

## Diminishing NEPA: The Supreme Court Continues a Trend of Pro-Pollution Rulings

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On December 2<sup>nd</sup>, 1970, a pivotal moment unfolded in American history when Republican President Richard Nixon created the Environmental Protection Agency, empowering the government to set environmental standards and curb pollution.<sup>1</sup> Preceding this landmark, there existed no formal, comprehensive federal environmental protections. With both parties scrambling to meet a growing public concern for pollution in the 1960s, Nixon's first action as president was to sign in the National Environmental Policy Act (NEPA) and swiftly roll out the EPA and Clean Air Act.<sup>2</sup> The Republican party adopted an, albeit limited, pro-environmental regulation stance that continued into the Bush Administration with the Clean Air Act Amendments. This represented a once-respected bipartisan standpoint of safeguarding the U.S.'s natural spaces and resources<sup>3</sup>. However, the present-day circumstances could not be more different. In the age of a second Trump Administration, the EPA's scope is at perhaps the weakest point in terms of actionable executive power. Open climate-denier Lee Zeldin has entirely overhauled the reach, workforce, and structure of the EPA.<sup>4</sup> Additionally, the agency now openly boasts goals of deregulation and economic prosperity at the cost of a clean environment, effectively undermining their original mission. This regulatory neglect is only further enabled by the Supreme Court. Following the premier Trump Administration's appointments, the conservative-dominated court has worked in tandem with the executive to quietly carry out decisions that further undermine the autonomy of the EPA. This has extreme implications for forthcoming precedent, seeing that agencies and organizations cannot counteract massive environmental reversals and recenter ecological protections without the future legal authority.

What has been dubbed the "biggest environmental ruling" of 2025 is *Seven County*

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<sup>1</sup> *The Origins of EPA*. (2018, November 19). US EPA. <https://www.epa.gov/history/origins-epa>

<sup>2</sup> Rinde, M. (2017, June 2). *Richard Nixon and the Rise of American Environmentalism*. Science History Institute. <https://www.sciencehistory.org/stories/magazine/richard-nixon-and-the-rise-of-american-environmentalism/>

<sup>3</sup> Dotto, V., & Oakes, A. R. (2019). The Environment, A Bipartisan Issue?: Partisanship Polarization and Climate Change Policies in the United States. *British Journal of American Legal Studies*, 8(3), 483–506. <https://doi.org/10.2478/bjals-2019-0017>

<sup>4</sup> Lee, S. (2025, July 21). *Trump Radically Overhauls EPA Mission, Scope in First Six Months*. @BLaw. <https://news.bloomberglaw.com/environment-and-energy/trump-radically-overhauls-epa-mission-scope-in-first-six-months>

*Infrastructure Coalition et al. v. Eagle County, Colorado*, a case that concerns the construction of a new railroad line in Utah. This establishes a precedent that challenges the power of the National Environmental Policy Act (NEPA).<sup>5</sup> Back in 2020, the Seven County Infrastructure Coalition applied to approve a project proposing an 88-mile railroad intended to transport waxy crude oil from Utah’s Uinta Basin to the national freight train network. The Surface Transportation Board then produced an environmental impact statement (EIS) legally mandated by the NEPA—a law requiring federal agencies to “systematically assess the related environmental, social, and economic impact of a proposed policy”.<sup>6</sup> The EIS concluded that the project’s economic benefit outweighed the effects of the proposal’s proximate impact within the area of operation.<sup>7</sup>

Eagle County, Colorado and various supporting environmentalist groups challenged the project on the grounds that the impact statement was insufficient. The Colorado River supplies 40% of Colorado’s drinking supply and provides water for millions in the greater region.<sup>8</sup> Beyond this, the river holds recreational value and immense cultural significance for the thirty indigenous tribes sharing prioritized rights to the river.<sup>9</sup> Their access and the river are increasingly threatened by a changing climate and fluctuating decisions made by the U.S. Government. Since 2000, the river’s water supply has decreased significantly due to droughts and rollbacks to the Clean Air and Water Act, and the Inflation Reduction Act by President Trump have dealt further blows. The County argued that a new addition of crude oil tankers consistently moving alongside the river would pose great risks to the river, in addition to increased traction on the tracks, a possible increase in drilling activity, and indirect future harm to the global environment through the enabled usage of fossil fuels.<sup>10</sup>

