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I-30 Widening- Reconstruction/National Environmental Policy Act: U.S. District Court (Eastern District of Arkansas) Motion Filed for Preliminary/Permanent Injunction

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Several individuals and community/neighborhood organizations filed a July 10th Plaintiff's Motion for Preliminary and Permanent Injunction ("Motion") in the United States District Court for the Eastern District of Arkansas seeking a prohibition on commencement of:

. . . any construction on any portion of the proposed reconstruction of a 7.3 mile section of Interstate 30 in Little Rock and North Little Rock, Arkansas, more particularly described herein, pending a final hearing for a permanent injunction based on the merits of the First Amended Complaint or any subsequent amended Complaint filed . . .

The Defendants include:

- Arkansas Department of Transportation
- Federal Highway Administration
- United States Department of Transportation
- Certain Individuals in Their Official Capacity

The Plaintiffs had previously filed a May 20, 2019, Complaint for Declaratory Judgment and for Preliminary and Permanent Injunction Relief addressing what they described as a failure by the Defendants to comply with various federal environmental statutes such as the National Environmental Policy Act ("NEPA"). (See previous blog post [here](#).) The May 20th Complaint described what is denominated 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.

The Plaintiffs' Motion indicates that in regards to the previous proceedings there was an agreement for a stay to allow Defendants the opportunity to "complete a Re-evaluation of the I-30 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." A re-evaluation is stated to have been filed by the Federal Defendants on June 1, 2020, indicating certain modifications and proposed changes in the scope and design of the project that require no additional environmental assessment.

Plaintiffs' Motion indicates that Defendants intend to commence construction on the project (referencing certain utility and telecommunication relocation work) on July 21st and July 28th. As a result, they argue that commencement of construction would "constitute irretrievable commitment of resources to the Defendants' preferred alternatives, possibly frustrating judicial review and foreclosing consideration of other viable alternatives." Consequently, they ask for a Preliminary/Permanent Injunction.

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 Environmental Impact Statement ("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 Environmental Assessment ("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.

Plaintiffs contend in their Motion that the EA and subsequent re-evaluation of the EA have not:

. . . adequately considered those and other impacts; that the Defendants have single-mindedly and doggedly promoted a preconceived plan for the development of a gargantuan swarth of concrete through Little Rock and North Little Rock that will halt development of the thriving downtown areas in both cities and further racially divide the communities.

The Plaintiffs' Motion can be downloaded [here](#) and a 133-page Brief in Support of Motion [here](#).