DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	
Plaintiffs: FREEDOM FROM RELIGION FOUNDATION, INC., MIKE SMITH, DAVID HABECKER, TIMOTHY G. BAILEY and JEFF BAYSINGER v. Defendants: BILL RITTER, JR., in his official capacity as Governor of the State of Colorado, and THE STATE OF COLORADO.	▲ **COURT USE ONLY** ▲
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MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants Bill Ritter, Jr., in his official capacity as Governor of the State of Colorado, and the State of Colorado, submit the following Memorandum of Law in support of their motion for summary judgment.

INTRODUCTION

Institutional acknowledgment of the role that religion plays in American life dates back to the Founders – a tradition that has lasted more than two centuries. This lawsuit demands that this Court overturn that tradition by: 1) declaring that the Colorado Constitution prohibits the governor from recognizing the right to pray, and 2) "enjoining Governor Ritter and his successors from issuing future Day of Prayer proclamations." *Complaint* at 7. Because such a result is required by neither Colo. Const. art. II, § 4, nor the Establishment Clause of the First Amendment, this Court should grant summary judgment in favor of the Defendants.

STIPULATED FACTS

1. Freedom From Religion Foundation ("FFRF") is a non-profit corporation headquartered in Wisconsin. FFRF is registered to do business in Colorado and is in good standing.

2. Members of FFRF, including the named Plaintiffs, are residents of Colorado and are Colorado taxpayers.

3. Bill Ritter Jr., who is named as a defendant in his official capacity, is the Governor of the State of Colorado.

4. On April 2, 1952, the Committee on the Judiciary of the U.S. House of Representatives issued a Report to Accompany H.J. Res. 382 to create a National Day of Prayer.

5. Public Law 324, a Joint Resolution, was approved on April 17, 1952. It provides: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall set aside and proclaim a suitable day each year, other than a Sunday, as a National Day of Prayer, on which the people of the United States may turn to God in prayer and meditation in churches, in groups, and as individuals."

6. Public Law 324 was signed by President Harry Truman on April 17, 1952.

7. S.1378, "An act to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated," was approved by the Senate on May 5, 1988, and signed into law by President Ronald Reagan on May 9, 1988.

8. The NDP Task Force, led by Shirley Dobson, writes to each state governor on an annual basis requesting a prayer proclamation, while referencing the NDP Task Force annual theme and supporting scriptural reference.

9. Letters written by the NDP Task Force to governors requesting honorary proclamations are signed by Shirley Dobson, who reviews such letters before signing them.

10. Honorary proclamations recognizing the National Day of Prayer were issued by the Governor of Colorado for at least 2004-2009.

11. The honorary proclamations issued by the Governor of Colorado from 2004-2008 each acknowledged the NDP Task Force annual theme and/or scriptural reference.

12. The honorary proclamation issued by the Governor of Colorado in 2009 did not acknowledge the NDP Task Force annual theme or scriptural reference.

DEFENDANTS' STATEMENT OF UNDISPUTED FACTS

Process for Submission and Issuance of Honorary Proclamations

1. As a public service, the Governor of the State of Colorado issues various honorary proclamations, photos, and letters of congratulation or recognition upon request. (Ex. A, Bannister Aff. at ¶ 4).

2. The Governor is typically not involved in acting on, reviewing, or responding to requests for honorary proclamations, letters, or photo requests. Instead, the Governor's communications staff is responsible for reviewing and responding to requests for honorary proclamations and letters as they are submitted by members of the general public. (*Id.* at ¶¶ 5, 13).

3. Honorary proclamation requests may be submitted via facsimile, by mail, or through the Governor's website, at www.colorado.gov/governor. (*Id.* at ¶ 6).

4. The Governor's office receives several hundred honorary proclamation requests every year. Nearly every proclamation that is requested is issued. (*Id.* at ¶ 7).

5. Honorary proclamation requests must be accompanied by draft language for the honorary proclamation. When a request is submitted, a member of the Governor's Press/Communications staff reviews it for content. (*Id.* at ¶ 8).

6. If the content of the requested honorary proclamation does not seem to be problematic, or if it is similar to an honorary proclamation approved and issued in a prior year, the governor's Press/Communications staff will typically process and issue it without further review. (*Id.* at ¶ 9).

7. If the content of the requested honorary proclamation appears problematic, the Governor's Press/Communications staff submits it to the Director of Communications. The Director of Communications approves or rejects it, sometimes after consultation with legal counsel. (*Id.* at ¶ 10).

8. Requested honorary proclamations are occasionally rejected, although this is rare. For example, in one instance, an individual submitted an online honorary proclamation request, the suggested language of which attested to the requesting individual's good moral character. After researching the issue, the Governor's Press/Communications staff determined that the individual in question had been charged and was awaiting trial for murder in New York City. The Governor's staff did not issue this honorary proclamation. (*Id.* at ¶ 11).

9. Occasionally, the Governor's staff determines that a letter of congratulations or recognition is more appropriate than an honorary proclamation, and will thus send such a letter instead of issuing an honorary proclamation. (*Id.* at ¶ 12).

10. Some requested honorary proclamations are edited for content. For example, the Armenian National Committee of America annually submits an honorary proclamation request for Armenian Genocide Awareness Day. As submitted, this honorary proclamation

typically contains controversial language and statements. The Governor's Press/ Communications staff edits the suggested language for content before approving and issuing the honorary proclamation. (*Id.* at ¶ 13).

11. Most honorary proclamations are not personally reviewed, approved, or signed by the Governor himself. Once accepted by Press/Communications Staff, honorary proclamations typically receive the Governor's signature by a device called an "auto-pen." (*Id.* at ¶ 14).

12. After an honorary proclamation has been approved and signed, it is mailed directly to the individual or group who requested it. Alternatively, the requesting individual or a representative of the requesting group may elect to pick the honorary proclamation up in person from the Governor's office at the State Capitol. (*Id.* at ¶ 15).

13. In most instances, an honorary proclamation approved by the Governor's office is not published, promoted or accompanied by a press release. (*Id.* at ¶ 16).

14. Copies of honorary proclamations that have been approved and issued may be requested by members of the general public. (*Id.* at ¶ 17).

15. No hard copies of previously-issued honorary proclamations are kept on file. To save time for anticipated future requests or in case a copy is requested by a member of the general public, Press/Communications staff does save digital copies of honorary proclamations on a staff member's office computer. That file is used as a template for future requests. Specifically, when the new annual request is received, office staff retrieves the old file from the previous year, updates it with new dates and other specifics, and then saves the

new file in place of the previous one. Thus, copies of an honorary proclamation that is requested on an annual basis are only available until the next year's proclamation has been drafted. (*Id.* at ¶ 18).

16. Hard copies of issued proclamations are not sent to the state archives. (*Id.* at ¶ 19).

17. Computer files from the Owens administration were archived at the end of Governor Owens' term. Those archived computer files should contain records of honorary proclamations issued during the Owens administration, although older honorary proclamations may have been written over. (*Id.* at ¶ 19).

Day of Prayer Proclamations

18. In 2007 and 2008, the Governor's office received honorary proclamation requests for a "Colorado Day of Prayer." These requests have been made on an annual basis throughout the Owens and Ritter administrations. Because the suggested language for the proclamations was similar to that which had been used in prior years, the requests were accepted and the proclamations issued. (*Id.* at ¶ 20).

19. As is the case with nearly every honorary proclamation request, regardless of its subject, the 2007 and 2008 honorary proclamations issued for a "Colorado Day of Prayer" followed the language suggested by their proponents. (*Id.* at ¶ 21).

19. In 2009, the Governor's office issued an Honorary Proclamation for a "Colorado Day of Prayer." However, the Honorary Proclamation issued in 2009 did not

follow the thematic suggestions contained in that year's form letter from the NDP Task Force requesting the Honorary Proclamation. (*Id.* at ¶ 22).

20. In order to have its annual requests for honorary proclamations considered, the NDP Task Force is required to follow the procedures for requesting honorary proclamations outlined on the Governor's website. These procedures apply to all groups or individuals who wish to request an honorary proclamation, letter of recognition or congratulations, or photograph from the Governor. (*Id.* at ¶ 26).

21. The 2007 and 2008 honorary proclamation requests for a "Colorado Day of Prayer" were not submitted either to Governor Ritter or to the director of communications for approval. (*Id.* at ¶ 23).

22. The 2007, 2008, and 2009 honorary proclamations for a "Colorado Day of Prayer" were signed by the "auto-pen" device and mailed to the requesting party without any involvement by the Governor. (*Id.* at ¶ 24).

23. The Governor's office did not issue a press release or otherwise publicize the "Colorado Day of Prayer" proclamations in 2007, 2008, or 2009. (*Id.* at ¶ 25).

24. The honorary proclamations issued by the Governor of Colorado from 2004-2008 acknowledged the federal designation of the Day of Prayer by Congress and the President, as well as the history and ubiquity of the National Day of Prayer. (*Id.* at ¶ 27).

