

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as
GOVERNOR OF THE STATE OF TEXAS,
and THE STATE OF TEXAS,

Defendants.

Case No. 1:23-cv-00853-DAE

PLAINTIFF UNITED STATES' NOTICE OF NEW FACTS

The United States hereby notifies the Court of new facts relevant to this suit. Last night, the U.S. Section of the International Boundary and Water Commission (IBWC) received a report of in-water construction work being performed at the site of the Floating Barrier. This morning, IBWC personnel visited the site and observed excavators and workers in the river and a concrete anchor being repositioned in a different location within the Rio Grande, closer to the U.S. bank. Decl. of Evelio Siller ¶¶ 2-4. The United States had no advance notice that Defendants would be performing additional work on the Floating Barrier. When questioned by counsel this afternoon, Defendants admitted that Texas is presently repositioning the Floating Barrier within the river.*

Texas' newly resumed, unauthorized construction activities in the Rio Grande underscore why this Court should grant the United States' Opposed Motion for Preliminary Injunction, ECF

* Compare Texas' Opposition to Motion for Preliminary Injunction, ECF No. 26, at 6 ("The [Floating Barrier] is ... entirely within Maverick County, Texas." (citing Decl. of Loren Flossman, ECF No. 26-3, ¶ 6 ("The buoys were located using GPS coordinates to ensure they are placed within the United States half of the Rio Grande."))), with United States' Notice of Survey Results, ECF No. 32 (IBWC topographical survey showing that a majority of the Floating Barrier was located in Mexico as of July 28, 2023).

No. 5, on which a hearing is set for Tuesday, August 22, 2023. The United States is harmed, not only by Texas' ongoing and flagrant violations of Section 10 of the Rivers and Harbors Act, but also by the effects the violations continue to have on U.S.-Mexico relations and other compelling federal interests.

Respectfully submitted,

Dated: August 18, 2023

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CERTIFICATE OF SERVICE

I certify that on August 18, 2023, counsel for Defendants were served with a copy of this Notice by the CM/ECF System.

/s/ Brian Lynk
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