. decision, on two grounds: the D.C. Circuit (1) failed to afford the Board the required “substantial judicial deference” and (2) incorrectly held that NEPA required considering the environment effects of separate upstream or downstream projects. Op. 8. As discussed below, the basis of the Court’s reasoning may have significant impacts on infrastructure and energy projects going forward.

HISTORY

The Seven County Infrastructure Coalition applied to the Board in 2020 for approval of a railroad line connecting Utah's Uinta Basin to the national freight rail network. The Board prepared a comprehensive EIS, which addressed significant environmental effects and identified feasible alternatives, but did not fully examine potential effects of increased upstream oil drilling and downstream refining. Based on its review, the Board found the railroad's substantial transportation and economic benefits outweighed the environmental impacts identified in the EIS and approved the project.

Petitions challenging the Board's action were filed by a Colorado county and several environmental organizations. The D.C. Circuit held that the Board was required by NEPA to analyze the environmental effects of upstream and downstream activities. Consequently, the D.C. Circuit vacated both the EIS and the Board's final approval order.

SUPREME COURT DECISION

The Supreme Court reversed the D.C. Cir's decision on two separate grounds. *First*, the Court explained that "[t]he bedrock principle of judicial review in NEPA cases can be stated in a word: Deference." Op. 8-9, 15. The Court stressed that the agency is best positioned to determine what details the EIS must include (and thus whether a particular EIS is "detailed enough"). Op. 10. An agency also "exercises substantial discretion" in making the "predictive and scientific judgments" inherent in identifying "significant environmental impacts and feasible alternatives." Op. 10. Agencies likewise deserve substantial deference in determining "the scope of the environmental effects that it will address." Op. 11. "So long as the EIS addresses environmental effects from the project at issue, courts should defer to agencies' decisions about where to draw the line—including (i) how far to go in considering indirect environmental effects from the project at hand and (ii) whether to analyze environmental effects from other projects separate in time or place from the project at hand." Op. 11.

The Court held that lower courts had strayed from these bedrock principles, instead "micromanag[ing] . . . agency choices" through "overly intrusive" review. Op. 12. Those courts' rulings "slowed down or blocked many projects" and forced agencies to "take ever more time and to prepare ever longer EISs for future projects," resulting in a process that borders on "Kafkaesque." Op. 12-13. Applying these principles here, the Supreme Court held that the D.C. Circuit failed to afford the Board the substantial judicial deference required under NEPA.

Second, the Court held that the D.C. Circuit erred in requiring the Board to address the upstream and downstream environmental effects from potential future projects or geographically separate projects. The Court made clear that NEPA's focus is on the proposed action and does not require agencies to review environmental effects of a "separate project." Op. 16 (emphasis in original). Thus, although the indirect "environmental effects of the project at issue *may* fall within NEPA even if those effects might extend outside the geographical territory of the project or might materialize later in time," Op. 16 (emphases altered), NEPA *does not* require agencies to consider effects that might result from separate projects that "break[] the chain of proximate causation [from] the project at hand," Op. 16-17.

Applying these principles, the Court held that the Board's EIS was adequate. The Board evaluated the effects of the railroad project and determined that it did not need to assess "any future oil and gas development projects." Op. 21. That was "[a]bsolutely correct." Op. 21.

KEY POINTS FROM THE DECISION

1. **Judicial Deference:** The Court reiterated that judicial review in NEPA cases should be highly deferential to the agency's determinations. "Courts. . . should not micromanage" agency decisions about the "scope and content" of an EIS, as long as those decisions "fall within a broad zone of reasonableness." Op. 12.

2. Defining “Proposed Action”: The Court clarified that the “proposed action” for purposes of NEPA is not defined by a strict “but for” test. Op. 18. The scope of a proposed action’s effects incorporates elements of proximate cause and considers whether any downstream project is separate in time or space (and possibly subject to a different agency’s regulatory oversight), which may justify excluding that project from the scope of the proposed action. Even if there is some ambiguity in defining the project at hand, the Court stated that so long as the agency draws a reasonable and manageable line, courts should defer to the agency’s judgment.

3. Remedy for Deficient EISs: The Court clarified that an EIS found lacking should not necessarily result in vacatur of the agency decision. The relevant inquiry is whether there is reason to believe that the agency might disapprove the project if it added more to the EIS. If an agency clearly documents its reasons for approving the project, errors with the EIS should not lead to vacatur of the overarching project decision; rather, the proper remedy is remand to the agency to address any deficiencies with the EIS.

IMPLICATIONS

This Supreme Court’s decision underscores the importance of judicial deference to agency expertise and discretion in NEPA cases. It also clarifies the scope of NEPA, limiting the requirement to analyze environmental effects to the proposed project itself. This decision comes at a time when the Administration has signaled, through various Executive Orders and other actions, its intent to accelerate and streamline environmental permitting and reviews. Among other things, the Administration has publicly sought to encourage the development of LNG, critical minerals, oil and gas, nuclear, and a range of other energy and manufacturing projects that are dependent on NEPA reviews. The Supreme Court’s decision may help aid these efforts, giving both the Administration and project developers increased certainty in connection with required environmental reviews under NEPA as they pursue major infrastructure and energy projects.

This ruling is significant for agencies and project developers, as it reduces the burden of extensive environmental analysis for projects. By allowing agencies to limit the scope of the proposed project earlier in the causal chain, agencies can limit their environmental reviews and avoid the complexities of analyzing the effects of unrelated projects. In turn, project proponents can expect fewer judicial interventions and more durable agency decisions. Indeed, the Court expressly noted that the exacting scrutiny demanded by courts strayed far beyond what NEPA requires. That had led to “fewer and more expensive railroads, airports, wind turbines, transmission lines, dams, housing developments, highways, bridges, subways, stadiums, arenas, data centers, and the like. And that also means fewer jobs, as new projects become difficult to finance and build in a timely fashion.” Op. 13. The Court’s decision seeks to reset this jurisprudence and remove some of the barriers to new infrastructure and project development.

King & Spalding routinely advises companies regarding the NEPA process and provides strategic counseling for complex NEPA reviews.

ABOUT KING & SPALDING

Celebrating more than 140 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 1,300 lawyers in 24 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality, and dedication to understanding the business and culture of its clients.

This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice. In some jurisdictions, this may be considered “Attorney Advertising.”

View our [Privacy Notice](#).