25. The Plaintiffs use the term "dedication," "dedicated," and "dedicating," in the Complaint (at ¶¶ 1, 13, 52, and 53, respectively), referring to the 2007 and 2008 Colorado Day of Prayer events and to all Honorary Proclamations recognizing a Colorado Day of

Prayer from 2004-2009. (Ex. B, *Plaintiff FFRF's Responses to Defendants' First Set of Interrogatories and First Request for Production of Documents, Interrogatory Responses 1 and 2.)* The Defendants have not used these terms in connection with the honorary proclamations.

26. The individual Plaintiffs do not claim that Governor Ritter or the State of Colorado has prevented them from exercising their right to non-belief, or exerted any coercion in this regard. (Ex. B, *Interrogatory Response 3.)*

27. The Plaintiffs have not produced any evidence to support the allegation in the Complaint that each honorary proclamation affected each plaintiff's political status in the State of Colorado. To the contrary, they have made only the following bald assertions, which lack any evidentiary support.

a. "[A]nnual declarations of a "Colorado Day of Prayer" give the appearance of elevating and endorsing religion as a solution to social problems, while encouraging all persons to believe in God," and

b. The honorary proclamations at issue "giv[e] the appearance that belief is preferable and that believers have special access to government leaders, including the Governor."

(Ex. B, *Interrogatory Response 4.)*

28. The individual Plaintiffs have not attended or participated in any Day of Prayer event in Colorado; nor have they been prevented from attending or participating in or acting at such event in any way they wished. (Ex. B, *Interrogatory Response 5.)*

29. The Day of Prayer events held on the west steps of the State Capitol building are initiated, organized, and sponsored by private citizens. (Ex. C, *Affidavit of Rita Lambert*).

30. The Plaintiffs do not contend that the Governor or any other State official affected or took any other action with regard to the individual Plaintiffs' failure to attend any Day of Prayer event in Colorado. (Ex. B, *Interrogatory Response 6.)*

31. Plaintiffs have produced no evidence that they have been adversely affected by the issuance of honorary proclamations declaring a "Colorado Day of Prayer."

32. The Plaintiffs have produced no evidence demonstrating any affiliation, either formal or informal, between the NDP Task Force and the Governor or his staff.

33. The Plaintiffs did not learn about or become exposed or subjected to the honorary proclamations by way of coercion, but instead became aware of them via media coverage. (Ex. B, *Interrogatory Response 7.)*

34. There is no item in the State budget or any expenditure of tax monies relating to the issuance of the honorary proclamations complained of, except to the extent that the Governor's attendance at a Day of Prayer event involved the use of paid State personnel, i.e. the Governor and his security. (Ex. B, *Interrogatory Response 8.)*

35. The allegation that the Governor is aligned or associated with Reign Down USA is based on an internet report that Governor Ritter proclaimed April 26, 2008, to be a Day of Prayer in Colorado, in conjunction with an event sponsored by Reign Down USA. (Ex. B, *Interrogatory Response 9.)*

36. The allegation that the language in the honorary proclamations at issue constitutes "exhortations to pray" is based on the Plaintiffs' declared belief that all of the language in the honorary proclamations encourages all citizens to actively pray. Specifically, the Plaintiffs allege that the language that "Americans will unite in prayer for our Nation, our State, our leaders and our people" is an exhortation to pray. (Ex. B, *Interrogatory Response 10.)*

37. The allegation that the Governor made "related pronouncements endorsing prayer" is based solely on his alleged attendance at privately organized and sponsored Day of Prayer events at the Capitol in 2007 and 2008 and a prayer luncheon event in 2008. (Ex. B, *Interrogatory Response 11.)*

38. The allegation that there were approximately 70 events held in Colorado in May 2009 is based on an article in the Rocky Mountain News dated May 4, 2007; in any event, none of the individual Plaintiffs attended such events and were not coerced to do so. (Ex. B, *Interrogatory Response 12.)*

39. The allegation concerning contacts between the governor and the NDP Task Force is based solely on the fact that Shirley Dobson, as chair of the NDP task force, writes to each governor, including the Governor of Colorado, requesting the issuance of a Day of Prayer proclamation; that such honorary proclamations have been issued since 2004; and that the 2004-2008 honorary proclamations included the annual theme and/or biblical reference suggested by the NDP Task Force. (Ex. B, *Interrogatory Response 13.)*

40. The 2009 honorary proclamation did not include the NDP Task Force annual theme and/or biblical reference. (Ex. B, *Interrogatory Responses 13 and 14.)*

41. The governors of all 50 states issued honorary proclamations or otherwise acknowledged (e.g., by letter) days of prayer in 2007, 2008, and 2009. Many of these proclamations, letters, or similar acknowledgments made reference to the theme and/or supporting scripture suggested by the NDP Task Force in its annual form letter. (*Background Statement of NDP History and NDP Task Force Involvement,* Ex. D, ¶¶ 110-112).

42. The Plaintiffs' evidence supporting the allegation that the governor has "embraced" the NDP Task Force and/or Focus on the Family is as follows:

a. The governor included the NDP Task Force annual theme and/or supporting scriptural reference in the 2004-2008 proclamations as requested by Shirley Dobson's form letter. *(*Ex. C, *Interrogatory Response 17)*;

b. The governor spoke briefly at an event hosted by the NDP task force on the National Day of Prayer in 2007. (Ex. C, *Interrogatory Response 21*).

43. The Plaintiffs' evidence supporting the allegation that the governor has worked, or is currently working, "hand-in-glove" with the NDP Task Force and/or Focus on the Family is that the honorary proclamations issued in 2004-2008 incorporated the NDP Task Force annual theme and/or supporting scriptural reference as suggested in the form letters submitted by Shirley Dobson. (Ex. C, *Interrogatory Response 18.)*

44. The Plaintiffs' evidence supporting the allegation that the governor or his predecessor has a "collaborative" relationship with the NDP Task Force and/or Focus on the Family is that the honorary proclamations issued in 2004-2008 incorporated the NDP Task Force annual theme and/or supporting scriptural reference suggested in the form letters submitted by Shirley Dobson. (Ex. C, *Interrogatory Response 19.)*

45. The Plaintiffs' evidence supporting the allegation that the governor endorses the religious principles of the NDP Task Force and/or Focus on the Family is that the honorary proclamations issued in 2004-2008 included the NDP Task Force annual theme and/or supporting scriptural reference as suggested in the form letters submitted by Shirley Dobson. (Ex. C, *Interrogatory Response 20.)*

46. The Plaintiffs' evidence supporting the allegation that the governor endorses religion in violation of the Colorado Constitution is that: 1) since 2004, he or his predecessor has issued an annual honorary proclamation declaring a Day of Prayer at the request of the National Day of Prayer Task Force; 2) in 2007, he spoke briefly at a public event organized by the NDP Task Force and held on the Capitol steps; and 3) he has allegedly attended Colorado Prayer luncheons, including in 2008. (Ex. C, *Interrogatory Response 21.)*

47. The Plaintiffs' evidence supporting the allegation that the governor supports "an indelible bond between church and state" is that the honorary proclamations issued between 2004 and 2008 included annual themes and scriptural references suggested by the NDP Task Force. (Ex. C, *Interrogatory Response 22.)*

48. The Plaintiffs' evidence supporting the allegation that the governor endorses public celebrations of religion by public officials, as distinguished from freedom of religion, is that:

a. the governor or his predecessor has issued honorary proclamations declaring a Day of Prayer since 2004;

b. the 2004-2008 honorary proclamations included an annual theme and scriptural reference chosen by the NDP Task Force;

c. the Plaintiffs allege that issuance of such proclamations constitutes a celebration of religion by public officials;

d. the governor made brief remarks at a privately-organized (but open to the public) event held on the Capitol steps in 2007; and he has allegedly attended Colorado Prayer luncheons, including in 2008.

(Ex. C, *Interrogatory Response 23.)*

49. The Plaintiffs' evidence supporting the allegation that the words or phrases in the honorary proclamations convey to non-religious Americans that they are expected to believe in God is that: 1) the issuance of an annual Colorado Day of Prayer honorary proclamation gives the appearance that the government views religion as the solution to social problems, therefore allegedly elevating religion to the status of generally accepted dogma in which all citizens are encouraged to believe, including belief in a God; and 2) the Plaintiffs are non-believers who perceive the proclamations to be an encouragement for them

to believe in a God, which they allege violates their freedom of conscience. (Ex. C, *Interrogatory Response 24.)*

50. The Plaintiffs' evidence supporting the allegation that the governor prefers religion over non-religion for all Colorado citizens is that an honorary proclamation recognizing the annual "Colorado Day of Prayer" allegedly gives this appearance, including elevating religion to the status of a preferred solution to problems and by encouraging all citizens to believe in a God. (Ex. C, *Interrogatory Response 25.)*

51. The Plaintiffs' evidence supporting the allegation that believers are made political insiders while non-believers remain political outsiders, and how this alleged belief specifically affects the lives of Plaintiffs and other Colorado citizens is as follows:

a. issuance of an annual "Colorado Day of Prayer" proclamation allegedly gives this appearance, because no proclamations extolling the role of reason are allegedly issued;

b. inclusion of the annual theme and/or scriptural reference chosen by the NDP Task Force in the 2004-2008 proclamations allegedly gives the appearance that believers have access to government leaders;

c. while the Plaintiffs do not allege they have been coerced into becoming believers, they allege that the proclamations give the appearance to the Plaintiffs and others that religion is preferred and expected, and that the Plaintiffs' non-belief is disfavored and discouraged;

d. the Plaintiffs allege that they are put in a position of having to justify their non-belief (although they have provided no evidence on this point).

