

Jonathan Brightbill's Oral Arguments in D.C. Circuit Covered by Law360

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Winston & Strawn partner Jonathan Brightbill was quoted in a Law360 article following his oral arguments in the D.C. Circuit Court of Appeals. The panel heard argument regarding a Sierra Club petition for review challenging the U.S. Department of Energy's April 2022 approval of additional LNG exports from a pair of LNG terminals.

Golden Pass LNG Terminal LLC and Magnolia LNG LLC, the owners of the terminals, initially received export authorizations in 2017 and 2016. Golden Pass and Magnolia both asked the DOE to approve additional LNG exports in 2020 and 2018, respectively, explaining that the infrastructure already approved by the Federal Energy Regulatory Commission could produce more LNG than was previously assumed. The DOE later approved the companies' uprate requests concerning non-free trade agreement countries in April 2022.

Sierra Club seeks to vacate the DOE's approval of the export authorizations. It argues that the DOE failed to comply with required procedures of the National Environmental Policy Act (NEPA). Jonathan, who is representing Golden Pass, told the D.C. Circuit panel that the DOE had no obligation to conduct the additional NEPA analyses Sierra Club requests. "Sierra Club itself, before the agency, recognized that the issue of the agency's statutory authority to consider indirect effects, cumulative effects, GHG emissions around the world, was a gating issue under the Supreme Court's ... precedent, and this court's precedents ... as it relates to the Department of Energy and FERC and their application of the Natural Gas Act," he told the panel. Nevertheless, the DOE has no authority to consider upstream, downstream, or cumulative environmental emissions beyond marine transport when determining whether to grant LNG export authorization.

[Read the full article.](#)

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