IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS

THE LITTLE ROCK DOWNTOWN NEIGHBORHOOD ASSOCIATION, INC., et al.,)) Case No. 4:19-cv-362-JM
Plaintiffs,)
v.)
FEDERAL HIGHWAY ADMINISTRATION, et al.,))
Defendants.)

FEDERAL DEFENDANTS' MOTION FOR CLARIFICATION OF ORDER DATED APRIL 23, 2020

Defendants the Federal Highway Administration, Federal Highway Administration, Arkansas Division, and U.S. Department of Transportation hereby move for clarification of this Court's order dated April 23, 2020 (ECF No. 33).

On December 30, 2019, the Court granted the parties' Joint Motion for Stay. *See* ECF Nos. 25, 26. The Court ordered this case stayed until after Defendants complete their reevaluation of the I-30 Crossing Project ("the Project"). In their joint motion, the parties noted that Defendants are re-evaluating the Project to determine whether the approved Finding of No Significant Impact ("FONSI") for the Project remains valid in light of the agreed-upon project scope.

On April 6, 2020, Plaintiffs filed a Motion to Require Defendants to Submit Status Report (ECF No. 28). In their motion, Plaintiffs requested that the Court:

[r]equire the Defendants to submit a complete report of the activities that they have been conducting on this Project since the stay was entered by the Court on December 30, 2019, including without limitation, the status of selection of the Project proposed to be constructed; all contracts regarding the 'agreed-upon' Project entered into between ArDOT and the Contractors, the Notice to Proceed No. 1 (including detailed description of the tasks and costs of the tasks covered by the Notice) and the status of tasks covered by such Notice; a status report on the reassessment of the EA; and the re-assessment itself, if completed.

Id. at 6. Among Plaintiffs' additional requests were that the Court "set a deadline for the completion of the re-assessment, and by which it should be filed with the Clerk." *Id.*

In their response, Federal Defendants requested that the Court deny Plaintiffs' motion and continue the stay until the completion of the re-evaluation process. *See* ECF No. 30 at 2. Federal Defendants made the same assurance they did in the parties' joint motion for stay that, as soon as the process is complete, they will inform Plaintiffs and the Court. *Id*.

On April 23, 2020, the Court held a telephonic conference wherein Defendants confirmed that their goal was to have the re-evaluation "in a written form" by the end of May. *See* ECF No. 34 at 5:9-18, 10:7-10. When the Court asked Plaintiffs' counsel whether he could "wait 30 days to get that report[,]" he responded "that would be fine" and that he "[has] no problem waiting till whenever they get the report out as long as they have committed to not start the construction[.]" *Id.* at 10:11-21.

Federal Defendants assumed from the April 23 conference that the Court wanted Defendants to provide Plaintiffs a copy of the re-evaluation report once completed. But by granting Plaintiffs' motion, the Court orders that Defendants provide Plaintiffs with significantly more than a copy of the re-evaluation report. The Order could be read as requiring all of the relief quoted above that Plaintiffs sought in their motion.

Federal Defendants respectfully request that the Court issue an order clarifying that, as discussed during the April 23 conference, all Defendants are required to do is provide to Plaintiffs a copy of the re-evaluation report once that report is completed.

Submitted on May 14, 2020.

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