

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF IDAHO; THE IDAHO
DEPARTMENT OF WATER
RESOURCES, an agency of the State of
Idaho; and GARY SPACKMAN, in his
official capacity as the Director of the
Idaho Department of Water Resources,

Defendants.

v.

IDAHO HOUSE OF
REPRESENTATIVES; MIKE MOYLE,
in his official capacity as Majority Leader
of the House; IDAHO SENATE; and
CHUCK WINDER, in his official
capacity as President Pro Tempore of the
Senate,

Intervenor-Defendants

Case No. 1:22-cv-00236-DCN

SCHEDULING ORDER

(LEGAL TRACK)

In accordance with the agreements reached in the stipulated Litigation Plan submitted by counsel to the Court on September 14, 2022, and to further the just, speedy, and inexpensive determination of this matter,

NOW THEREFORE, IT IS SO ORDERED that the following deadlines and procedures will govern this litigation:

1. Dispositive Motions Filing Cut-Off Date: The parties agree that this case can likely be settled on legal motions alone, with no need for discovery unless motions practice indicates otherwise. The parties propose the following deadlines and page enlargement summary for summary judgment filings:

Filing	Substantive Page Limit on Briefs*	Filing Deadline
Plaintiff's motion and opening brief	50 pages plus a 15-page statement of undisputed facts	December 16, 2022
Defendants' cross-motion and response brief	70 pages plus a 30-page statement of disputed and undisputed facts	March 17, 2023
Idaho Legislature Intervenor-Defendants' cross-motion and brief	40 pages plus a 10-page statement of undisputed facts	April 17, 2023
Plaintiff's response/reply brief	85 pages plus a 15-page statement of disputed facts	June 21, 2023
Defendants' reply brief	30 pages	August 25, 2023
Idaho Legislature Intervenor-Defendants' reply brief	20 pages	September 22, 2023

* The non-substantive parts of a brief include the caption, table of contents, table of authorities, signature block, and certificate of service. Attachments to the brief included in the page limitation.

2. Amendment of Pleadings and Joinder of Parties: All motions to amend pleadings and join parties, except for allegations of punitive damages, shall be filed on or before **October 6, 2022**. This deadline shall only be extended for good cause shown.¹ All parties are entitled to know the claims and parties well-before trial

¹ The Ninth Circuit has held that motions to amend filed after the Scheduling Order deadline are governed, not by the liberal provisions of Fed. R. Civ. P. 15(a), but instead, by the more restrictive provisions of Fed. R. Civ. P. 16(b) requiring a showing of "good cause." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d

rather than be forced to pursue or defend against a moving target. Although this deadline precedes the general discovery deadline, the parties are directed to send out all discovery requests that might relate to amendment or joinder enough in advance of this amendment and joinder deadline to obtain the responses needed to make an informed decision on amendment and joinder.

3. Law Clerk: If counsel has a procedural or legal question that needs to be brought to my attention, please contact Kade Allred, the law clerk assigned to this case at (208) 478-8393. If this case is later reassigned or referred to another judge, consult the [Judges' webpage](#)² for the judges' staff directory.
4. Handling of Discovery Disputes and Non-disposition Motion:
 - a. Typically, I will **not** refer this case to a magistrate judge for resolution of discovery disputes and non-dispositive motions. I will keep these motions on my own docket.
 - b. The parties will strictly comply with the meet and confer requirements of Local Rule 37.1 prior to filing any discovery motions.
 - c. In addition, I will not entertain any written discovery motions until the Court has been provided with an opportunity to informally mediate the parties' dispute. To facilitate that mediation, the attorneys will first contact Kade Allred, the law clerk assigned to this case, and shall provide him with a brief written summary of the dispute and the parties' respective positions. Mr.

604 (9th Cir. 1992).

² <http://id.uscourts.gov/district/judges/Welcome.cfm>

Allred may be able to offer suggestions that will resolve the dispute without the need of my involvement. If necessary, an off-the-record telephonic conference with me will then be scheduled as soon as possible. I will seek to resolve the dispute during that conference and may enter appropriate orders on the basis of the conference. I will only authorize the filing of a discovery motion and written briefing if we are unable to resolve the dispute during the conference.

- d. Prior to filing any discovery motions, counsel must certify, not only that they have complied with Local Rule 37.1, but that they have complied with the foregoing procedures.
5. Calendaring Clerk: Scheduling matters and calendar issues may be directed to **Patti Richmond**, who may be reached at (208) 478-8392.
6. Docketing Clerk: If you have a docketing question, please contact a docket clerk at (208) 334-1361.



DATED: October 21, 2022

A handwritten signature in dark ink, appearing to read "David C. Nye".

David C. Nye
Chief U.S. District Court Judge