

Defendants.

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

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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 re-assessment 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.

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