

ENERGY TRANSITIONS

Supreme Court rejects coal export appeal

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The site of the proposed Millennium Bulk Terminals coal export project in Longview, Wash. Millennium Bulk Terminals

A pair of coal-producing states failed to convince the Supreme Court to hear their case challenging Washington state's denial of a key water permit for a proposed coal export facility.

Wyoming and Montana had petitioned the justices to use their original jurisdiction over disputes with states to review Washington's denial of a permit for the Millennium Bulk Terminals along the Columbia River ([Energywire](#), Jan. 22, 2020).

The Evergreen State discriminated against their "sovereign interests" and violated constitutional protections for interstate commerce, they argued, because blocking construction of the project hindered their ability to export coal to Asian markets.

Washington maintained that the project's application for certification under Section 401 of the Clean Water Act was rejected because the project would not comply with state water quality standards. State regulators found that the facility would have "unavoidable and significant" adverse environmental impacts.

The case reached the high court in the midst of the Trump administration's efforts to limit options for states like Washington to reject project approvals under the Clean Water Act.

EPA had finalized a new regulation in June 2020 stating that states could only review water quality impacts and not climate or other environmental effects when considering Section 401 certification. The Trump administration had cited the Millennium Bulk Terminals project in the rule.

The Biden administration announced in May that it was planning to revise the rule "to strengthen the authority of states and Tribes to protect their vital water resources."

The states' case faced a setback soon after they appealed to the Supreme Court when project developer Lighthouse Resources Inc. filed for bankruptcy and divested from the project.

Although Wyoming and Montana sought to convince the court that their challenge raised bigger concerns than those concerning this specific project, acting Solicitor General Elizabeth Prelogar told the court the challenge should now be moot, especially since similar challenges had been tossed out in other courts.

The justices did not offer a rationale for denying the case.

The Power Past Coal coalition lauded the Supreme Court's rejection of the petition. The group, which opposed the coal export facility, noted that building the terminal would have led to up to 16 trains a day carrying coal from the Powder River Basin to Longview, Wash.

"The coal industry's assault on the Pacific Northwest is officially over," said Earthjustice attorney Jan Hasselman, who represented member groups in the coalition.

"It was always a pipe dream that the industry was going to rescue itself by shipping millions of tons of rocks halfway around the world," Hasselman said in a statement. "It's time to move on from coal and help the world through the coming clean energy revolution."

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