(Ex. C, *Interrogatory Response 26.)*

52. The Plaintiffs' evidence supporting the allegation that honorary proclamations become known to all citizens is that honorary proclamations are allegedly intended to become known to all citizens of the State, and proclamations are allegedly broadcast through extensive media coverage on the internet, in print media, and by broadcast media. (Ex. C, *Interrogatory Response 27.)*

53. The Plaintiffs' evidence supporting the allegation that the honorary proclamations create a hostile environment for the Plaintiffs is as follows:

a. the governor's honorary proclamation of a "Colorado Day of Prayer" allegedly gives the appearance that he encourages religion as a preferred solution to problems and that all citizens should believe in God;

b. the issuance of the honorary proclamations allegedly causes the Plaintiffs to have to defend their non-belief (a point on which the Plaintiffs have offered no evidence);

c. the Plaintiffs believe that issuance of the honorary proclamations violates their freedom of conscience, which is magnified by alleged annual media hoopla, which they allege the governor promotes; and

d. the Plaintiffs believe they are made to feel like stigmatized outsiders, who must defend or justify their non-belief.

(Ex. C, *Interrogatory Response 28.)*

54. The Plaintiffs' evidence supporting the allegation that the Plaintiffs and other FFR members in Colorado are subjected or exposed to unwanted honorary proclamations or commands to pray is that the proclamations are allegedly intended to be broadcast publicly and become known to all citizens via the media. (Ex. C, *Interrogatory Response 29.)*

55. The Plaintiffs' evidence supporting the allegation that the government, including the State of Colorado and the governor, have induced celebrations of religion in the public realm is as follows:

a. millions of Americans in thousands of events across the country have allegedly participated in public Day of Prayer events because of the Day of Prayer proclamations by various government officials;

b. Governor Ritter allegedly attended public Day of Prayer events in 2007 and 2008;

c. Plaintiffs allege that the honorary proclamations go beyond simply acknowledging independently organized events and hosted events, and instead allege that the honorary proclamations explicitly endorse such events and the message that they convey, and also encourage public participation in them.

(Ex. C, *Interrogatory Response 30.)*

56. The Plaintiffs' evidence supporting the allegation that the governor's actions constitute a culture of officially-sanctioned religiosity is that: 1) the governor has issued honorary proclamations acknowledging a "Colorado Day of Prayer," which allegedly

encourage all citizens to believe in God; 2) thus precipitating massive Day of Prayer events. (Ex. C, *Interrogatory Response 31.)*

57. The Plaintiffs' evidence supporting the allegation that Colorado's governor has "dedicated" a Day of Prayer is that since 2004 he or his predecessor has issued an honorary proclamation acknowledging a "Colorado Day of Prayer" on the day designated by federal law for the National Day of Prayer, and at the request of the NDP task force. (Ex. C, *Interrogatory Response 32.)*

58. The Plaintiffs' evidence supporting the allegation that the governor or his predecessor officially supports and advocates religion thorough the medium of prayer for all Colorado citizens is that he has issued annual honorary proclamations acknowledging a "Colorado Day of Prayer," which proclamations allegedly include the endorsement of religion as practiced through prayer; and that the 2004-2008 proclamations included an annual theme and/or scriptural reference chosen by the NDP Task Force headed by Shirley Dobson. (Ex. C, *Interrogatory Response 33.)*

59. The Plaintiffs' evidence supporting the allegation that the interests and behavior of Plaintiffs and other FFRF members in Colorado are injured or affected by actions of the governor is that the Plaintiffs perceive that their freedom of personal conscience is violated and that the government apparently prefers religion and allegedly stigmatizes Plaintiffs who must defend or justify their non-belief. (Ex. C, *Interrogatory Response 34.)*

60. The Plaintiffs' evidence supporting the allegation that the governor has officially admonished anyone to pray is that he has issued annual honorary proclamations

acknowledging a "Colorado Day of Prayer," which allegedly encourage all citizens to pray and believe in God. (Ex. C, *Interrogatory Response 35.)*

61. The Plaintiffs' evidence supporting the allegation that the text of the honorary proclamations endorses religion per se, as distinguished from religious freedom, is that the governor has issued honorary proclamations acknowledging a "Colorado Day of Prayer." (Ex. C, *Interrogatory Response 23.)*

SUMMARY OF THE ARGUMENT

Article II, section 4 of the Colorado Constitution, like the U.S. Constitution's Establishment Clause, prohibits governmental *endorsement* of religion, but it does not forbid governmental officials from *acknowledging* America's religious heritage. Honorary proclamations recognizing the "Colorado Day of Prayer" do not express a preference for religion over non-religion, do not deny non-believers any rights or privileges on account of their non-belief, and do not coerce anyone to participate in privately organized and privately managed National Day of Prayer events. To the contrary, as with all honorary proclamations, the Governor's honorary proclamations of a "Colorado Day of Prayer" have simply acknowledged the existence of the event and the fundamental rights – in this case, the right to religious freedom – associated with it. This is a far cry from governmental endorsement of religion or coercion to participate in Day of Prayer events, and is accordingly in no way violative of the Colorado Constitution.

ARGUMENT

I. Standard of Review.

Summary judgment must be "granted when there is a clear showing that no genuine issue as to any material fact exists and the moving party is entitled to judgment as a matter of law." *AviComm, Inc. v. Colorado Public Utils. Comm'n*, 955 P.2d 1023, 1029 (Colo. 1998). The nonmoving party is entitled to all favorable inferences that may be drawn from uncontested facts. Any doubt as to whether a triable issue of fact exists will be resolved against the moving party. *Cyprus Amax Minerals Co. v. Lexington Ins. Co.*, 74 P.3d 294, 298 (Colo. 2003). In the case at bar, there are no genuine issues of material fact. Defendants are entitled to judgment as a matter of law.

II. Factual background.

The Office of the Colorado Governor, like the administration of virtually every state, has a long-standing practice of acknowledging the activities and accomplishments of individuals and civic groups. In keeping with this tradition, the Ritter administration accepts requests for signed photographs, letters of congratulation or recognition, and honorary proclamations. *Affidavit of Craig Bannister,* Ex. A, at ¶ 4. Governor Ritter's office receives thousands of such requests every year, submitted by mail, facsimile, or through its website. *Id.* at ¶ 7. Most requests are for letters or photographs, but several hundred of the requests each year are for honorary proclamations. *Id.* Honorary proclamation requests are submitted by an assortment of civic and cultural groups, and involve nearly every conceivable cause, from "Holocaust Awareness Week" to "Chili Appreciation Society International Day."

Process for Approval and Issuance of Honorary Proclamations

Governor Ritter is rarely, if ever, involved in the issuance of honorary proclamations. *Id.* at ¶ 14. Instead, throughout the Ritter administration, honorary proclamation requests have been routed to Press/Communications Officer Craig Bannister. *Id.* at ¶ 5. The proponent is required to propose language for the honorary proclamation as part of its request. *Id.* at ¶ 8. Upon receipt, Mr. Bannister and his staff review the language being proposed. *Id.* If Mr. Bannister determines that it is not problematic, he is authorized to issue the proclamation as requested. *Id.* at ¶ 9. Many honorary proclamations are requested every year, and if a request is similar to an honorary proclamation issued in the past it is subject only to limited review. *Id.* In fact, annually-requested honorary proclamations are usually so similar from year to year that Mr. Bannister uses the previous year's digitally saved copy as a template for creating the new proclamation. *Id.* at ¶ 18.

The Governor's office does on rare occasions decline to issue requested honorary proclamations based on the proposed content. *Id.* at ¶ 11. For example, Mr. Bannister once received a request from an individual seeking an honorary proclamation that he was of good moral character. *Id.* After some research, he determined that the individual had been charged and was awaiting trial for murder in New York City. *Id.* As a result, Mr. Bannister made the decision to reject the proposed honorary proclamation. *Id.* Editing is much more common than rejection. *Id.* at ¶ 13. For example, every year the Armenian National Committee of America submits an honorary proclamation request for Armenian Genocide Awareness Day. *Id.* The language suggested by the proponents typically contains

controversial language and statements concerning the history of conflict between Armenia and Turkey. *Id.* This potentially divisive language is edited out before the proclamation is issued. *Id.*

Honorary Proclamations for a "Colorado Day of Prayer"

Like Governor Owens before him, Governor Ritter has issued honorary proclamations for a "Colorado Day of Prayer" during each year of his administration. *Id.* at ¶ 20. These proclamations have been prompted by annual requests submitted by the National Day of Prayer ("NDP") Task Force, a private evangelical organization that has taken it upon itself to promote the National Day of Prayer. *Id.* at ¶ 20. The Governor's process for granting the NDP Task Force's request to acknowledge the "Colorado Day of Prayer" is exactly the same as it is for any other honorary proclamation. *Id.* at ¶ 26. Historically, the NDP Task Force has submitted its honorary proclamation requests by mail early in the calendar year. The honorary proclamations are requested by a form letter sent to every state governor by Shirley Dobson, Chairman of the NDP Task Force. *See, e.g.* Ex. E (photocopy of form letter). Mrs. Dobson's letters typically discuss the history of the National Day of Prayer, describe the annual theme adopted by the NDP Task Force, and ask that the recipient governor issue a proclamation acknowledging the event. *See id.*

Throughout the Ritter administration, Mrs. Dobson's letter has been routed to Mr. Bannister, the Press/Communications Officer in charge of responding to requests for photos, letters, and honorary proclamations. Ex. A, ¶ 20. In 2007 and 2008, Mr. Bannister brought up the previous year's proclamation on his computer, changed the dates, and redrafted the

language to reflect the NDP Task Force's suggestions. *Id.* Mr. Bannister then printed the honorary proclamation, placed a seal on it, had it signed by the "auto-pen device," and mailed it to the address indicated in the requesting letter. *Id.* at ¶ 24. Governor Ritter never saw the proclamation before it was issued. *Id.* at ¶ 23, 24.

