

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Milwaukee Inner City Congregations Allied for Hope, et al. v. U.S.
Department of Transportation, et al.

Milwaukee Inner City Congregations · No. 24-cv-1043-bhl · Decided January 28, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin granted in part and denied in part Plaintiffs’ motion to correct or supplement the administrative record in their challenge to the planned expansion of Interstate 94 in Milwaukee. The court ordered Defendants to add specified materials submitted to the Wisconsin Department of Transportation and all documents directly or indirectly considered in preparing the 2016 Final Environmental Impact Statement. The court denied requests to add a Title VI complaint and to require a privilege log, and directed the parties to propose a schedule for supplementation and merits briefing.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Brett H. Ludwig
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	January 28, 2026
DOCKET	24-cv-1043-bhl
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved under the Administrative Procedure Act framework for an order correcting or supplementing the administrative record in their NEPA challenge to the planned expansion of Interstate 94 in Milwaukee.
STANDARD OF REVIEW	The court reviewed the agency's determination of the contents of the administrative record under the APA. The agency's record receives a strong presumption of completeness, and a party seeking supplementation must identify reasonable, non-speculative grounds to believe that the requested documents were considered by the agency but omitted from the record.
PRECEDENTIAL VALUE	unknown

TOPICS

judicial review of agency action

administrative procedure act

environmental impact review

administrative law

environmental law

PRACTICE AREAS

administrative law

environmental law

civil procedure

QUESTIONS PRESENTED

1. Whether materials Plaintiffs submitted to WDOT before the agency's final decision, which WDOT indicated would be forwarded to the project team, belonged in the administrative record.
2. Whether the administrative record for the 2024 supplemental environmental impact statement had to include all documents and materials directly or indirectly considered in preparing the original 2016 environmental impact statement.
3. Whether Defendants were required to produce a privilege log for materials allegedly withheld under the deliberative-process privilege.

HOLDINGS

1. The materials Plaintiffs sent to WDOT in August and September 2023 had to be added to the administrative record because the record indicated that the agencies at least indirectly considered them.
2. Because the 2024 environmental impact statement was a supplement to the 2016 final environmental impact statement rather than a new, independent statement, Defendants had to produce all documents and materials directly or indirectly considered when preparing the 2016 environmental impact statement.
3. Defendants were not required to produce a privilege log for materials allegedly withheld under the deliberative-process privilege.

KEY QUOTATIONS

“The complete administrative record consists of all documents and materials directly or indirectly considered by the agency.” (Legal Standard)

“The whole record means “the administrative record already in existence, not some new record made initially in the reviewing court.”” (Legal Standard)

“Because Defendants supplemented the existing environmental impact statement, instead of issuing a new final environmental impact statement, the 2016 EIS documents remain part of the administrative record and must be produced.” (Analysis section II)

FACTUAL BACKGROUND

Plaintiffs challenged agency approval of a 2024 supplemental environmental impact statement and Record of Decision concerning expansion of I-94 from 16th to 70th Streets in Milwaukee. Plaintiffs had sent WDOT articles and studies in August and September 2023, and WDOT indicated that the materials would be forwarded

to the project team. Defendants produced the administrative record but omitted those materials and materials considered in preparing the original 2016 environmental impact statement; they also declined to provide a privilege log.

PROCEDURAL HISTORY

Plaintiffs filed suit challenging federal and state transportation agencies' plans to expand I-94. After Defendants produced a nearly 60,000-page administrative record, Plaintiffs moved to add materials they had submitted to WDOT, an administrative complaint, documents considered in connection with the 2016 environmental impact statement, and a privilege log. Following a January 21, 2026 hearing, the court granted the motion in part and denied it in part.

DISPOSITION

other

REMAND INSTRUCTIONS

Defendants must add the specified articles, studies, and all documents and materials directly or indirectly considered when producing the 2016 Final Environmental Impact Statement to the administrative record. Within 14 days of the order, the parties must meet and confer and file a joint report proposing a schedule for supplementation and merits briefing; the conclusion specifies February 12, 2026 as the filing deadline.

CASES CITED

- Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 420 (1971)
- Califano v. Sanders, 430 U.S. 99, 104-05 (1977)
- Miami Nation of Indians of Ind. v. Babbitt, 979 F. Supp. 771, 775 (N.D. Ind. 1996)
- Bar Mk Ranches v. Yuetter, 994 F.2d 735, 739 (10th Cir. 1993)
- Camp v. Pitts, 411 U.S. 138, 142 (1973)
- Univ. of Colo. Health at Mem'l Hosp. v. Burwell, 151 F. Supp. 3d 1, 12-13 (D.D.C. 2015)
- Fund for Animals v. Williams, 391 F. Supp. 2d 191, 196 (D.D.C. 2005)
- Blue Mountains Biodiversity Project v. Jeffries, 99 F.4th 438, 443-46 (9th Cir. 2024)