

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

URBAN SUSTAINABILITY DIRECTOR'S
NETWORK et al.,

Plaintiff,

v.

BROOKE ROLLINS, Secretary of
Agriculture, et al.,

Defendants.

Civil Action No. 25-1775 (BAH)

MOTION TO VACATE THE DISCOVERY SCHEDULING ORDER

Pursuant to Rules 6(b)(1)(A), 6(b)(1)(B), Defendants respectfully move the Court for an order vacating the discovery schedule. As required under Local Rule 7(m), prior to filing this motion the undersigned counsel contacted Plaintiffs seeking consent for the relief sought in this motion. Plaintiffs oppose and intend to cross-move and renew their motions for sanctions, as well as potentially seek additional relief.

The following chart details the deadlines that Defendants have not yet met.

Task	Deadline
Make a complete production of materials demonstrating directions or guidance given to leadership about whether to terminate the grants at issue	July 17, 2026
Produce all additional directions regarding the search for and termination of the grants at issue because they furthered 'gender ideology' or similar terms	July 17, 2026
Produce all directions received on how to implement Executive Orders 14151, 14154, 14173, and 14222, including materials showing the origin of the search terms defendants employed to terminate the grants at issue	July 17, 2026
Bring Privilege Log into compliance with the Court's order (ECF No. 71).	July 20, 2026
Begin rolling productions of their responses to plaintiffs' First Interrogatory,	July 24, 2026
Produce personal notes memorializing calls discussing the spreadsheet,	July 24, 2026
Produce all materials demonstrating directions or guidance given to USDA staff about how to populate and use the spreadsheets that identified the grants at issue for termination	July 24, 2026

Defendants shall complete responses to plaintiffs' First Interrogatory and complete plaintiffs' First and Second Requests for Production;	July 31, 2026
Defendants shall complete any outstanding production	Sept. 2, 2026

Defendants acknowledge that they are filing this motion on July 24, 2026, after four of the deadlines have passed and on the same day as three of the deadlines. Defendants apologize to the Court for their failure to meet these deadlines and aver that their failure to meet these deadlines has not been for lack of good faith efforts, but several incidents arose that were beyond Defendants' attorneys' control.

A district court may forgive a party's failure to timely file a pleading if that party makes a showing of excusable neglect. Fed. R. Civ. P. 6(b)(1)(B) ("When an act may or must be done within a specified time, the court may, for good cause, extend the time . . . on motion made after the time has expired if the party failed to act because of excusable neglect"). In deciding whether to grant a motion for an extension of time on the ground of excusable neglect, the Court may consider (1) "the danger of prejudice to the [other party]," (2) "the length of delay and its potential impact on judicial proceedings," (3) "the reason for delay, including whether it was within the reasonable control of the movant," and (4) "whether the movant acted in good faith." *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993). The determination of whether neglect is excusable "is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission." *Id.*

Many of the resources that the main Agency counsel at the U.S. Department of Agriculture was promised did not come through or took longer than anticipated. For example, senior attorneys assigned to this case faced medical emergencies that unexpectedly interfered with their ability to assist with this case for significant periods of time. Other attorneys assigned to this case have put in notice that they will be leaving the Department imminently. These issues have interfered with

the ability of the Department to resolve some of the predicate issues necessary for processing records. The Department has new senior leadership overseeing attorneys assigned to this case beginning Monday and is exploring quickly introducing new redundancy to its staffing plan on this case to resolve those issues moving forward.

USDA has also been working on resolving issues related to the privilege log and production previously provided to Plaintiffs, including identifying a potential file corruption issue. Resolving those issues are necessary predicates to processing records, as Defendants would otherwise need to reprocess records, further delaying future productions. Defendants anticipate having these outstanding issues resolved by the middle of next week.

Defendants understand and appreciate that the Court intended for the scheduling order “to promote efficiency and minimize burden on either party,” Min. Order, Jul. 14, 2026, but Defendants respectfully submit that the schedule has not been efficient or minimally burdensome given their resource constraints. In the Joint Status Report filed on June 5, 2026 (ECF No. 74), Defendants stated that they needed six months to gather and produce all relevant documents but obviously are prepared to and have tried to produce records on a much faster timeline. Unlike in most civil cases that involve discovery, the parties are not propounding discovery on each other; only Plaintiffs have propounded discovery on Defendants. Moreover, Defendants have no intention of being “dilatory.” Min. Ord. Jul, 2, 2026. Defendants are just as eager as Plaintiffs to finish discovery so that they can move for summary judgment. Defendants do not benefit from discovery lasting longer than necessary and indeed have already previewed many of the arguments that they intend to make at summary judgment. See Opp’n to PI (ECF No. 76); Part. Mot to Dismiss (ECF No. 93).

To that end, Defendants want to reset the schedule and develop a discovery plan that will avoid the need for them to move for extensions on the evening of a deadline. Defendants have proposed having two upcoming meet and confers with Plaintiffs, one on Tuesday, July 28 where they hope to reach agreement on outstanding issues with privilege logs, and another on Wednesday, July 29 where they will discuss a feasible discovery schedule. Based on the prior meet and confer, at which Plaintiffs represented that some of Defendants' productions that were clearly within the scope of their Requests for Production were not useful to them, Defendants believe there is a path to narrowing the scope of some of Plaintiffs' discovery requests. Defendants at least seek this opportunity, which is occurring sooner than the required bi-weekly meeting, to seek common ground. Defendants propose that the Court order the parties to file a joint status report on July 31, 2026, proposing a new discovery schedule. Defendants believe this is the most efficient way to bring discovery back on track.

A new schedule will facilitate efficient production of documents and avoid the need for last-minute extensions. At the prior meet and confer, Defendants represented that because they fell behind on earlier productions, it necessarily made it impossible to fully meet future deadlines. Those competing priorities interfered with Defendants' ability to fully resolve the outstanding issues that are prerequisites for efficient production. Meanwhile, Plaintiffs continue to litigate this case as if it is in an emergency posture even though Plaintiffs grants are funded under the Court's preliminary injunctions and, as Defendants explained in their partial motion to dismiss, three of the Plaintiffs' claims have become moot because the performance period of their grant ended or because they spent all of the funds awarded under the agreement. See ECF No. 93 at 7-11.

Finally, Plaintiffs even sought an extension of time to file their opposition to Defendants' partial motion to dismiss, so that they could dedicate the time that they needed to oppose

Defendants' motion to stay pending an appeal. See ECF No. 94. Defendants consented to that extension as a professional courtesy even as Plaintiffs have almost always opposed Defendants' extension motions and even as getting the D.C. Circuit to rule on the motion to stay as soon as possible is in Defendants best interest. Defendants have been accommodated Plaintiffs when they have needed additional time and would only ask that Plaintiffs extend the same courtesy to them.

CONCLUSION

For these reasons, Defendants respectfully request that the Court vacate the discovery schedule.

Dated: July 24, 2026
Washington, DC

Respectfully submitted,

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[PROPOSED] ORDER

Upon consideration of Defendants' motion to vacate the discovery schedule and the entire record herein, it is hereby

ORDERED that Defendants' motion is GRANTED; and it is further

ORDERED that the discovery deadlines are VACATED; and it is further

ORDERED that the parties shall meet and confer and no later than July 31, 2026. file a joint status report proposing a new discovery schedule.

SO ORDERED.

Dated

BERYL A. HOWELL
United States District Judge