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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 DANIEL RAMIREZ MEDINA,

9 Petitioner,

10 v.

11 U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

12 Respondents.

Case No. C17-0218RSM

ORDER DENYING IN PART
PLAINTIFF'S MOTION TO COMPLETE
ADMINISTRATIVE RECORD AND
GRANTING IN PART DEFENDANTS'
MOTION FOR PROTECTIVE ORDER

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14 THIS MATTER comes before the Court on Plaintiff's Motion to Complete the
15 Administrative Record and Defendants' Motion for Protective Order. Dkt. #134. Plaintiff seeks
16 to supplement the existing administrative record with additional evidence that he believes will
17 "contextualize the government's behavior toward Mr. Ramirez and confirm just how baseless
18 and malicious that behavior has been." Dkt. #134 at 4. Defendants oppose the motion and seek
19 a protective order, arguing that this is a straightforward APA case and Plaintiff is not entitled to
20 discovery. Dkt. #134 at 15. For the reasons discussed herein, the Court agrees in part with
21 Defendant and DENIES IN PART the motion to complete the administrative record and
22 GRANTS IN PART the motion for protective order.
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24 Plaintiff acknowledges that "nothing further is needed for Plaintiff to prevail on his APA
25 claims," but asserts that extra-record evidence is warranted in this matter. Dkt. #134. The
26 Supreme Court has expressed a general rule that courts reviewing an agency decision are limited
27 to the administrative record. *Fla. Power & Light Co. v. Lorion*, 470 U.S. 729, 743-44, 84 L. Ed.
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ORDER
PAGE - 1

1 2d 643, 105 S. Ct. 1598 (1985). Likewise, the Ninth Circuit Court of Appeals has long held that
2 “judicial review of an agency decision typically focuses on the administrative record in existence
3 at the time of the decision and does not encompass any part of the record that is made initially in
4 the reviewing court.” *Southwest Ctr. For Biological Diversity v. United States Forest Serv.*, 100
5 F.3d 1443, 1450 (9th Cir. 1996). However, the Ninth Circuit has also crafted narrow exceptions
6 to the general rule:
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8 In limited circumstances, district courts are permitted to admit extra-record
9 evidence: (1) if admission is necessary to determine “whether the agency has
10 considered all relevant factors and has explained its decision,” (2) if “the
11 agency has relied on documents not in the record,” (3) “when supplementing
the record is necessary to explain technical terms or complex subject matter,”
or (4) “when plaintiffs make a showing of agency bad faith.”

12 ...

13 Though widely accepted, these exceptions are narrowly construed and
14 applied.

15 *Lands Council v. Powell*, 395 F.3d 1019, 1028-1030 (9th Cir. 2005) (citations omitted). Plaintiff
16 asserts that he is entitled to discovery under the first, second and fourth exceptions. Dkt. #134 at
17 4-6.

18 As an initial matter, Defendants acknowledge that the Notice of Intent to Terminate
19 (“NOIT”) references DHS email records that summarize Plaintiff’s merits hearing in immigration
20 court, and that they will supplement the administrative record with non-privileged documents.
21 Dkt. #134 at 9. Thus, the Court will grant Plaintiff’s motion to supplement to the extent it seeks
22 those records, and deny Defendants’ motion for protective order to the extent it would apply to
23 those records. Further, for the reasons set forth by Plaintiff, the Court finds it appropriate to
24 supplement the record with all referenced and cited documents in the NOIT, including any
25 documents that show consultations with ICE regarding the decision to cancel Plaintiff’s DACA
26 status and/or any decision to pursue Plaintiff’s removal, and DHS records from the January 17,
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1 2018, immigration hearing/decision. *See* Dkt. #134 at 11-12. Accordingly, the Court will also
2 grant Plaintiff's motion to supplement to the extent it seeks those records, and deny Defendants'
3 motion for protective order to the extent it would apply to those records.

4 However, having reviewed the arguments set forth by both parties in the instant motions,
5 the Court agrees with Defendants, for the reasons set forth in their briefing, that no other extra-
6 record discovery is appropriate at this time. *See* Dkt. #134. Accordingly, except for those
7 documents specified above, Defendants' motion for protective order will be granted.
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9 Therefore, having reviewed the parties' motions, the oppositions thereto and replies in
10 support thereof, along with the remainder of the record, the Court hereby ORDERS that:

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- 12 1. Plaintiff's Motion to Complete the Administrative Record (Dkt. #134 at 1-14) is
13 GRANTED IN PART and DENIED IN PART. **No later than fourteen (14) days**
14 **from the date of this Order** Defendants shall supplement the Administrative Record
15 with the documents referenced in the NOIT, including email records that summarize
16 Plaintiff's merits hearing in immigration court, any documents that show
17 consultations with ICE regarding the decision to cancel Plaintiff's DACA status
18 and/or any decision to pursue Plaintiff's removal, and DHS records from the January
19 17, 2018, immigration hearing/decision.
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 - 21 2. Defendants' Motion for Protective Order (Dkt. #134 at 15-24) is GRANTED IN
22 PART AND DENIED IN PART as discussed above.

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24 DATED this 4 day of September, 2018.

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27 RICARDO S. MARTINEZ
28 CHIEF UNITED STATES DISTRICT JUDGE