

Our final [article](#) on the Seven Counties case before the Supreme Court, and how to think about causation and NEPA, is now out with the on-line companion to the Administrative Law Review, Accord. For those who don't have time for the whole paper, here's the abstract:

This spring, the Supreme Court will decide *Seven County Infrastructure Coalition v. Eagle County*, its first significant case under the National Environmental Policy Act (NEPA) since the early 2000s. The Court is considering the extent to which proximate causation doctrines constrain the analysis that NEPA requires agencies to undertake. This Article provides a concise, but thorough, analysis of the petitioners' claims to narrow dramatically the scope of NEPA.

More broadly, this Article analyzes how proximate cause principles should constrain NEPA review. We reject proposed artificial limits on the range of effects an agency must consider. Although the Court has borrowed the concept of proximate cause from tort law, we find that analogy most persuasive as support for foreseeability as a key concept. Claims by the petitioners that NEPA review necessarily forecloses analysis of impacts such as climate change that are physically distant from a project are inconsistent with the purposes of the statute or proximate cause principles. However, we recognize limits stemming from NEPA's purpose of informed decisionmaking. The primary limits involve the foreseeability of effects, their analytic tractability, and their degree of environmental significance. Such limits mean that there will generally be greater limits on indirect effects analysis that applies to site-specific impacts as opposed to aggregate effects.

Our prior posts on the topic are available here: We had a four series post summarizing the arguments we make in the article ([Post One](#), [Post Two](#), [Post Three](#), [Post Four](#)), and two posts discussing the oral arguments in the case ([before](#) and [after](#)).

We hope the piece is useful to those thinking about the issues before the Court, and in understanding the implications of any decision when the Court makes one.