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I-30/40 Widening- Reconstruction/National Environmental Policy Act: U.S. District Court (Eastern District of Arkansas) Complaint Filed Addressing Finding of No Significant Impact

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Several individuals and various community/neighborhood organizations filed a May 20th Complaint for Declaratory Judgment and for Preliminary and Permanent Injunctive Relief in the United States District Court for the Eastern District of Arkansas addressing what they described as a failure by the Federal Highway Administration (“FHA”) and the Arkansas Department of Transportation to comply with various federal statutes in regards to:

. . . the widening and reconstruction of a 7.3 mile section of Interstates 30 and 40 in the cities of Little Rock and North Little Rock generally described as the area between the intersections of Interstate 530, Interstate 440, and Interstate 30 on the south, and the intersections of Interstate 30, Interstate 40, and Highway 67/167 on the north, commonly referred to as “the 30 Crossing Project”, or simply “the Project.”

The community/neighborhood organizations filing the Complaint include:

- The Little Rock Downtown Neighborhood Association, Inc.
- The Pettaway Neighborhood Association,
- The Hanger Hill Neighborhood Association,
- The Forest Hills Neighborhood Association, Inc.
- The Coalition of Little Rock Neighborhoods, Inc.
- Arkansas Communities Organization, Inc.

Plaintiffs contend that the 30 Crossing Project is being undertaken without complying with the requirements of the:

- National Environmental Policy Act (“NEPA”)
- The Department of Transportation Act
- The Federal-Aid Highway Act
- The Safe, Accountable, Flexible, Efficient Transportation Act of 2005
- The Federal Water Pollution Control Act
- Executive Orders 12898 and 11988

The Complaint describes the 30 Crossing Project as the largest highway project ever undertaken in the State of Arkansas with an estimated cost in excess of \$1 billion. It is further predicted to take four years to construct.

As to the NEPA count, the Plaintiffs argue that the 30 Crossing Project should not have been provided a Finding of No Significant Impact. The approval of the NEPA Environmental Assessment which concluded that a Finding of No Significant Impact was appropriate is deemed by the Complaint as arbitrary, capricious, and not otherwise in accordance with law.

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.

The Counts in the Complaint include:

- The 30 Crossing Project proposed for construction will not be the one analyzed by the Environmental Assessment (“EA”)
- Defendants failed to make a final draft of the EA available to the public for comment
- The defendants' responses to public comments contain new information not included in the draft EA and on which the public was not given opportunity to comment
- Defendants' notice of availability of the EA for public comment was misleading and defective
- NEPA requires preparation of an EIS for the proposed project
- The purposes and needs section of the draft EA does not adequately address the conditions to be addressed by the project and by which the alternatives and impacts analysis are to be measured
- The environmental assessment "piggy-backs" onto documents that have not been subjected to NEPA review and are not part of the EA
- The alternatives analysis is inadequate
- Failure to adequately analyze direct and indirect impacts of the proposed action
- The EA failed to adequately assess cumulative impacts
- Effect of replacement of the 1-30 bridge
- Violation of the Federal Transportation Act Section 4 (/) 49 U.S.C. § 303; 23 U.S.C. §138
- Defendants failed to respond to significant public comments

A copy of the 128-page Complaint (excluding the exhibits) can be found [here](#).