III. The governor's honorary proclamations of a "Colorado Day of Prayer" did not violate the Preference Clause of the Colorado Constitution.

The Plaintiffs first seek a declaration from this Court that "Prayer Proclamations by Governor Ritter designating a Day of Prayer and the attendant celebrations and commemorations are a violation of Article II, Section 4 of the Colorado Constitution." Article II, § 4 of the Colorado Constitution states as follows:

> The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the good order, peace or safety of the state. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship.

Colo. Const. art II, § 4.

Although the Plaintiffs rely exclusively on an alleged violation of art. II, § 4 as their basis for relief, the Complaint does not clearly identify the specific portions allegedly violated by the honorary proclamations at issue. A review of the substantive allegations of the Complaint, however, suggests that it may implicate three clauses of art. II, § 4:

- "no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion";
- "No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent"; and
- "Nor shall any preference be given by law to any religious denomination or mode of worship."

The discovery process has shed additional light on the Plaintiffs' claims. None of the individual Plaintiffs allege – indeed, all of them explicitly disclaim – that they have ever been required or coerced to attend any events associated with the National Day of Prayer. *See* Statement of Undisputed Material Facts, *supra,* ¶¶ 26, 28, 30.

Nor have the Plaintiffs produced any evidence to show that they have been denied any civil or political rights, privileges, or capacities by virtue of the honorary proclamations. Indeed, the Plaintiffs' sole "evidence" on this point is their unsubstantiated claim that issuing the honorary proclamations "giv[es] the appearance that belief is preferable [to non-belief] and that believers have special access to government leaders, including the Governor." *Id.,* ¶ 25. This unsupported assertion is wholly refuted by the actual evidence in this case. Requests that the Governor acknowledge a "Colorado Day of Prayer" are treated in the same manner as every other request for an honorary proclamation. The very fact that the rules for requesting an honorary proclamation apply to everyone, including the NDP Task Force, refutes the Plaintiffs' suggestion that the proponents of the National Day of Prayer have "special access to government leaders." Similarly, and as is discussed in detail *infra,* the Plaintiffs' claim that the honorary proclamations "give[] the appearance that belief is

preferable" is belied by the fact that, on their face, the challenged honorary proclamations are merely acknowledgments – and not endorsements – of religion and religious activities.

The only other basis for Plaintiffs' claim for relief is the last sentence of art. II, § 4, known as the "Preference Clause." *See State v. Freedom From Religion Foundation, Inc.*, 898 P.3d 1013, 1019 (Colo. 1995) ("*FFRF*"). Our supreme court's construction of the Preference Clause mirrors federal Establishment Clause jurisprudence. *See id.* ("In interpreting our Preference Clause we have looked to the Establishment Clause...and the body of federal cases that have construed it"). Accordingly, and consistent with the Establishment Clause, the Colorado Constitution forbids state government from "favor[ing] religion over non-religion." *Id., citing Allegheny County v. American Civil Liberties Union,* 492 U.S. 573, 593 (1989).

At bottom, Plaintiffs' claim rests on the sole proposition that, by issuing honorary proclamations for a "Colorado Day of Prayer," the Governor endorses religion, thereby favoring it over non-religion, and by doing so violates the Preference Clause. To the contrary, however, each of the multiple tests applied by the Supreme Court in Establishment Clause cases leads to the same result: the Governor's acknowledgment of a "Colorado Day of Prayer" does not violate the Preference Clause.

A. The Supreme Court has previously indicated that the statute establishing National Day of Prayer is constitutional.

The National Day of Prayer statute, adopted by Congress in 1952 and most recently amended in 1988, provides as follows:

> The President shall issue each year a proclamation designating the first Thursday in May as a National Day of Prayer on which the people of the United States may turn to God in prayer and meditation at churches, in groups, and as individuals.

36 U.S.C. § 119 (2009). The Supreme Court has never ruled on the constitutionality of this statute or the proclamations it requires the president to issue. The Court has, however, on several occasions suggested that both the statute and the President's annual proclamations would withstand a constitutional challenge.

In *Lynch v. Donnelly*, 465 U.S. 668 (1984), the Court considered whether a municipality's inclusion of a crèche in an outdoor Christmas display violated the Establishment Clause. In upholding the display's constitutionality on historical grounds, the Court noted the "countless other illustrations of the Government's acknowledgment of our religious heritage and governmental sponsorship of graphic manifestations of that heritage," including the employment of Congressional chaplains, *Id.* at 672, 676, and the National Day of Prayer statute:

> Congress has directed the President to proclaim a National Day of Prayer each year "on which [day] the people of the United States may turn to God in prayer and meditation at churches, in groups, and as individuals." 36 U.S.C. § 169h. Our Presidents have repeatedly issued such Proclamations. Presidential Proclamations and messages have also issued to commemorate Jewish Heritage Week...and the Jewish High Holy Days[.] One cannot look at even this brief resume without finding that our history is pervaded by expressions of religious beliefs.... Equally pervasive is the evidence of accommodation of all faiths and all forms of religious expression, and hostility toward none. Through this accommodation, as Justice Douglas observed, governmental action has "follow[ed] the best of our traditions"

> and "respect[ed] the religious nature of our people." [*Zorach v. Clausen,* 343 U.S. 306, 314 (1952)].

Lynch, 465 U.S. at 677-78 (emphasis added) (internal citations omitted).

Lynch's approval of the National Day of Prayer statute has not been seriously questioned by the Court in the 25 years that have passed since the opinion was issued. Justice O'Connor's concurring opinion in *Wallace v. Jaffree,* 472 U.S. 38 (1985), for example, drew a clear distinction between proclamations and school prayer. Presidential proclamations "are distinguishable from school prayer in that they are received in a noncoercive setting and are primarily directed at adults, who presumably are not readily susceptible to unwilling religious indoctrination." *Id.* at 81. "[G]iven their long history," Justice O'Connor noted, "Presidential Proclamations [declaring days of prayer] would probably withstand Establishment Clause scrutiny." *Id.* at 81 n.6.

The Justices have substantively discussed the National Day of Prayer only one other time, in *County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter,* 492 U.S. 573 (1989) (evaluating the constitutionality of two holiday displays that contained religious symbols). Justice Kennedy, dissenting in part and objecting to the majority's approach, favorably commented on, among other things, the longstanding practice of presidential Thanksgiving proclamations, the national motto's reference to God, and the National Day of Prayer statute. *Id.* at 672 (Kennedy, J. concurring in part and dissenting in part). Although Justice Blackmun, writing for the majority, declined to address the issue, *id.* at 603 n.5, appellate courts around the country have continued to acknowledge the deep

historical roots, as well as the constitutionality, of the Day of Prayer statute in the wake of *County of Allegheny*. *See, e.g., DeBoer v. Village of Oak Park,* 267 F.3d 558, 569-70 (7th Cir. 2001); *Allen v. Consolidated City of Jacksonville, Florida,* 719 F.Supp. 1532 (M.D. Florida 1989).

Given the lengthy history of presidential prayer proclamations, the Supreme Court's implicit acknowledgement of the constitutionality of the National Day of Prayer statute is unremarkable. "As Justice Holmes once observed, '[if] a thing has been practiced for two hundred years by common consent, it will need a strong case for the Fourteenth Amendment to affect it.'" *Wallace v. Jaffree,* 472 U.S. at 79-80 (O'Connor, J., concurring), *quoting Jackman v. Rosenbaum Co.,* 260 U.S. 22, 31 (1922). Prayer proclamations extend back to 1789, when George Washington proclaimed a day of "prayers and supplications to the Great Lord and Ruler of Nations[.]" *Lynch,* 465 U.S. at 675 n.2. Nearly every subsequent president has followed this tradition, with day of prayer proclamations becoming virtually ubiquitous along the way.

