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18 **UNITED STATES DISTRICT COURT**  
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 NEETA THAKUR, et al.,  
21 Plaintiffs,  
22 vs.

23 DONALD J. TRUMP, et al.,  
24 Defendants.

Case No. 3:25-cv-04737-RL

**JOINT STATEMENT IN RESPONSE TO  
COURT’S JANUARY 15, 2026 ORDER RE  
CASE SCHEDULE**

Judge: The Honorable Rita F. Lin

26 In response to the Court’s Order re Case Schedule issued on January 15, 2026 (ECF No.  
27 178), Plaintiffs and Defendants (“the Parties”) provide the following joint statement.

28 The Parties do not believe that further supplemental briefing is required regarding the

1 Ninth Circuit’s decision in *Thakur v. Trump*, No. 25-4249, 2025 WL 3760650 (9th Cir. Dec. 23,  
2 2025) (“Amended Order”) before the Court rules on Plaintiffs’ Motion for Leave to Amend (ECF  
3 No. 154). The same is true for Plaintiffs’ Equal Protection claims against the Department of  
4 Energy, and the Parties agree that the Court can rule now on Plaintiffs’ fully briefed Motion for  
5 Preliminary Injunction and Provisional Class Certification (ECF Nos. 156, 165, 167). As to that  
6 claim, Plaintiffs and Defendants both maintain the positions set forth in their briefs.

7 In contrast, the Parties agree that the Amended Order does affect Plaintiffs’ Administrative  
8 Procedure Act (“APA”) claims, and respectfully request that the Court await the resolution of the  
9 appeal on that issue (or at least until resolution of Plaintiffs’ request for rehearing at the Ninth  
10 Circuit) before taking any further action on those claims. *Thakur v. Trump*, No. 25-4249, ECF No.  
11 74.

12 As to the remaining constitutional claims—which the Court has not yet ruled on and are  
13 not affected by the Amended Order—the Parties accept the Court’s proposal to forgo preliminary  
14 relief and move straight to dispositive motions on these (along with any other surviving claims).<sup>1</sup>  
15 The Parties further agree that approximately four months should be sufficient to complete  
16 administrative records and any extra-record discovery on those claims, and that Motions for  
17 Summary Judgment can follow approximately a month after the completion of discovery. The  
18 Parties disagree, however, on whether there should be an additional round of briefing regarding  
19 Plaintiffs’ entitlement to extra-record discovery and whether that discovery should start now or  
20 await the resolution of the pending appeals.

21 **Plaintiffs’ Position:** Plaintiffs respectfully submit that the Parties can make significant  
22 progress on discovery over the coming months, even as they await clarity on the claims under the  
23 APA. Perhaps it will make sense to further delay the briefing if there is no movement on the  
24 appeal in the coming months, but, in Plaintiffs’ view, that is no reason to postpone now—  
25 particularly since there will be no preliminary determination on the merits of Plaintiffs’ remaining  
26

27 <sup>1</sup> The Parties understand that this decision moots the round of briefing currently set to begin on  
28 January 30.

1 constitutional claims. For those reasons, Plaintiffs propose the schedule below. Finally,  
 2 Defendants identify no basis for constraining Plaintiffs to the Administrative Record for non-APA,  
 3 constitutional claims. Plaintiffs' discovery will be targeted, and in the unlikely event the parties  
 4 are unable to negotiate the scope of discovery, Defendants may move for a protective order. But  
 5 Defendants' proposal for another layer of threshold briefing is unjustified and inefficient.

Event	Current Deadline	Plaintiffs' Proposal
Administrative Record Production and Additional Discovery	N/A	5/25/2026
Status report re Administrative Record	N/A	6/1/2026
Cross-Motions for Summary Judgment; Plaintiffs' Class Certification Motion	N/A	6/26/2026
Oppositions to Cross-Motions for Summary Judgment; Opposition to Motion for Class Certification	N/A	8/14/2026
Replies in support of Cross-Motions for Summary Judgment; Reply in support of Motion for Class Certification	N/A	8/28/2026
Hearing on Cross-Motions for Summary Judgment and Motion for Class Certification	N/A	Court's convenience

21  
 22 **Defendants' Position:** Defendants propose that the Court await finalization of the Ninth  
 23 Circuit's en banc process before commencing further proceedings so that the Parties have clarity  
 24 as to what claims will be at issue in the upcoming summary judgment briefing. After that,  
 25 Defendants propose the following schedule. That schedule includes a period to meet and confer  
 26 regarding any potential supplementation of the administrative record to provide Plaintiffs with the  
 27 factual material that they seek outside of extra-record discovery. Defendants believe that the  
 28 Parties have been working well together to supplement the administrative records upon request,

1 including providing additional keyword-related information upon Plaintiffs' demand, and believe  
2 continued collaboration would be fruitful.

3 • Administrative record finalization and supplementation

- 4 ○ 30 days following the Ninth Circuit's order resolving the petition for a rehearing en  
5 banc: Defendants produce the remaining administrative records for DOE and  
6 HHS.<sup>2</sup> During that time, Plaintiffs may identify for Defendants supplemental  
7 materials or information that they would like for the previously produced  
8 administrative records.
- 9 ○ 10 days following Defendants' production of the DOE and HHS records: The Parties  
10 submit a joint status report with their proposal and/or positions on supplementing the  
11 administrative records with any additional materials. That status report shall include  
12 Defendants' estimated time to produce any supplemental materials.
- 13 ○ 10 days following production: Parties will meet and confer to further review and  
14 discuss any remaining materials or information Plaintiffs plan to seek through extra-  
15 record discovery and whether Defendants can provide those materials through further  
16 supplementation or other agreement.

17 • Briefing on any extra-record discovery<sup>3</sup>

- 18 ○ 14 days following the Parties' meet and confer: Defendants file any motion to quash  
19 or, if there is no dispute, a status report with the court submitting a proposal for  
20 further proceedings.
- 21 ○ 14 days following any motion to quash: Plaintiffs file any opposition.
- 22 ○ 7 days following any opposition: Defendants file any reply.

23 Lastly, Defendants have long maintained the position that summary judgment would be an  
24 efficient means of resolving this litigation. Defendants have therefore never sought to file a  
25 motion to dismiss and instead jointly agreed to schedules involving production of administrative  
26 records, short periods for collaboration and supplementation, followed by summary judgment  
27 briefing. Given Plaintiffs' expressed interest in a substantial period of extra-record discovery on  
28 various constitutional claims, however, Defendants wish to reserve their right to file a motion to  
dismiss, which could be briefed on an expeditious timeline, to narrow the remaining claims for  
discovery and summary judgment briefing.

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26 <sup>2</sup> Defendants began producing administrative records for NEH, NSF, EPA, DOD, and DOT in  
September and have since provided supplemental materials to Plaintiffs.

27 <sup>3</sup> Defendants maintain all objections to any extra-record discovery and believe that administrative  
28 records should be sufficient for any factual issues in this matter.

1 Dated: January 23, 2026

By: /s/ Anthony P. Schoenberg

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**FILER'S ATTESTATION**

Pursuant to Civil Local Rule 5.1, the undersigned attests that all parties have concurred in the filing of this JOINT STATEMENT IN RESPONSE TO COURT'S JANUARY 15, 2026 ORDER RE CASE SCHEDULE.

Dated: January 23, 2026

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