UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

JOHN EAKIN,	§	
	§	
Plaintiff,	§	
V.	§	
	§	
AMERICAN BATTLE MONUMENTS	§	
COMMISSION, MAX CLELAND,	§	
Secretary, American Battle Monuments	§	
Commission, U.S. DEPARTMENT OF	§	SA-12-CA-1002-FB (HJB)
DEFENSE, LEON E. PANETTA,	§	
Secretary of Defense, W. MONTAGUE	§	
WINFIELD, Deputy Assistant Secretary	§	
of Defense for POW/Missing Personnel	§	
Affairs, JOHNIE E. WEBB, Deputy to	§	
the Commander for External Relations and	§	
Legislative Affairs, Joint POW/MIA	§	
Accounting Command,	§	
-	§	
Defendants.	§	

ORDER

The matter before the Court is Plaintiff's Opposed Motion for Discovery. (Docket Entry 9.)

Pretrial matters have been referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1). (See Docket Entry 4.)

In his complaint, Plaintiff challenges an agency action or inaction under the Administrative Procedure Act, 5 U.S.C. §§ 701, et seq. (Docket Entry 1, at 1.) In the instant motion, Plaintiff sought to obtain discovery beyond the administrative record. (Docket Entry 9.) Defendants opposed the motion, arguing that discovery was not necessary in administrative review cases, and further contending that Plaintiff's motion was premature because Defendants had not yet filed the certified

administrative record. Defendants suggested that, if necessary, Plaintiff could seek additional documents after the administrative record was filed. (Docket Entry 10, at 1.)

Defendants filed the administrative record on February 1, 2013. (Docket Entry 12.) On February 15, 2013, Plaintiff filed another motion, objecting to the record and seeking, among other things, to compel the production of additional documents. *See* Plaintiff's Objection to the Administrative Record and Opposed Motion to Compel Completion of Administrative Record. (Docket Entry 15.)

Because Plaintiff's subsequent motion appears adequate to address any discovery issues in the case, Plaintiff's original Opposed Motion for Discovery (Docket Entry 9) is **DENIED AS MOOT**.

It is so **ORDERED**.

SIGNED March 25, 2013.

Henry J. Bemporad

United States Magistrate Judge