The railway project was approved, but a decision administered from the United States Court of Appeals D.C. Circuit found that the Board’s analysis did not sufficiently consider the “downline impacts” of the project, such as forthcoming environmental hazards. This forced the

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<sup>5</sup> Kruzal, J. (2025, July 1). US Supreme Court dealt blows to EPA and environmental protections. *Reuters*. <https://www.reuters.com/legal/litigation/us-supreme-court-dealt-blows-epa-environmental-protections-2025-07-01/>

<sup>6</sup> EPA. (2013, July 31). *What is the National Environmental Policy Act?* US EPA. <https://www.epa.gov/nepa/what-national-environmental-policy-act>

<sup>7</sup> SUPREME COURT OF THE UNITED STATES. (2024). [https://www.supremecourt.gov/opinions/24pdf/23-975\\_m648.pdf](https://www.supremecourt.gov/opinions/24pdf/23-975_m648.pdf)

<sup>8</sup> *Water - Conservation Colorado*. (2025, March 13). Conservation Colorado. <https://conservationco.org/water/>

<sup>9</sup> *Trump Directive Creates Chaos on The Colorado River*. (2025). Ictnews.org. <https://ictnews.org/news/trump-directive-creates-chaos-on-the-colorado-river/>

<sup>10</sup> Blevins, J. (2025, May 29). *Uinta Basin Railway supported with U.S. Supreme Court ruling that may push more crude through Colorado*. The Colorado Sun. <https://coloradosun.com/2025/05/29/uinta-basin-railway-supreme-court-waxy-crude/>

Board to review the EIS further before approving the project. Afterwards, the Supreme Court picked up the case, reconsidering the Utah project's authorization. Beyond this, the action held implications for what exactly is allowed to be considered when an agency evaluates the environmental effects under NEPA.<sup>11</sup> In an 8-0 decision (Justice Neil Gorsuch abstained from the decision), The Court ruled that the Circuit's interpretation of the law was too broad; by finding that the Surface Transportation Board's evaluation was reasonable, they diminished environmental evaluations' ability to analyze indirect and future impacts of proposals. Justice Kavanaugh authored the opinion of the court, stating that NEPA "is a procedural cross-check, not a substantive roadblock. The goal of the law is to inform agency decision making, not to paralyze it." By this logic, the Board lacks authority to regulate associated upstream and downstream effects and therefore is no longer allowed to consider the full scope of effects in its decision making process. This detachment of responsibility away from the industry permits the negative effects of the project to continue without any comprehensive environmental scrutiny under NEPA. Justices Sonia Sotomayor, Elena Kagan, and Ketanji Brown Jackson concurred with the outcome but on narrower grounds, focusing more on the Board's restricted authority than NEPA's broader power.

Approximately 1,500 miles away from the region where the oil extracted from the Uinta Basin will be transported, Gulf Coast-based refineries pollute the environment and taint the health of surrounding communities. In Cancer Alley, a stretch of land in Louisiana almost as long as the 88-mile railroad itself, predominantly black and brown communities suffer generational health defects. Due to the surrounding facilities, they face respiratory infections, reproductive and birth defects, and extreme rates of cancer due to the offshoot of oil refineries.<sup>12</sup> People living in this large area see seven to twelve times the average rate of industrial emissions from petrochemical and fossil fuel businesses.<sup>13</sup> According to the Supreme Court's narrowed NEPA interpretation, their well-being is not a "foreseeable" environmental impact, although these communities have been suffering the downline effects of fossil fuel expansion enabled by projects like the Utah railroad for many decades. This case undoes years of set

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<sup>11</sup> *Seven County Infrastructure Coalition et al. v. Eagle County, Colorado*. (2024). Oyez. <https://www.oyez.org/cases/2024/23-975>

<sup>12</sup> Human Rights Watch. (2024, January 25). *US: Louisiana's "Cancer Alley" | Human Rights Watch*. Human Rights Watch. <https://www.hrw.org/news/2024/01/25/us-louisianas-cancer-alley>

<sup>13</sup> Terrell, K. A., & Julien, G. St. (2023). Discriminatory outcomes of industrial air permitting in Louisiana, United States. *Environmental Challenges*, 10(2667-0100), 100672. <https://doi.org/10.1016/j.envc.2022.100672>

precedent where NEPA was allowed to evaluate indirect yet related environmental effects. Apart from this, other effects such as traction-related wear, drilling effects, potential oil spills in the basin and nearby river, and the impact on nearby historic sites are not represented in the ruling. The resolution reduces both what can be factored into environmental governance as well as the—already underused—legal power to hold firms accountable for pollutive developments.

