

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as
GOVERNOR OF THE STATE OF TEXAS,
and THE STATE OF TEXAS,

Defendants.

Case No. 1:23-cv-00853-DAE

JOINT MOTION TO ENTER PROPOSED DISCOVERY AND PRE-TRIAL SCHEDULE

Plaintiff, the United States of America, and Defendants, Governor Greg Abbott and the State of Texas (together, “Texas”), hereby jointly move the Court to enter a proposed revised schedule for completing discovery and for pre-trial filings. In support of this Motion, the Parties state the following:

1. On February 22, 2024, the Court held a status conference at which it determined that it would grant the Parties’ then-pending joint motion to vacate the then-existing discovery and pre-trial schedule in this case. The Court ordered the Parties to confer and submit a new proposed discovery and pre-trial schedule (or alternate schedules if the Parties were unable to agree) no later than Wednesday, March 6, 2024. ECF 95 (Feb. 22, 2024 Transcript at 32-33). On February 23, 2024, the Court issued an order re-setting bench trial in this matter for the week of August 6, 2024. ECF 91.

2. The Parties subsequently conferred and reached agreement on the following deadlines and other provisions governing the schedule for discovery and pre-trial filings, which they now jointly submit for the Court's approval:

- Electronic service of discovery requests with standard response times under the Federal Rules of Civil Procedure unless otherwise agreed or ordered.
- Defendants' responses to Plaintiff's 1st discovery requests (served on January 22, 2024) will be due Monday, March 11, with rolling production of documents continuing thereafter.
- Plaintiff's responses to Defendants' 1st discovery requests (served on February 16, 2024) will be due Wednesday, March 27, with rolling production of documents continuing thereafter.
- The parties agree there will be no further dispositive motions filed.
- Privilege logs: Defendants to produce theirs Monday, March 25, Plaintiff to produce theirs Wednesday, April 10 (along with producing any documents initially held for privilege review and finally determined releasable).
- Friday, May 3: Plaintiff must identify their case-in-chief experts.
- Friday, May 10: Deadline for Plaintiff to serve any expert reports.
- Friday, June 7: Defendants must identify their experts.
- Friday, June 14: Deadline for Defendants to serve any expert reports.
- Monday, June 17: Deadline to serve any discovery request other than noticing expert depositions.
- Friday, July 5: Plaintiff must identify any new experts offered solely for rebuttal purposes.
- Friday, July 12: Deadline for Plaintiff to serve any rebuttal expert reports.
- Friday, July 19: Close of discovery.
- Friday, July 26: Pre-trial filings due (proposed final pre-trial order, exhibit and witness lists, deposition designations, motions in limine, motions to exclude witnesses, and any proposed fact stipulations).
- Friday, August 2: Objections and responses to same are due.

- Trial to commence at 9AM CT on Tuesday, August 6.
- Proposed findings of fact and conclusions of law due 7 days after availability of trial transcript.

3. The Parties agree that the schedule proposed above is reasonably expeditious and will ensure that this matter is ready for trial by the Court-ordered date of August 6, 2024.

4. Defendants join this motion and authorize counsel for the United States to file it on Defendants' behalf.

CONCLUSION

For the foregoing reasons, the Parties respectfully request that the Court grant this motion and enter an order setting forth the schedule set forth in Paragraph 2 above.

Respectfully submitted,

Dated: March 1, 2024

JAIME ESPARZA
UNITED STATES ATTORNEY

LANDON A. WADE
Assistant United States Attorney
Texas Bar No. 24098560
United States Attorney's Office
Western District of Texas
903 San Jacinto Blvd., Suite 334
Austin, TX 78701
(512) 370-1255 (tel)
(512) 916-5854 (fax)
Landon.wade@usdoj.gov

TODD KIM
ASSISTANT ATTORNEY GENERAL
Environment & Natural Resources Division

/s/ Brian H. Lynk
BRIAN H. LYNK
Senior Trial Counsel
DC Bar No. 459525
KIMERE J. KIMBALL
Trial Attorney
CA Bar No. 260660
ANDREW D. KNUDSEN
Trial Attorney
DC Bar No. 1019697
BRYAN J. HARRISON
Trial Attorney
FL Bar No. 106379
U.S. Department of Justice
Environmental Defense Section
P.O. Box 7611
Washington, DC 20044
(202) 514-6187 (Lynk)
(202) 514-8865 (fax)
Brian.lynk@usdoj.gov

Kimere.kimball@usdoj.gov
Andrew.knudsen@usdoj.gov
Bryan.harrison@usdoj.gov

Counsel for the United States of America

CERTIFICATE OF SERVICE

I certify that on March 1, 2024, a copy of this filing was served on counsel of record through the Court's electronic filing system.

/s/ Brian Lynk
Brian Lynk