Moreover, if the National Day of Prayer statute is constitutional, then Governor Ritter's issuance of honorary proclamations acknowledging the event is *a fortiori* also constitutional. In contrast to the National Day of Prayer statute, which by its terms *requires* the President to declare a Day of Prayer, an honorary proclamation has no actual (or, for that matter, theoretical) force or effect. It is a purely ceremonial recognition of the longstanding history and fundamental rights acknowledged by Congress when it passed the National Day of Prayer Statute into law. If the Plaintiffs are unable to demonstrate that 36 U.S.C. § 119

violates the Establishment Clause, then they cannot prevail on their claim that issuance of honorary proclamations in accord with that statute runs afoul of the Colorado Constitution. *But see Freedom From Religion Foundation v. Obama,* 2010 WL 1499451 (W.D. Wisc. 4/15/2010) (discussed in detail *infra*).

Accordingly, the Defendants are entitled to summary judgment because the National Day of Prayer statute is itself constitutional. If this Court agrees, then there is no need to reach any of the various Establishment Clause tests discussed and applied below.

B. The honorary proclamations at issue pass all of the various tests developed in the Supreme Court's Establishment Clause jurisprudence.

The Supreme Court's approach to Establishment Clause jurisprudence is less than straightforward. Nearly 40 years after the seminal case of *Lemon v. Kurtzman,* 403 U.S. 602 (1971), the Justices remain divided not only as to the scope and meaning of the Establishment Clause, but also as to the proper legal framework to apply to the facts in each particular case. *See Lamb's Chapel v. Ctr. Moriches Union Free Sch. District,* 508 U.S. 384, 398-399 (1993) (Scalia, J., concurring) ("When we wish to strike down a practice [that the *Lemon* test] forbids, we invoke it; when we wish to uphold a practice it forbids, we ignore it entirely. Sometimes, we take a middle course, calling its three prongs 'no more than helpful signposts.'") (citations omitted) (*quoting Hunt v. McNair,* 412 U.S. 734, 741 (1973)). In the midst of this uncertainty, courts commonly apply several potential tests in every case. *See, e.g. Newdow v. Rio Linda Union School District,* __F.3d__, 2010 WL 816986 (9th Cir.,

March 11, 2010) at *5 (applying three independent tests to evaluate plaintiffs' claim) The Defendants take the same approach here.

1. The *Lemon* Test

Lemon involved a First Amendment challenge to state statutes providing for public assistance to parochial schools. Although it has been heavily criticized (and in some cases simply ignored), the *Lemon* test remains "the only coherent test" of the Establishment Clause ever adopted by a majority of the Court. *Wallace,* 472 U.S. at 63 (Powell, J., concurring). The *Lemon* test requires a government act to: "1) have a secular purpose, 2) neither advance nor inhibit religion as its primary effect, and 3) not foster excessive entanglement with religion." *Van Osdol v. Vogt,* 908 P.2d 1122, 1131 (Colo. 1996).

a. The Governor's honorary proclamations have a secular purpose.

The first prong of the *Lemon* test asks "whether government's actual purpose is to endorse or disapprove of religion." *Edwards v. Aguillard,* 482 U.S. 578, 585 (1987) (*quoting Lynch*, 465 U.S. at 690) (O'Connor, J., concurring). "[T]he secular purpose required has to be genuine, not a sham, and not merely secondary to a religious objective." *McCreary County v. ACLU of Kentucky,* 545 U.S. 844, 863 (2005).

Governor Ritter's honorary proclamations have the obvious secular purpose of acknowledging an independently organized and privately hosted event. The text of the 2008 honorary proclamation, quoted in its entirety below, demonstrates this purpose quite clearly.

> WHEREAS, the authors of the Declaration of Independence recognized "That all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that

among these are Life, Liberty and the pursuit of Happiness;" and

WHEREAS, the National Day of Prayer, established in 1952, and defined by President Ronald Reagan as the first Thursday in May, provides Americans with the chance to congregate in celebration of these endowed rights; and

WHEREAS, each citizen has the freedom to gather, the freedom to worship, and the freedom to pray, whether in public or private; and

WHEREAS, in 2008, the National Day of Prayer acknowledges Psalm 28:7 – "The Lord is my strength and shield, my heart trusts in Him, and I am helped;" and

WHEREAS, on May 1, 2008, individuals across this state and nation will unite in prayer for our country, our state, our leaders, and our people;

Therefore, I, Bill Ritter, Jr., Governor of the State of Colorado, do hereby proclaim May 1, 2008, Colorado Day of Prayer in the State of Colorado.

The first three clauses of the honorary proclamation outline the purpose and history of the National Day of Prayer statute: to "provide[] Americans with the chance to congregate in celebration" of their religious freedom. The fourth and fifth clauses acknowledge the occurrence of the National Day of Prayer, and make reference to the theme chosen by the private organization that requested the proclamation and organized an event on that date. The fifth clause notes that on May 1, 2008, "individuals...will unite in prayer." This is certainly not an admonition or exhortation to pray on that date. To the contrary, it is simply the unremarkable observation that, based on over fifty years of U.S. history, it is safe to predict that significant numbers of citizens will indeed gather and "unite in prayer" on the National Day of Prayer.

Viewed as a whole, this honorary proclamation's secular purpose is clear. As with all honorary proclamations, it is neither an endorsement of the event being acknowledged nor an exhortation to participate. It is an acknowledgment of the importance of the nation's religious heritage, and the constitutionally enshrined religious freedom of its citizens. In any event, the honorary proclamation's purpose is certainly not *exclusively* religious; moreover, the fact that it may confer an incidental benefit on religious activity does not convert the honorary proclamation to an impermissible religious statement or exhortation. *See FFRF,* 898 P.2d at 1020 ("We have adopted the view that a government act which has both a religious and secular message need not, in all instances, fall as a casualty of constitutional scrutiny"); *see also Van Orden v. Perry,* 545 U.S. 677, 684 n.3 (2005) (rejecting "the principle that the Establishment Clause bars any and all governmental preference for religion over irreligion," and noting that "[e]ven the dissenters do not claim that the First Amendment's Religion Clauses forbid all governmental acknowledgments, preferences, or accommodations of religion").

b. The Governor's honorary proclamations do not have the primary effect of advancing or inhibiting religion.

The Establishment Clause requires the government to take a neutral stance with respect to religion. *See Wallace,* 472 U.S. at 53 ("the individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all"). Thus, *Lemon*'s second prong considers whether the "principal or primary effect" of a governmental action "advances [or] inhibits religion." *Lemon,* 403 U.S. at 612-13. For the

purposes of applying *Lemon*'s second prong under Colo. Const., art II, § 4, our supreme court has adopted Justice O'Connor's "endorsement test," which requires a reviewing court to consider whether the government's "actions reasonably can be interpreted as governmental endorsement or disapproval of religion." *FFRF,* 898 P.2d at 1021, *citing Lynch*, 465 U.S. at 692 (O'Connor, J., concurring). This is a contextual inquiry that requires consideration of "(1) what message the government intended to convey; and (2) what message the government's actions actually conveyed to a reasonable person." *FFRF,* 898 P.2d at 1021, *citing Lynch,* 465 U.S. at 690 (O'Connor, J., concurring). "Endorsement" does not merely mean "an expression or demonstration of approval or support;" to the contrary, the Supreme Court has "equated 'endorsement' with 'promotion' or 'favoritism.'" *Capitol Square Review and Advisory Bd. v. Pinette,* 515 U.S. 753, 763 (1995) (plurality opinion).

The endorsement test has been used most commonly in monument cases, where "context" can be derived from the prominence of the display, its timing, and its surroundings, among other factors. *See, e.g. FFRF,* 898 P.2d at 1025-26; *Allegheny County,* 492 U.S. at 597. The notion of "context" is less distinct for honorary proclamations; however, the Supreme Court has at least made clear that the "objective observer" standard applies, pursuant to which the reviewing court takes into account "the text, legislative history, and implementation of the statute, or comparable official act" from the perspective of a detached third-party observer. *McCreary County v. American Civil Liberties Union of Kentucky,* 545 U.S. 844, 862 (2005) (internal quotation omitted). As the architect of the endorsement test described it: "the [endorsement] test does not evaluate a practice in isolation from its origins

and context. Instead, the reasonable observer must be deemed aware of the history of the conduct in question, and must understand its place in our Nation's cultural landscape." *Elk Grove Unified School District v. Newdow,* 542 U.S. 1, 35 (2004) (O'Connor, J., concurring in the judgment). In addition, the "reasonable observer" must in fact be truly objective. "[A]dopting a subjective approach would reduce the test to an absurdity. Nearly any government action could be overturned as a violation of the Establishment Clause if a 'heckler's veto' sufficed to show that its message was one of endorsement." *Id.*

An objective analysis of the honorary proclamations themselves and the circumstances surrounding their issuance plainly demonstrates that a reasonable third-party observer, aware of the ubiquity and lengthy history of prayer proclamations in American life, as well as the particular circumstances under which the challenged proclamations are requested and issued, would not conclude that they promote or favor religion over non-religion. First, as discussed in detail *supra,* the challenged honorary proclamations cannot be reasonably read as an exhortation to pray or participate in privately organized observances of the National Day of Prayer. To be sure, like every other honorary proclamation, they simply acknowledge the event, its purpose, and its theme, and use the language suggested by the event's organizers to do so.

