

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

**THE LITTLE ROCK DOWNTOWN NEIGHBORHOOD  
ASSOCIATION, INC., et al**

**PLAINTIFFS**

**Vs.**

**Case No. 4:19-cv-362-JM**

**FEDERAL HIGHWAY ADMINISTRATION, et al**

**DEFENDANTS**

**PLAINTIFFS' RESPONSE TO FEDERAL DEFENDANTS'  
MOTION FOR CLARIFICATION OF ORDER DATED APRIL 23, 2020**

Come the Plaintiffs, and for their Response to the Federal Defendants' Motion for Clarification of the Court's Order dated April 23, 2020 (ECF Doc. 35), state:

1. As noted in Defendants Motion (ECF Doc. 35, page 2, quoting excerpt from Plaintiffs' Motion to Require Defendants to Submit Status Report (ECF Doc. 28)), the Plaintiff's Motion requested the Court to order Defendants to provide status reports on a number of issues, including:

- (a) Disclosure by Defendants of the selection by Defendants of the *scope* of the proposed I-30 project;
- (b) Description of the tasks and costs of tasks covered by the Notice to Proceed No. 1 issued by ArDOT to its contractors; and
- (c) A status report on the reassessment of the Environmental Assessment.

2. In the telephone conference held by the Court with counsel for the parties on April 23, 2020, a discussion was held among the participants about the status of the reassessment, with the Defendants stating that it was their "goal" to have the re-evaluation completed by May 31, 2020.

Plaintiff's counsel agreed that a final reassessment report by that date would be agreeable. A more general discussion was held regarding the other issues described above, but the Defendants provided no information or made no commitments regarding those other issues.

3. The Federal Defendants state in their Motion that they "assumed from the April 23 conference that the Court wanted Defendants to provide Plaintiffs a copy of the re-evaluation report *once completed*." To be perfectly clear, that assumption is not exactly correct. The Court made clear in that conversation, as he did in the subsequent Docket Text Order, that "Defendants shall submit complete report of re-assessment *by Monday, June 1, 2020*." (Italics added)

4. Defendants also appear to have assumed that, by confirming their goal regarding the completion of the reassessment, there was no further concern on the part of the Plaintiffs regarding the remaining issues contained in Plaintiffs' Motion. However, Plaintiffs have not waived any such concerns, and they are of great significance in this case in the following ways:

- a. The scope of the proposed Project as finally determined by the Defendants will affect the scope of and issues in this lawsuit;
- b. The contents of the Notice to Proceed No. 1 (including a detailed description of the tasks covered and the costs thereof) will indicate whether the Defendants have made an irreversible and irretrievable commitment of resources to a particular plan or alternative covered by the environmental assessment, contrary to the dictates of the National Environmental Policy Act, the various Highway Acts, and their implementing regulations.

5. The funding for the Project and the activities conducted by the Defendants are provided by public funds, and Plaintiffs, as members of the public who have standing to sue in this case, are entitled to the information. Defendants have, prior to the filing of this case and during its

course, failed and refused to provide that information to Plaintiffs or members of the public in general.

6. The Court's Order of April 23, 2020, was supported by good cause, is entirely justified under the circumstances of this case and will cause no prejudice or undue effort or expense to Defendants. The Court's Order was clear and unambiguous, and should continue to remain as originally stated.

**WHEREFORE**, Plaintiffs pray that the Federal Defendants' Motion for Clarification be denied; and for all other legal, equitable and proper relief.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on the date set forth below he served a copy of the above and foregoing Motion upon counsel of record for the Defendants through the Court's ECF system. The undersigned is not aware of any other party or counsel who requires service by any other means.

Dated: May 18, 2020.

/s/ Richard H. Mays  
Richard H. Mays

