

No. 21-1155

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

SAVE THE COLORADO, a Colorado nonprofit corporation, et al.,

Petitioners-Appellants,

v.

LIEUTENANT GENERAL SCOTT A. SPELLMON,
Chief, U.S. Army Corps of Engineers, et al.,

Respondents-Appellees,

and

CITY AND COUNTY OF DENVER,
acting by and through its Board of Water Commissioners,

Intervenor Respondent-Appellee.

On Appeal from the United States District Court for the District of Colorado
The Honorable Christine M. Arguello
Civil Action No. 1:18-cv-03258-CMA

**BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY
COLORADO’S UNOPPOSED MOTION TO WITHDRAW AMICUS
CURIAE BRIEF IN SUPPORT OF PETITIONERS-APPELLANTS AND
REVERSAL**

The Board of County Commissioners of Boulder County (“Boulder County”) moves to withdraw as *amicus curiae* in this matter and to withdraw its brief filed in this case in support of Petitioners-Appellants. Boulder County provides the following in support of its motion:

1. Pursuant to 10th Cir. R. 27.1, counsel for Boulder County conferred with counsel for Respondents-Appellees and for Intervenor Respondent-Appellee, who both indicated they consent to the motion. Counsel for Boulder County also conferred with counsel for Petitioners-Appellants, who indicated they take no position on the motion.

2. Boulder County joined this appeal as *amicus curiae* in a brief filed on August 20, 2021. (Dkt. 10851831.)

3. Boulder County has reached a settlement with Denver Water to resolve their dispute, in a separate lawsuit, over the County's application of the local 1041 permit process to the Gross Reservoir and Dam Expansion Project. In that settlement agreement, the County agreed it would withdraw its participation as an amicus supporting Appellants here. Boulder County therefore no longer takes a position on this appeal.

4. This voluntary withdrawal is appropriate because there is no direct claim made against Boulder County in this matter, and Boulder County's withdrawal will not materially prejudice the rights of the other parties.

WHEREFORE, Boulder County respectfully requests that the Court grant this motion to withdraw as *amicus curiae* in this matter and to withdraw its brief filed in this case in support of Petitioners-Appellants.

Dated this 15th day of November 2021.

s/ David Hughes

David Hughes

Deputy County Attorney

Boulder County Attorney's Office

P.O. Box 471, Boulder, CO 80306

(303) 441-3190

dhughes@bouldercounty.org

Attorney for Amicus Curiae

CERTIFICATE OF COMPLIANCE

I hereby certify that with respect to the foregoing:

1. This document complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f) this document contains 245 words.
2. This document complies with the typeface and type style requirements of Fed. R. App. P. 27(d)(1)(E) because this document has been prepared in a proportionally spaced typeface using Times New Roman 14-point font.

Dated this 15 day of November 2021.

s/ David Hughes

David Hughes
Deputy County Attorney
Boulder County Attorney's Office
P.O. Box 471, Boulder, CO 80306
(303) 441-3190
dhughes@bouldercounty.org

Attorney for Amicus Curiae

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing:

1. All required privacy redactions have been made per 10th Cir. R. 25.5.
2. If required to file additional hard copies, the ECF submission is an exact copy of those documents.
3. The digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, Sophos Endpoint Agent last updated November 15, 2021 and according to the program are free of viruses.

Dated this 15th day of November 2021.

s/ David Hughes

David Hughes
Deputy County Attorney
Boulder County Attorney's Office
P.O. Box 471, Boulder, CO 80306
(303) 441-3190
dhughes@bouldercounty.org

Attorney for Amicus Curiae

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2021, I electronically filed the foregoing document with the Clerk of the Court for the U.S. Court of Appeals for the Tenth Circuit using the appellate CM/ECF system. All participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

s/ David Hughes

David Hughes

Deputy County Attorney

Boulder County Attorney's Office

P.O. Box 471, Boulder, CO 80306

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