



The parties' application is DENIED. The parties shall submit a joint Proposed Civil Case Management Plan and Scheduling Order and joint letter by **April 1, 2021**, in accordance with the Order dated January 26, 2021 (Dkt. No. 29).

U.S. Department of Justice

United States Attorney
Southern District of New York

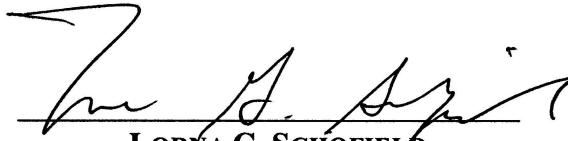
SO ORDERED.

86 Chambers Street
New York, New York 10007

Dated: March 31, 2021
New York, NY

BY ECF

The Honorable Lorna G. Schofield
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Re: *Tzumi Innovations, LLC v. Regan, et al.* No. 21 Civ. 122 (LGS)¹

Dear Judge Schofield:

This Office represents Defendants Michael S. Regan, in his official capacity as Administrator of the United States Environmental Protection Agency (“EPA”) and the EPA in the above-captioned matter (together, the “Government”). I write respectfully, on behalf of all parties, to jointly request that the Court adjourn the initial pre-trial conference scheduled in this matter for April 8, 2021, at 10:50 am, and correspondingly extend the time to file the pre-conference submission due on April 1, 2021, until after the Court decides Plaintiff’s motion for a preliminary injunction and the Government’s motion to dismiss Plaintiff’s Amended Complaint. *See* ECF Nos. 23-24, 27, 31-42.

An adjournment of the initial pre-trial conference is appropriate, as the Court’s decision regarding Plaintiff’s preliminary injunction motion and the Government’s motion to dismiss will inform the path forward for this case, including what issues, if any, will be addressed in the action. Further, a preliminary conference with the Court was already held in this case on January 14, 2021. *See* ECF Nos. 25-26. Moreover, because this is a matter involving a review from an administrative agency, it is exempted from the mandatory scheduling order required by Fed. R. Civ. P. 16(b). *See* SDNY Local Rule 16.1 (“Matters involving . . . reviews from administrative agencies are exempted from the mandatory scheduling order required by Fed. R. Civ. P. 16(b).”).

This is the parties’ first request for an adjournment of the initial conference.

¹ Michael S. Regan, who became the Administrator of the Environmental Protection Agency on March 11, 2021, is automatically substituted for former Administrator Andrew R. Wheeler as the defendant in this action. *See* Fed. R. Civ. P. 25(d).

The Honorable Lorna G. Schofield

March 30, 2021

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Respectfully submitted,

AUDREY STRAUSS
United States Attorney for the
Southern District of New York

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cc: Counsel of Record (by ECF)