This reasoning finds support in the Supreme Court's approach to various other proclamations that also mention prayer or have religious implications. American Presidents have issued proclamations on holidays such as Memorial Day and Thanksgiving for generations. The Court noted (and implicitly approved) this practice in *Lynch:* "Executive

orders and other official announcements of Presidents and of the Congress have proclaimed both Christmas and Thanksgiving National Holidays in religious terms." 465 U.S. at 686. Even the Justices most inclined to find Establishment Clause violations have conceded that these actions are benign. As Justice Stevens stated in *Van Orden*: "although Thanksgiving Day proclamations...undoubtedly seem official, in most circumstances they will not constitute the sort of governmental endorsement of religion at which separation of church and state is aimed." 545 U.S. at 723 (Stevens, J., dissenting). Justice Stevens' tolerant approach reflects the fact that the challenged proclamations likely fall into the category of "ceremonial deism," which applies to a narrow subset of cases in which the "history, character, and context" of a governmental action renders it permissible to "acknowledge or refer to the divine without offending the Constitution." *Newdow,* 542 U.S. at 37 (O'Connor, J., concurring in the judgment). Ceremonial deism most commonly "encompasses such things as the national motto ('In God We Trust'), religious references in traditional patriotic songs such as The Star-Spangled Banner, and the words with which the Marshal of th[e Supreme] Court opens each of its sessions ('God save the United States and this honorable Court')." *Id.* Given the history, character, and context of executive prayer proclamations, the term could easily include proclamations such as those challenged here.

Second, the endorsement test's contextual analysis requires an inquiry into the circumstances surrounding the government act. The Plaintiffs have alleged that the honorary proclamations at issue are a "joint action between Governor Ritter and the NDP Task Force," and that the Governor has "embraced" and formed an "alliance with the NDP Task Force."

Complaint, ¶¶ 26, 27, 28.. This "alliance," the Plaintiffs claim, "creates the intended impression that the NDP Task Force and the State of Colorado are working hand-in-glove in sponsoring the Colorado Day of Prayer and the National Day of Prayer." *Complaint* ¶ 28. However, the evidence plainly demonstrates that the NDP Task Force follows the same process for requesting their honorary proclamations as everyone else. At best, Plaintiffs' case is based on conjecture and innuendo. Contrary to Plaintiffs' suggestions of a conspiracy, the undisputed evidence shows that Governor Ritter does not even directly participate in the honorary proclamation process, much less collaborate with or do NDP Task Force's bidding.

Given this evidence, the Plaintiffs' allegations about a "hand-in-glove" collaboration between Governor Ritter and the NDP Task Force are simply baseless. No reasonable observer could infer that the administration and the NDP Task Force had formed an alliance in order to promote or favor religion over non-religion,[1] because there is no evidence that such an alliance exists.

A review of the content and context of the challenged honorary proclamations demonstrates that they cannot "reasonably...be interpreted as governmental endorsement...of religion." *FFRF,* 898 P.2d at 1021. Their content is neutral towards religion, and the

[1] Even if such a conspiracy existed – and it does not – it would not be enough to show that Governor Ritter worked "hand-in-glove" with the NDP Task Force to issue the honorary proclamations, because the proclamations themselves are entirely benign. To succeed on their theory, Plaintiffs would be required to show that the alleged alliance between the administration and the NDP Task Force would appear, to a reasonable observer, to have been created with the purpose of endorsing religion over non-religion.

evidence of the circumstances surrounding their issuance is devoid of any suggestion of collaboration between state officials and the proclamations' proponents. Accordingly, the challenged honorary proclamations satisfy the second prong of the *Lemon* test.

c. The challenged honorary proclamations do not foster excessive entanglement with religion.

Lemon's "excessive entanglement" prong requires consideration of "the character and purpose of the institution involved, the nature of the regulation's intrusion into religious administration, and the resulting relationship between the government and the religious authority." *Vogt,* 908 P.2d at 1132. This prong is typically relevant only in cases where the government becomes involved in the workings of religious institutions, either financially or through oversight of an organization's internal workings. *See, e.g., Catholic Health Initiatives Colorado v. City of Pueblo, Dept. of Finance,* 207 P.3d 812 (Colo. 2009) (addressing permissible scope of charitable tax exemption); *Vogt,* 908 P.2d 1122 (holding that judicial review of church's hiring decision as to minister would result in excessive entanglement of government and church). In fact, our supreme court has held that, where "the challenged action does not involve any direct subsidy to a school or religious institution," there is no need to conduct an entanglement analysis. *Conrad v. City and County of Denver,* 724 P.2d 1309, 1316 (Colo. 1986).

Nonetheless, assuming *arguendo* that an entanglement analysis is necessary, there is no evidence that the challenged honorary proclamations cause any entanglement with religion. As previously discussed, the Plaintiffs offer no evidence to support any

collaboration or alliance between the Ritter administration and the NDP Task Force. The State provides no funding for the NDP Task Force or the National Day of Prayer. Accordingly, the Governor's issuance of honorary proclamations creates no entanglement with religion whatsoever, much less "excessive" entanglement.

2. The Historical Practice Test

Although the challenged honorary proclamations easily pass muster under the *Lemon* test, *Lemon* may not represent the best approach to evaluating their constitutionality. Instead, the most appropriate fit may be the "historical practice" test developed in *Marsh v. Chambers,* 463 U.S. 783 (1983). *Marsh* involved a challenge by a Nebraska state legislator to the Nebraska Legislature's practice of opening its sessions with a prayer offered by a chaplain paid out of public funds. Although the courts below had applied *Lemon* to find a violation of the Establishment Clause, the Supreme Court reversed, upholding the practice without applying *Lemon* at all.

Marsh based its decision on the fact that legislative prayer dates back to the founding of the republic. As Chief Justice Burger, writing for the Court, put it: "The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom." *Marsh,* 463 U.S. at 786. The opinion reasoned that more than 200 years of legislative prayer have made it "part of the fabric of society," and that

it is accordingly "a tolerable acknowledgment of beliefs widely held among the people of this country." *Id.* at 792.

Because the historical practice test developed in *Marsh* can be applied only to a narrow set of cases, it has never displaced *Lemon*. *See, e.g. Edwards v. Aguillard,* 482 U.S. 578, 583 n.4 (1987) (declining to apply the historical practice test to questions concerning religion in public schools, "since free public education was virtually nonexistent at the time the Constitution was adopted"). In circumstances like those presented here, however, where the validity of longstanding practices are at issue, the approach adopted in *Marsh* has substantial relevance. *Lynch* opined at length about the deep roots of the National Day of Prayer, pointing out that it is a tradition that began with George Washington in 1789, and has included nearly every President since that time. 465 U.S. at 674-75. That the Founders themselves (excluding Jefferson) issued prayer proclamations without hesitation speaks volumes.[2] Governor Ritter's issuance of similar – although substantially less exhortative –

[2] Jefferson's opinions on the subject, while of course relevant, are somewhat less influential than the opinions of those who were actually involved in debating and drafting the First Amendment. Jefferson was in France during the constitutional debates and during the congressional debates on the Bill of Rights, acting as the United States' minister plenipotentiary to the French court. *See Wallace v. Jaffree,* 472 U.S. 38, 92 (1985) (Rehnquist, J. dissenting). Madison, the principal author of the Bill of Rights, is often cited as "regretting" his decision to issue prayer proclamations during the War of 1812. *See, e.g., McCreary County,* 545 U.S. at 879 n.25. This characterization, however, paints an incomplete picture of Madison's thoughts on the issue. Madison's subsequent writings reveal that while he was uncomfortable with issuing proclamations *requiring* people to pray, he had no concerns about proclamations that were "absolutely indiscriminate, and merely recommendatory; or rather mere designations of a day, on which all who thought proper might unite in consecrating it to religious purposes, according to their own faith & forms. In this sense, I presume you reserve to the Govt. a right to appoint particular days for religious

honorary proclamations, represents a continuation of a tradition dating back more than two centuries. Under the analysis adopted in *Marsh,* the challenged proclamations are entirely consistent with the Establishment Clause.

3. The Coercion Test

Justice Kennedy's separate opinion in *Allegheny County* gave life to yet another approach to Establishment Clause cases: the coercion test. 492 U.S. at 655-79 (Kennedy, J., concurring in part and dissenting in part). The coercion test takes an arguably more tolerant approach than *Lemon,* questioning "whether the government is coercing individuals by requiring support of or adherence to a particular religious belief or practice before being allowed benefits to which they are otherwise entitled." *Vogt,* 908 P.2d at 1131 n.15. Plaintiffs have denied that they have been coerced into participating in the activities that the challenged honorary proclamations recognize. *Statement of Undisputed Facts* ¶ 24. Moreover, in any event, as our supreme court has recognized, the coercion test has been "confined...to cases in which government creation of a state-sponsored and state-directed religious exercise in a public setting was seen as 'an attempt to employ the machinery of the state to enforce a religious orthodoxy.'" *Vogt,* 908 P.2d at 1131 n. 15, *quoting Weisman,* 505 U.S. at 592. No such circumstances exist here, and the coercion test would not apply even if the Plaintiffs had asserted any coercion.

