

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

**OUTSOURCING FACILITIES  
ASSOCIATION, ET AL.,**

Plaintiffs,

v.

**No. 4:24-cv-00953-P**

**UNITED STATES FOOD AND DRUG  
ADMINISTRATION, ET AL.,**

Defendants.

**ORDER**

Before the Court is Eli Lilly and Company's Motion to Intervene. ECF No. 34. Plaintiffs have filed notice that they withdrawal their opposition to the intervention. ECF No. 50. The Court, finding that good cause exists for Eli Lilly's intervention in this case under Federal Rule of Civil Procedure 24, hereby **GRANTS** Eli Lilly's Motion to Intervene.

While this Order resolves half of the matters set for a hearing on January 10, 2025, the Court finds it appropriate to continue with the hearing as scheduled. The Court finds it prudent to do so for two reasons.

*First*, having reviewed the submissions in this matter, the Court anticipates that the Parties may have a dispute over the FDA's production of confidential information, which serves as the initiating action for the proposed briefing schedule. *See* ECF No. 38. *Second*, the Court believes that consolidation is appropriate, and would like to convert the Plaintiffs' impending motion for preliminary injunction into a motion for summary judgment under Federal Rule of Civil Procedure 65. *H & W Indus., Inc. v. Formosa Plastics Corp., USA*, 860 F.2d 172, 177 (5th Cir. 1988). "Summary judgment serves as 'the mechanism for deciding, as a matter of law, whether the agency action is . . . consistent with the APA.'" *Brown v. U.S. Dep't of Educ.*, 640 F. Supp. 3d 644, 657 (N.D. Tex. 2022), *vacated and remanded sub nom. on other grounds Dep't*

of *Educ. v. Brown*, 600 U.S. 551 (2023) (internal citation omitted). Accordingly, each party should come prepared to discuss any issues it may have with the proposed briefing schedule. Additionally, the Parties should come prepared to inform the undersigned whether they object to the Court converting the motion for preliminary injunction to a motion for summary judgment.

**SO ORDERED** on this **6th day of January 2025**.



**MARK T. PITTMAN**  
UNITED STATES DISTRICT JUDGE