

I-630 Widening/National Environmental Policy Act: U.S. District Court Order Denying Motion for Temporary Restraining Order



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

08/01/2018

As noted in the previous post ([see post here](#)), 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

United States District Judge J.M. Moody, Jr., denied Plaintiffs’ Motion for a Temporary Restraining Order (“TRO”) in a July 27th 10-page Order.

Judge Moody’s Order addresses:

- Eighth Circuit Court of Appeals standard review (referencing four factors to weigh for injunctive relief)
- Likelihood of success
- Arkansas Department of Transportation/Federal Highway Administration Memorandum of Agreement (“MOA”) (rejecting argument that the NEPA categorical exclusion expired)

- Categorical Exclusion Criteria (concluding categorical exclusion is applicable because Plaintiffs failed to establish any part of the I-630 Project construction would go outside of the existing operational right-of-way)
- Mobile Source Air Toxic (“MSAT”) Analysis (I-630 Project did not require an MSAT analysis)
- Irreparable Harm (concluding Plaintiffs failed to demonstrate they will likely suffer irreparable harm if the I-630 Project continues)
- Balance of Harms (Arkansas Department of Transportation’s potential monetary liability “tips the balance” in favor of the Defendants’)
- Public Interest (Accepting Defendants’ argument that the I-630 Project benefits the public by reducing congestion, enhancing safety, and improving the quality of life, etc.)

A [copy of the Order](#) can be found here.