Moreover, this dangerously short-term interpretation of NEPA’s jurisdiction entirely casts out the principle of intergenerational justice when making developmental decisions. Justice Kavanaugh writes that the climate crisis is “separate” from the railroad, which is simply irrational when considering what led our society to present environmental circumstances. Cumulative past actions expanding fossil fuels and degrading natural ecosystems are collectively to blame for the worsening of natural disasters, rising sea levels, and intensified temperatures currently experienced worldwide. Although these events are already a reality today, they will be even more prevalent in years to come. As framed by the International Court of Justice, the climate crisis not only risks the sanctity of nature, but “is also a threat to global justice and the shared foundations of human dignity.”<sup>14</sup> Future generations share a right to a livable planet with clean air, water, and a stable climate. With this legal imperative in mind, we must act now to protect the rights of those who cannot yet voice their opinions.

At the risk of future welfare, Trump’s appointees wish to dismiss NEPA entirely in order to streamline fossil-fuel-based energy project approvals that align with his political agenda<sup>15</sup>. With the second Trump Administration’s targeting of the EPA, it is evident that the cabinet is using every tool at their disposal, including the largely Trump-appointed Supreme Court, to jeopardize both the validity of existing protective environmental legislation and the agency’s ability to enforce them. In recent years, the Court blocked the EPA’s “Good Neighbor Rule” that reduces ozone emissions with the potential to affect neighboring states. They also restricted the landmark Clean Air Act, limiting restrictions on coal and gas-fired power plants. It is apparent that the Supreme Court intentionally capitalized on reinterpreting indefinite language within protective laws to expand standing for businesses. Erik Schlenker-Goodrich, the executive

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<sup>14</sup> *Intergenerational Justice: The ICJ’s Call to Action on Climate*. (2025, July 26). Ethics on Earth©. <https://ethicsonearth.org/2025/07/26/intergenerational-justice-the-icjs-call-to-action-on-climate/>

<sup>15</sup> Lipinski, R. L. (2025). *Changes Ahead for NEPA Implementation Under President Trump’s Energy Dominance Executive Order*. Natlawreview.com; National Law Review. <https://natlawreview.com/article/changes-ahead-nepa-implementation-under-president-trumps-energy-dominance-executive>

director of the Western Environmental Law Center and a critic of the recent environmental law rulings, described the current legal climate as a “political battle”, where the body of law coming from the court is conveniently aligned with the administration’s favorability towards corporate firms’ economic and property rights over the general public good.<sup>16</sup>

This present-day diversion away from the origins of American environmental protections could not be more clear-cut. The law is an ethical instrument, and one that must be put into place expeditiously to divert an impending ecological and human-health disaster. Environmental protection that began as a bipartisan commitment to environmental stewardship is now stripped down to a legal, procedural formality, its moral intent hollowed out by political convenience and corporate interests. Not only does *County Infrastructure Coalition v. Eagle County, Colorado* signal a significant shift in legal precedent, it also demonstrates a broader abandonment of long-term and trans geographical responsibility. When agencies like the EPA are defanged and courts prioritize brief economic gain, communities bearing the brunt of the decision are abandoned. This ruling does not simply remove a roadblock or reconsider processes; it rewrites exactly who and what is worth defending in this country. In its wake, the responsibility now falls on advocates and the public to resist this erosion and reaffirm values that protect the interconnected stability of people and planet for both the current generation and the ones to come.

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<sup>16</sup> Mesa, N. (2024, December 19). *The Supreme Court decisions that gutted environmental protections in 2024*. High Country News. <https://www.hcn.org/articles/the-supreme-court-decisions-that-gutted-environmental-protections-in-2024/>