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I-630 Widening/National Environmental Policy Act: U.S. District Court (Eastern District of Arkansas) Complaint Filed Addressing Commencement of Construction

07/19/2018

Five individuals filed a lawsuit in the United States District Court for the Eastern District of Arkansas on July 18th addressing what they describe as construction involving the widening of Interstate Highway 630 ("I-630 Project") within the City of Little Rock, Arkansas. See *Wise, et al. v. United States Department of Transportation, et al.*, 4:18cv 466-BRW.

The Defendants include:

- United States Department of Transportation
- Federal Highway Administration
- Arkansas State Department of Transportation

The two pleadings filed include:

- Complaint for Declaratory Judgment, for Temporary Restraining Order and Preliminary and Permanent Injunctive Relief ("Complaint")
- Motion for Temporary Restraining Order

Plaintiffs contend that the commencement of construction of the I-630 Project is being undertaken without complying with the requirements of the:

- National Environmental Policy Act ("NEPA")
- Department of Transportation Act
- Federal-Aid Highway Act
- The Safe, Accountable, Flexible, Efficient Transportation Act of 2005

As to the NEPA count, the Plaintiffs argue that the I-630 Project does not qualify for the use of a NEPA categorical exclusion to assess essential environmental impacts of the proposed federal action by preparation of an Environmental Assessment ("EA") or an Environmental Impact Statement ("EIS"). The Plaintiffs contend that the agencies' action in commencing construction activities based upon a document entitled "Tier 3 Categorical Exclusion" was improper.

NEPA requires federal agencies to include environmental values and issues in their decision-making processes. This federal mandate is accomplished by agency consideration of environmental impacts of

proposed actions and reasonable alternatives to those actions. The statute requires federal agencies in certain instances to prepare a detailed EIS. However, the requirement to produce this document is only triggered in the event of a major federal action that will significantly affect the environment.

As opposed to an EIS, which is a much more detailed document, the EA provides sufficient evidence and analysis for determining whether a finding of no significant impact for an EIS should be prepared. Neither an EA nor an EIS need be prepared if a particular federal action falls within the scope of a NEPA categorical exclusion. Categorical exclusions are promulgated by the federal agencies and are described actions which have been determined to not involve significant environmental impacts.

NEPA differs from action enforcing environmental statutory programs such as the Clean Air Act or Clean Water Act. It does not impose substantive mandates. Instead, it is limited to requiring federal agencies to meet procedural requirements such as preparation of an EA or EIS in certain defined instances. As a result, NEPA does not require a certain alternative or meet a particular standard.

A copy of the [Complaint](#) and the [Motion for Temporary Restraining Order](#) can be found here.