

The Future of NEPA: Supreme Court Resets the Rules

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On June 11, the Supreme Court issued a major decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado* that could reshape how infrastructure projects are reviewed, approved, and challenged under the National Environmental Policy Act (NEPA).

In a new episode of the *Legal Download* podcast, we unpacked the opinion—and what it means for agencies, project sponsors, and NEPA itself.

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Why This Case Matters

Seven County is the Court's most consequential NEPA ruling in decades. The decision restores agency discretion, narrows the scope of environmental reviews, and makes it harder for courts to vacate permits based on perceived procedural flaws.

The case involved a proposed 88-mile rail line approved by the Surface Transportation Board (STB) to support oil transport. The agency prepared a 3,600-page Environmental Impact Statement but declined to deeply analyze indirect upstream or downstream impacts. A lower court vacated the project approval—but the Supreme Court unanimously reversed.

Key Takeaways

1. Judicial Deference Reaffirmed

The Court emphasized that judges must defer to agency expertise under the Administrative Procedure Act. As long as the agency's decision is reasonable and well explained, it stands.

2. Limits on Indirect Impact Analysis

NEPA does not require agencies to analyze environmental impacts outside their jurisdiction. In this case, STB was not required to model emissions from upstream drilling or downstream combustion.

3. Narrower Remedies for NEPA Flaws

Courts should only vacate an agency decision if the procedural error would likely have changed the outcome. This new standard limits project-stalling litigation over minor technical issues.

4. Practical Implications

The ruling may accelerate permitting timelines, reduce litigation risk, and re-anchor NEPA as a procedural—not substantive—statute. This is welcome news for developers and agencies alike.

What Comes Next

Agencies are revising their NEPA procedures in light of evolving CEQ guidance. This decision offers much-needed clarity and could shape future rulemaking and potential legislative reforms.

As Wayne noted in the episode, the ruling helps reset NEPA to its original, process-focused intent—limiting its use as a proxy for broader policy battles.

Frances added that the Court's emphasis on agency discretion could ease litigation burdens and help regulators focus on projects that truly require judicial review.

Final Thought

This isn't just a technical case. It's a signal to courts, agencies, and litigants that NEPA is a tool for informed decision-making—not an open-ended mandate for delay.

If you have questions about the ruling's implications for your project or permitting strategy, feel free to reach out to us directly.