

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. _____

CITY AND COUNTY OF DENVER, ACTING BY AND THROUGH ITS BOARD OF
WATER COMMISSIONERS,
a municipal corporation of the State of Colorado,

Plaintiff,

v.

BOULDER COUNTY, ACTING BY AND THROUGH ITS BOARD OF COUNTY
COMMISSIONERS, a body corporate and politic of the State of Colorado, and MATT JONES,
CLAIRE LEVY, AND MARTA LOACHAMIN, in their official capacity as Commissioners.

Defendant.

DECLARATION OF NICHOLAS A. DIMASCIO

I, Nicholas A. DiMascio, declare as follows:

1. I am an attorney in the Office of the General Counsel at Denver Water, located at 1600 W. 12th Avenue, Denver, Colorado 80204. I represent the Plaintiff in the above-captioned matter and am licensed to practice law in the State of Colorado. I am also a member of the bar of the United States District Court for the District of Colorado. I am over eighteen years of age and have personal knowledge of the facts set forth herein based upon information gathered by myself or at my direction.
2. Attached as Exhibit A is a true and correct copy of the July 16, 2020 Order of the Federal Energy Regulatory Commission (“FERC”) Amending the License and Extending the License Term of the Gross Reservoir Hydroelectric Project.
3. Attached as Exhibit B is a true and correct copy of a document entitled “Denver Water Board Proposed Gross Reservoir Expansion Plan: Pre-Application Document Comments,” dated September 25, 2008.
4. Attached as Exhibit C is a true and correct copy of a document entitled “Boulder County Comments on the Moffat Collection System Draft EIS and Draft FERC License Amendment Application,” dated March 17, 2010.
5. Attached as Exhibit D is a true and correct copy of Boulder County’s March 23, 2017 Unopposed Motion to Intervene before FERC, and attached June 5, 2014 and July 1, 2014 Comments on the Final Environmental Impact Statement for the Moffat Collection System Project.
6. Attached as Exhibit E is a true and correct copy of a December 23, 2020 letter from Boulder County to Denver Water and attachments provided therewith. Although the letter purports to be dated December 17, 2020, Boulder County did not actually transmit the letter to Denver Water until December 23, 2020.

7. Attached as Exhibit F.1 is a true and correct copy of the cover letter to Denver Water's February 19, 2021 Response to the Referral Agency and Public Comments on its 1041 Permit Application.

8. Attached as Exhibit F.2 is a true and correct copy of Denver Water's responses to comments from Boulder County Referral Agencies, Public Organizations, and Individuals, included in Denver Water's February 19, 2021 Response to the Referral Agency and Public Comments on its 1041 Permit Application.

9. Attached as Exhibit F.3 is a true and correct copy of Denver Water's January 27, 2021, 2 p.m. Meeting Agenda and Minutes regarding the Gross Reservoir and Expansion Project, included in Denver Water's February 19, 2021 Response to the Referral Agency and Public Comments on its 1041 Permit Application.

10. Attached as Exhibit F.4 is a true and correct copy of Denver Water's February 3, 2021, 2 p.m. Meeting Agenda and Minutes regarding the Gross Reservoir and Expansion Project, included in Denver Water's February 19, 2021 Response to the Referral Agency and Public Comments on its 1041 Permit Application.

11. Attached as Exhibit F.5 is a true and correct copy of Denver Water's February 3, 2021, 9 a.m. Meeting Agenda and Minutes regarding the Gross Reservoir Expansion Project, included in Denver Water's February 19, 2021 Response to the Referral Agency and Public Comments on its 1041 Permit Application.

12. Attached as Exhibit F.6 is a true and correct copy of Denver Water's February 8, 2021, 11 a.m. Meeting Agenda and Minutes regarding the Gross Reservoir Expansion Project, included in Denver Water's February 19, 2021 Response to the Referral Agency and Public Comments on its 1041 Permit Application.

13. Attached as Exhibit F.7 is a true and correct copy of Denver Water's February 10, 2021, 2 p.m. Meeting Agenda and Minutes regarding the Gross Reservoir Expansion Project, included in Denver Water's February 19, 2021 Response to the Referral Agency and Public Comments on its 1041 Permit Application.

14. Attached as Exhibit F.8 are true and correct copies of a Gross Reservoir Expansion Project Schedule and a FERC Plans Submittal Schedule, included in Denver Water's February 19, 2021 Response to the Referral Agency and Public Comments on its 1041 Permit Application.

15. Attached as Exhibit G is a true and correct copy of an April 8, 2021 letter from Boulder County to Denver Water regarding comments on the Gross Reservoir & Dam Expansion. Although the letter purports to be dated April 6, 2021, Boulder County did not actually transmit the letter to Denver Water until April 8, 2021.

16. Attached as Exhibit H is a true and correct copy of an April 28, 2021 letter from Denver Water responding to Boulder County's comments concerning Denver Water's 1041 permit application.

17. Attached as Exhibit I is a true and correct copy of a June 8, 2021 letter from Boulder County to Denver Water regarding the completion of Denver Water's 1041 permit application. Although the letter purports to be dated June 1, 2021, Boulder County did not actually transmit the letter to Denver Water until June 8, 2021.

18. Attached as Exhibit J is a true and correct copy of a June 21, 2021 letter from Denver Water to Boulder County regarding Denver Water's 1041 permit application.

19. Attached as Exhibit K is a true and correct copy of a June 29, 2021 letter from Boulder County to Denver Water regarding Denver Water's 1041 permit application.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed in Denver, CO on July 14, 2021.



Nicholas A. DiMascio