

Unpacking the NEPA Ruling: Marin Audubon Society v. the FAA

Podcast | Environmental Law Monitor

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On this episode of the Environmental Law Monitor, [Daniel Pope](#), [Taylor Stuart](#), [Kevin Ewing](#) and [Ann Navaro](#) discuss the shift in National Environmental Policy Act (NEPA) regulation and break down the recent decision in *Marin Audubon Society v. the FAA*. They discuss implications of the DC Circuit ruling for federal agencies and what it means for the future of environmental and natural resources law and policy.

Featured Guests

Name: [Kevin Ewing](#)

About: Kevin Ewing helps clients with federal natural resources law and policy. He advises chiefly energy and infrastructure companies pursuing development projects, federal authorizations, or changes in agency policy, and in responding to federal enforcement and incident investigations. Kevin's work extends to many statutes, including the major pollution control statutes, NEPA, NHPA, the Natural Gas Act, the Pipeline Safety laws and federal laws governing urban parks, such as LWCFA and UPARR.

Company: [Bracewell](#)

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Name: [Ann Navaro](#)

About: Ann is a partner in Bracewell's Washington, DC office. She advises on and litigates under the federal laws and policies governing natural resources and the environment. After more than 25 years as a top litigator and policy adviser to the federal government, Ann brings exceptional insight and acumen

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Episode Highlights

[01:52] **An Overview of *Marin Audobon Society v. The FAA*:** Taylor provides an overview of the case, including the facts of the case, the arguments and the court's decision. Ann Navaro breaks down the particulars of the "bombshell decision."

[07:00] **The Decision Is a Part of the Current Zeitgeist:** Kevin Ewing suggests the decision reflects broader trends questioning established principles in law and policy. He provides additional context to the decision, explaining how the court got to its conclusion.

[17:18] **The Impacts on Agencies and Applicants:** The court's rulings will likely create uncertainty for federal agencies that rely on CEQ regulations to standardize NEPA implementation. Applicants for federal permits or projects should continue supporting traditional NEPA analysis to avoid legal risks.

[29:25] **Lack of CEQ Regulations Could Give Rise to Novel Claims in Courts:** Without clear NEPA regulations as published by CEQ, there could likely be proliferation of new litigation threats as project opponents may argue novel claims based on ambiguous statutory text.

[32:12] **Looking Ahead:** Agencies must grapple with statutory obligations independently of CEQ regulations. The team speculates on how a new administration in 2025 may issue non-binding NEPA guidance or redefine the regulatory process. Kevin and Ann emphasize the importance of maintaining robust NEPA analysis to minimize risks and ensure compliance with the statutory requirements.

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