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**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF UTAH**

UNITED STATES OF AMERICA
Ex. rel. Mark Christopher Tracy,

Plaintiff,

vs.

EMIGRATION IMPROVEMENT
DISTRICT ET AL.

Defendants.

**DECLARATION OF MARK
CHRISTOPHER TRACY**

Case No.: 2:14-cv-00701

Judge: Jill N. Parrish

Magistrate: Jared C. Bennett

Mark Christopher Tracy, declares and states as follows:

1. I am over the age of 18 and I have personal knowledge of the facts set forth in this declaration. If called as a witness, I could and would competently and truthfully testify to each of the facts set forth in this affidavit.

2. I am the Relator in this lawsuit, suing on behalf of the United States of America.

3. The majority of the allegations set forth in the Third Amended Complaint in this lawsuit come from my own efforts, through more than six years of yet continuing investigations.

Very little of the allegations, if any, come from the three categories of sources set forth in the False Claims Act, 31 U.S.C. § 3730(e)(4)(A)(i)-(iii).

4. For example and specifically, I recovered a copy of the 1966 Barnett Thesis, which stated that Emigration Canyon located in Salt Lake County, Utah, is not conducive to the construction of large-diameter commercial wells and such wells would dry up single-family domestic wells with senior water rights “with almost certainty” if placed into operation.

5. As predicted in the Barnett Thesis, Salt Lake City expert hydrologist Dr. David Hansen testified before the Utah State Division of Drinking Water (“DDW”) on December 19, 2018 that operation of the large-diameter commercial wells at issue in this lawsuit has directly impaired surface water flow in Emigration Canyon (*see* audio-visual recording of the protest hearing available at https://echo-association.com/?page_id=7408). I have been informed that for the past month the Emigration Canyon Stream has suffered total depletion 1.6 miles above Utah’s Hogle Zoo.

6. After several months searching, I recovered copy of the Barnett Thesis, which had been removed from one area university library and was cross catalogued with another document in the archives of another area university library.

7. Also, Dr. Steve Onysko’s Speedy Memorandum, which is referenced throughout the Third Amended Complaint, was not available in the state archives during my initial review of the project file sometime in July 2014 and was only scanned into state public records after it was personally retrieved by Dr. Onysko.

8. I received a copy of the Speedy Memorandum only after Dr. Onysko learned of this lawsuit from the Salt Lake Tribune and contacted my previous legal counsel. I was informed that this led to Dr. Onysko’s verbal censure by the current DDW director Marie Owens upon Ms. Owen’s learning that Dr. Onysko had provided me a copy of the memorandum.

9. I was also informed that Dr. Onysko was removed from the DDW office building and terminated after DDW discovered that Dr. Onysko had informed me that the temporary permit for the Wildflower Reservoir had lapsed on February 1, 2004 and DDW supervisor Maculey had falsely certified project completion and issuance of all operating permits for project components on May 3, 2005.

10. I also discovered a copy of a legal invoice from EID's current legal representative documenting a meeting with Carollo, EID manager Fred Smolka and land-developer Creamer immediately following the date of Dr. Onysko's letter.

11. My investigation uncovered a print copy of a construction photo documenting the actual size of the Wildflower Reservoir believed to be 1.3 million gallons as initially recorded in the DDW inventory system, and water-distribution pipes in the water system designed and built by Defendants of this lawsuit.

12. My investigation also uncovered the location of the Wildflower Reservoir, and a 10-inch water distribution valve, which dead-ended on vacant, undeveloped property simultaneously purchased by private land-developer and EID Advisory Committee Chairman R. Steve Creamer within a month of the original commitment of federally-backed funds at issue in the lawsuit.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 29th day of September, 2020.

/s/ Mark Christopher Tracy
Mark Christopher Tracy
(electronically signed with permission)