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worship throughout the State, without any penal sanction enforcing the worship." See *Letter from James Madison to Edward Livingston* (July 10, 1822), reprinted in 5 Philip B. Kurland & Ralph Lerner, The Founders' Constitution 105 (1987).

C. The Plaintiffs are not entitled to relief on their claims.

Honorary proclamations do not fit neatly into any one category of Establishment Clause jurisprudence (even assuming such categories exist). They are clearly government speech, but unlike a stone monument they are ephemeral. *Cf. Pleasant Grove City, Utah v. Summum,* 129 S.Ct. 1125 (2009). In Colorado, they bear the governor's seal and signature, but unlike legislation they have no force or effect. *See Freedom From Religion Foundation v. Obama,* 2010 WL 1499451 (W.D. Wisc. 4/15/2010). These unique characteristics alleviate many of the concerns commonly associated with governmental acknowledgment of religion. As Justice Souter has put it: "religious proclamations" are "rarely noticed, ignored without effort, conveyed over an impersonal medium, and directed at no one in particular[.]" *Lee v. Weisman,* 505 U.S. 577, 630 (1992) (Souter, J. concurring). They are thus distinguishable from school prayer, compulsory religious instruction, and the like.

The recently-issued district court opinion in *Freedom From Religion Foundation v. Obama* only serves to highlight the distinctions between the National Day of Prayer statute, 36 U.S.C. § 119, and a tradition of governmental speech that predates it by more than 150 years. To be clear, the Defendants disagree with most aspects of the district court's holding. Irrespective of its fate on appeal, however, it cannot be disputed that *Obama* has no direct bearing on this case. Not only was it issued by a court whose opinions are not binding in Colorado, but it also explicitly declined to reach the substantive issue raised by the Plaintiffs in this case. *Obama,* 2010 WL 1499451 at *24 ("Although plaintiffs sought a declaration that all presidential 'prayer proclamations' violate the establishment clause, I dismissed this

claim because plaintiffs failed to show they had standing to raise it.") Moreover, to the extent that *Obama* has any persuasive effect, its analysis works in favor of applying the *Marsh v. Chambers* approach discussed above.

If the Justices universally agree on anything, it is that "[t]he wall that separates the church from the State does not prohibit the government from acknowledging the religious beliefs and practices of the American people[.]" *Van Orden,* 545 U.S. at 711 (Stevens, J., dissenting). Any truly objective observer would agree that that is all the challenged honorary proclamations do. Like proclamations issued for countless other events that have either secular or religious roots, the Governor's recognition of the National Day of Prayer simply acknowledges the religious beliefs and practices of those who choose to participate in it. While the Plaintiffs are certainly entitled to disagree with the beliefs and practices of the proclamations' proponents, they may not exercise a heckler's veto to prevent the Governor from acknowledging them.

Given the lengthy history of prayer proclamations and the fact that the Founders – including even the drafters of the Establishment Clause itself – issued them without hesitation, the historical practice test adopted in *Marsh* would seem to be the most appropriate means by which to analyze them here. Although the Supreme Court has, on previous occasions, declined to expand the holding in *Marsh*, it has never had occasion to directly address the constitutionality of "religious proclamations." *Lee, supra*, at 630 (Souter, J. concurring). Nonetheless, the Court's extensive *dicta* on the subject suggest a consensus among the Justices concerning the history, ubiquity, and benignity of

proclamations such as those challenged here. As such, the Defendants are entitled to summary judgment because the challenged honorary proclamations do not violate the Colorado Constitution.

IV. The Plaintiffs are not entitled to injunctive relief.

In addition to seeking declaratory judgment in their favor, Plaintiffs also demand that "the Court enjoin future designations of Day of Prayer celebrations by Governor Ritter and enjoining [sic] Governor Ritter and his successors from issuing further Day of Prayer Proclamations." *Complaint* at 7. Irrespective of the outcome of this Court's Establishment Clause analysis, however, injunctive relief is inappropriate.

First, if this Court agrees that Governor Ritter's 2007 and 2008 "Day of Prayer" honorary proclamations pass constitutional muster, there would be no violation of the Establishment Clause, and therefore nothing to enjoin.

Second, although this Court could conceivably declare that one or more of the challenged honorary proclamations violated the Colorado Constitution, it is impossible to reach the same conclusion – or order prospective relief – regarding potential future proclamations. Whether or not the challenged honorary proclamations were constitutional depends not on whether they were issued in the first place, but rather whether the language that they used violated the Preference Clause. Even if this Court were to disapprove of the language contained in prior honorary proclamations, it has no way of predicting whether future proclamations will use language inconsistent with the Preference Clause. Indeed, it seems likely that the Governor would studiously avoid using language ultimately determined

to be unconstitutional. The inherent variability of future proclamations therefore makes them a particularly inappropriate target for injunctive relief.

As noted above, the court in *Freedom From Religion Foundation v. Obama* recently reached an identical conclusion with respect to the plaintiffs' demand for injunctive relief against the President. *See Freedom From Religion Foundation v. Obama,* 2010 WL 698133 (W.D. Wisc. March 1, 2010), The *Obama* court relied in part on the holding in *Newdow v. Bush,* 391 F.Supp.2d 95, 108 (Dist. D.C. 2005), in which a district judge declined to issue an injunction against President Bush's planned inaugural prayer, in part because he found he could not "rule on the constitutionality of prayers yet unspoken at future inaugurations of Presidents who will make their own assessments and choices with respect to the inclusion of prayer." *Id.* As the *Obama* court held: "It is one thing to issue a narrowly circumscribed injunction regarding a single, ministerial act; it is quite another for a court to issue a broad ruling that dictates the particular language the President may use in any context." *Obama, supra,* at *20; *see also Beauprez v. Avalos,* 42 P.3d 642, 648 (Colo. 2002) ("courts generally do not consider cases involving uncertain or contingent future matters").

That honorary proclamations are an unfit target for injunctive relief is especially true in light of the Colorado Constitution's strong prohibitions on prior restraint. As our supreme court has noted, Colo. Const. art II, § 10 provides "greater protection for individual freedom of expression than the Federal Constitution." *Curious Theatre Co. v. Colorado Dept. of Public Health and Environment,* 220 P.3d 544, 551 (Colo. 2009). Thus, "the state constitution...affirmatively guarantees the freedom of every person 'to speak, write, or

publish whatsoever he will on any subject,' without prior approval or restraint, subject only to being held accountable for any abuse of that liberty." *Id.* The Plaintiffs are therefore not entitled to injunctive relief, and this Court should grant summary judgment in favor of the Defendants.

CONCLUSION

Based on the foregoing reasoning and authorities, the Defendants respectfully request that this Court grant summary judgment in their favor on all claims and requests for relief contained in Plaintiffs' Complaint.

Respectfully submitted this 7th day of May, 2010

JOHN W. SUTHERS
Attorney General

/s/ Matthew D. Grove
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Public Officials Unit
State Services Section
Attorneys for Defendants
*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT upon all parties herein by LexisNexis File and Serve or by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 7th day of May, 2010, addressed as follows:

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Centennial, CO 80111

Original signature on file:

/s Pam Ponder
Pam Ponder

AFFIDAVIT OF CRAIG BANNISTER

STATE OF COLORADO)
) SS.
CITY AND COUNTY OF DENVER)

I, Craig Bannister, being duly sworn, hereby state the following:

1) I am over the age of eighteen years.

2) I have personal knowledge of the matters set forth herein.

3) I am employed by Office of the Governor of the State of Colorado as a Press/Communications officer. Under Governor Bill Ritter, Jr., I have been employed in this capacity since the 2007 inauguration. I served in the same capacity in the administration of Governor Bill Owens.

Process for Submission and Issuance of Honorary Proclamations

4) As a public service, the Governor of the State of Colorado issues various honorary proclamations, photos, and letters of congratulation or recognition upon request.

5) I and my staff are responsible for reviewing requests for honorary proclamations and letters as they are submitted by members of the general public.

6) Honorary proclamation requests may be submitted via facsimile, by mail, or through the Governor's website, at www.colorado.gov/governor.

7) The Governor's office receives several hundred honorary proclamation requests every year. Nearly every proclamation that is requested is issued.

8) Honorary proclamation requests must be accompanied by draft language for the honorary proclamation. When a request is submitted, my staff and I review it for content.

9) If the content of the requested honorary proclamation does not seem to be problematic, or if it is similar to an honorary proclamation approved and issued in a prior year, it is approved without further review.

10) If the content of the requested honorary proclamation appears problematic, I submit it to the Director of Communications, who approves or rejects it, sometimes after consultation with legal counsel.

11) Requested honorary proclamations are occasionally rejected, although this is rare. For example, in one instance, I received a request from an individual seeking an honorary proclamation that he was of good moral character. After researching the issue, I determined that the individual had been charged and was awaiting trial for murder in New York City, and thus did not issue the honorary proclamation. Approximately five requested honorary proclamations have been rejected during Governor Ritter's administration.

12) Depending on the type of request, a letter of congratulations or recognition is occasionally more appropriate than an honorary proclamation. When this occurs, I cause a letter to be sent rather than issuing an honorary proclamation.

