

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**CITY OF DARDANELLE and  
YELL COUNTY WILDLIFE FEDERATION, INC.**

**PLAINTIFFS**

**v.**

**No. 4:14-cv-98-DPM**

**DEPARTMENT OF TRANSPORTATION;  
FEDERAL HIGHWAY ADMINISTRATION;  
ARKANSAS STATE HIGHWAY &  
TRANSPORTATION DEPARTMENT; RIVER  
VALLEY REGIONAL INTERMODAL  
AUTHORITY; and DEPARTMENT OF DEFENSE,  
United States Army Corps of Engineers,  
Little Rock District**

**DEFENDANTS**

**ORDER**

The Court must review the complete administrative record that was before the FHWA and Corps when they made their decisions. *Voyageurs National Park Association v. Norton*, 381 F.3d 759, 766 (8th Cir. 2004). And the Corps' designation of its record is entitled to a presumption of regularity. *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 415 (1971). The Court concludes, however, that the plaintiffs have shown the Corps considered information not in its lodged record, *No* 106, as supplemented, *No* 116. The plaintiffs have sufficiently identified a document that should have been included, and raised a strong and reasonable inference that other

missing materials exist. *Committee of 100 on the Federal City v. Foxx*, 140 F. Supp. 3d 54, 60 (D.D.C. 2015). The Court directs the Corps to produce the following to further supplement its administrative record:

- The “draft response” referenced in the 23 October 2014 email, COE0000476.
- Any minutes, notes, or other records from the October 2014 Galveston meeting about the River Valley Intermodal Facility.
- Any communications, memoranda, or other records regarding the Southwestern Division’s concerns mentioned in paragraph 3 of the 29 October 2014 “Memorandum for Record,” COE0000478.

The Corps should produce this information as soon as practicable and no later than 7 July 2017. As soon as the record is completed, the Court will set the briefing schedule. Motion, *No 108*, as supplemented by *No 122*, granted as modified.

So Ordered.

*D.P. Marshall Jr.*  
D.P. Marshall Jr.  
United States District Judge

*8 June 2017*