



# SURFACE TRANSPORTATION BOARD

FOR RELEASE

05/29/2025 (Thursday)  
No. 25-20  
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## U.S. SUPREME COURT RULES IN FAVOR OF THE STB ON MAJOR CONSTRUCTION PROJECT

The Surface Transportation Board today announced that the Supreme Court of the United States has issued a favorable and unanimous decision concerning the Board’s 2021 decision approving the construction and operation of a new rail line in Utah’s Uinta Basin for the primary purpose of transporting oil. Today’s decision reigns in the scope of environmental reviews that are unnecessarily hindering and potentially preventing infrastructure construction throughout the country.

On December 15, 2021, the Board granted authority to construct and operate a new, approximately 88-mile line of railroad in Utah (the Line), subject to environmental mitigation measures. Eagle County, Colorado, and several groups including the Center for Biological Diversity appealed the Board’s decision to the United States Court of Appeals for the District of Columbia Circuit. In August 2023, the D.C. Circuit vacated the Board’s decision.

Today’s 8-0 U.S. Supreme Court decision reverses and remands the D.C. Circuit’s decision, finding that the D.C. Circuit “incorrectly interpreted [the National Environmental Policy Act (NEPA)] to require the Board to consider the environmental effects of upstream and downstream projects that are separate in time or place from” the project. The Supreme Court also found that the D.C. Circuit “did not afford the Board the substantial judicial deference required in NEPA cases.”

Key statements in today’s Supreme Court decision include:

- NEPA has, in recent years, grown into a statute “that has hindered infrastructure development under the guise of just a little more process,” and a course correction is appropriate.
- The Board complied with NEPA and was not required to consider upstream and downstream effects of the Uinta Basin rail construction and operation project that are separate in time or place from the project itself. The Court held that “the NEPA question is not close” and the Board’s conclusion was “[a]bsolutely correct.”
- “[N]o rule of reason worthy of that title would require an agency to prepare an [Environmental Impact Statement]” addressing effects from another project that is separate in time or place from the project at hand—particularly when it would require the

agency to speculate about the effects of a separate project that is outside its regulatory jurisdiction.

- In determining the scope of its environmental review, an agency may “draw what it reasonably concludes is a ‘manageable line’—one that encompasses the effects of the project at hand, but not the effects of projects separate in time or place.”
- Because an agency’s authority to conduct environmental review is granted by statute—NEPA—judicial review is limited to the Administrative Procedure Act’s “arbitrary and capricious” standard, and courts should defer to agency choices “so long as they fall within a broad zone of reasonableness.”

“Over the years, some have sought to abuse NEPA by unlawfully turning a procedural tool into an ideological weapon,” said Board Chairman Patrick Fuchs. “Today’s decision is a victory for common sense, economic growth, and meaningful environmental review. I strongly supported the Board’s approval decision and subsequent legal defense, and I am pleased the Supreme Court has upheld the diligent work of the agency for the benefit of the public.”

The U.S. Supreme Court’s decision in Seven County Infrastructure Coalition, et al. v. Eagle County, Colo., et al., No. 23-975, may be viewed and downloaded [here](#).

**POSTED: 05/29/2025 01:55 PM**