



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

January 24, 2025

Honorable Scott S. Harris  
Clerk  
Supreme Court of the United States  
Washington, D.C. 20543

Re: Seven County Infrastructure Coalition, et al. v. Eagle County, Colorado, et al., No. 23-975

Dear Mr. Harris:

On December 10, 2024, this Court held oral argument on the above-captioned case, which concerns the proper application of the National Environmental Policy Act of 1969 (NEPA), Pub. L. No. 91-190, 83 Stat. 852 (42 U.S.C. 4321 et seq.). NEPA requires federal agencies to prepare an environmental impact statement in connection with a proposal for “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. 4332(2)(C). In this case, petitioners challenge the court of appeals’ determination that the Surface Transportation Board (Board) failed to satisfy NEPA’s requirements in preparing the environmental impact statement supporting the Board’s decision to authorize the construction of a railway line connecting the Uinta Basin with the national rail network in Utah. The federal respondents filed briefs on the merits supporting petitioners. Although those briefs focused on the proper interpretation of the statutory text and this Court’s precedents, they also cited and discussed NEPA regulations promulgated by the Council on Environmental Quality (CEQ) to “reinforce” the federal respondents’ position. Fed. Resp. Opening Br. 29. CEQ began promulgating its NEPA regulations at the direction of Executive Order 11,991, issued by President Carter on May 24, 1977.

Because of federal respondent’s invocation of the CEQ regulations, we wish to inform the Court that, on January 20, 2025, President Trump issued an Executive Order rescinding Executive Order 11,991. *See* White House, Presidential Actions, Unleashing American Energy, Executive Order, § 5, *available at* <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>. The new Executive Order also provides that “within 30 days of the date of this order, the Chairman of [CEQ] shall provide guidance on implementing [NEPA] and propose rescinding CEQ’s NEPA regulations found at 40 CFR 1500 et seq.” *Ibid.*

I would appreciate it if you would circulate this letter to Members of the Court.

Sincerely,

Sarah Harris  
Acting Solicitor General

cc: See Attached Service List

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