13) Some requested honorary proclamations are edited for content. For example, the Armenian National Committee of America annually submits an honorary proclamation request for Armenian Genocide Awareness Day. As submitted, this honorary proclamation typically contains controversial language and statements. I or my staff therefore edit the suggested language for content before approving and issuing the honorary proclamation.

14) Most honorary proclamations are not personally reviewed, approved, or signed by the Governor himself. Once approved by me or, where necessary, the Director of Communications, honorary proclamations typically receive the Governor's signature by a device called an "auto-pen."

15) After an honorary proclamation has been approved and signed, it is mailed directly to the individual or group who requested it. Alternatively, the requesting individual or a representative of the requesting group may elect to pick the honorary proclamation up in person from the Governor's office at the State Capitol.

16) In most instances, an honorary proclamation approved by the Governor's office is not promoted or accompanied by a press release.

17) Copies of honorary proclamations that have been approved and issued may be requested by members of the general public.

18) No hard copies are kept on file. To save time for anticipated future requests or in case a copy is requested by a member of the general public, I do save digital copies of honorary proclamations on my computer. For honorary proclamations that are requested on an annual basis, I or my staff typically retrieve the file from the previous year, update it with new dates and other specifics, and then save the new file in place of the previous one. Thus, additional copies of an honorary proclamation that is requested on an annual basis are only available until the next year's proclamation has been approved and drafted.

19) Hard copies of issued proclamations are not sent to the state archives, although my computer files from the Owens administration were archived at the end of Governor Owens' term. My archived computer files should contain records of honorary

proclamations issued during the Owens administration. However, because my practice has been not to retain prior years' honorary proclamations when they are requested on an annual basis, honorary proclamations issued prior to the last year of the Owens administration may no longer be available.

2007 and 2008 Proclamations

20) In 2007 and 2008, I received honorary proclamation requests for a "Colorado Day of Prayer" submitted by a private group called the "National Day of Prayer Task Force" ("NDP Task Force"). These requests had been made and approved in each of the previous years of my tenure in the Owens and Ritter administrations. Per our usual policy I approved them after reviewing the proposed language and determining that it was consistent with previous honorary proclamations.

21) As is the case with nearly every honorary proclamation request, the 2007 and 2008 honorary proclamations issued for a "Colorado Day of Prayer" followed the language suggested by their proponents.

22) In 2009, the Governor's office issued an Honorary Proclamation for a "Colorado Day of Prayer." However, the Honorary Proclamation issued in 2009 did not follow the thematic suggestions contained in that year's form letter requesting the Honorary Proclamation.

23) I did not submit either the 2007 or 2008 honorary proclamation requests for a "Colorado Day of Prayer" to Governor Ritter or to the director of communications for approval. Nor, to my knowledge, did anyone else.

24) The 2007 and 2008 proclamation requests for a "Colorado Day of Prayer" were signed by the "auto-pen" device and mailed to the requesting party without the Governor's involvement or knowledge.

25) The Governor's office did not issue a press release or otherwise publicize the "Colorado Day of Prayer" proclamations in 2007, 2008, or 2009. Nor, to my knowledge, has it ever done so.

26) In order to have its requests for honorary proclamations approved, the NDP Task Force is required to follow the procedures for requesting honorary proclamations outlined on the Governor's website. These procedures apply to all groups or individuals who wish to request an honorary proclamation, letter of recognition or congratulations, or photograph from the Governor.

27) The honorary proclamations issued by the Governor of Colorado from 2004-2008 acknowledged the federal designation of the Day of Prayer by Congress and the President, as well as the history and ubiquity of the National Day of Prayer.

FURTHER AFFIANT SAYETH NAUGHT

Craig Bannister

Subscribed and sworn before me on this 6 day of May, 2010.

NOTARY PUBLIC

My Commission Expires: 02-25-2013

Exhibit B

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street, Denver, CO 80202 FREEDOM FROM RELIGION FOUNDATION, INC., MIKE SMITH, DAVID HABECKER, TIMOTHY G. BAILEY and JEFF BAYSINGER, Plaintiffs, v. BILL RITTER, JR., in his official capacity as GOVERNOR OF THE STATE OF COLORADO, and THE STATE OF COLORADO, Defendants.	▲ COURT USE ONLY ▲
Attorneys for the Plaintiffs: Daniele W. Bonifazi, Atty. No. 30645 John H. Inderwish, Atty. No. 10222 Inderwish & Bonifazi, P.C. 6377 S. Revere Parkway, Suite 400 Centennial, CO 80111 Telephone: (720) 208-0111 Fax: (720) 208-0130 E-mail: dbonifazi@i-blaw.com jhi@i-blaw.com Richard L. Bolton, WI State Bar No. 1012552 Boardman, Suhr, Curry & Field LLP 1 South Pinckney Street, 4th Floor P. O. Box 927 Madison, WI 53701-0927 Telephone: (608) 257-9521 Fax: (608) 283-1709 Email: rbolton@boardmanlawfirm.com	Case Number: 08CV9799 Courtroom: 19

PLAINTIFF FFRF'S RESPONSES TO DEFENDANTS' FIRST SET OF INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiff FFRF responds and/or objects to Defendants' First Set of Interrogatories and First Request for Production of Documents as follows:

GENERAL OBJECTIONS

The following general objections apply to the entirety of Defendants' First Set of Interrogatories and Requests for Production of Documents.

General Objection No. 1: Plaintiffs object to Defendants' First Set of Interrogatories and Requests for Production of Documents to the extent that it seeks information beyond the scope of discovery, or otherwise purports to impose discovery or procedural obligations upon Plaintiffs greater than those set forth in the Colorado Rules of Civil Procedure.

General Objection No. 2: Plaintiffs object to Defendants' First Set of Interrogatories and Requests for Production of Documents to the extent that it seeks information which is protected from disclosure by: (a) the attorney-client privilege; (b) the work-product doctrine; and/or (c) any other privileges or immunities. Any inadvertent disclosure of information shall not be deemed a waiver or impairment of Plaintiffs' right to assert the applicability of any privilege or immunity to the information.

General Objection No. 3: Plaintiffs object to Defendants' First Set of Discovery Requests to Plaintiffs as being overly broad, unduly burdensome, and oppressive.

General Objection No. 4: Plaintiffs object to Defendants' First Set of Discovery Requests to Plaintiffs as unduly burdensome, oppressive and beyond the scope of discovery to the extent it seeks information already within the possession and control of Defendants or their counsel, or to the extent it seeks information that is equally available or readily ascertainable from public sources or sources of information hosted by, or accessible by, Defendants.

General Objection No. 5: Plaintiffs object to Defendants' First Set of Discovery Requests to Plaintiffs as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent a particular request does not contain a time period limitation or is not appropriately limited to seek information relevant to the claims alleged in Plaintiffs' Complaint.

General Objection No. 6: Plaintiffs' responses and objections to Defendants' First Set of Discovery Requests to Plaintiffs are based upon information currently known and available to them. Plaintiffs have not yet completed their investigation of the facts pertaining to this matter, and preparations for trial are ongoing. Plaintiffs, therefore, reserve their rights to amend, modify, or supplement the objections or responses stated herein, and to use subsequently discovered documents or other information and documents or other

information known but whose relevance, significance, or applicability has not yet been ascertained.

INTERROGATORIES

INTERROGATORY 1: Identify every Colorado day-of-prayer HP on which plaintiff relies to support any of the claims in the complaint.

RESPONSE: The plaintiffs rely upon at least the Prayer Proclamations from 2004-2009.

INTERROGATORY 2: Identify every Colorado day-of-prayer "dedication" (as opposed to any HP) on which plaintiff relies to support any of the claims in the complaint.

RESPONSE: Object on the basis that the Interrogatory is vague and ambiguous. Without waiving the objection, the plaintiffs rely upon at least the Day of Prayer celebration on May 4, 2007, in which Governor Ritter participated, as well as the Celebration in 2008. Governor Ritter also has participated in the Colorado Prayer Luncheon, including on May 22, 2008. This answer further may be supplemented as additional discovery is forthcoming from the defendants. The plaintiff further notes that the term "dedication" is ambiguous as to what information the defendants are seeking, but each declared "Colorado Day of Prayer" is itself deemed a dedicated and objectionable endorsement of religion, on a day designated for that sole purpose.

INTERROGATORY 3: Identify and state all facts and evidence supporting the allegation that each HP prevented each plaintiff from exercising his or its right to non-belief.

RESPONSE: FFRF asserts representative standing in this case, so the interrogatory is seemingly not applicable. The individual plaintiffs do not claim to have been coercively

prevented from exercising their right to non-belief. The plaintiffs do contend that the annual declaration of a "Colorado Day of Prayer" gives the appearance of religious endorsement.

INTERROGATORY 4: Identify and state all facts and evidence supporting the allegation that each HP affected each plaintiff's political status in the state of Colorado.

RESPONSE: Object on the basis that the interrogatory is vague and ambiguous. Without waiving the objection, the individual plaintiffs complain herein that annual declarations of a "Colorado Day of Prayer" give the appearance of elevating and endorsing religion as an effective solution to problems requiring rational solutions. The declarations encourage all persons to believe in God, and thereby give the appearance that belief is preferable and that believers have special access to government leaders, including the Governor.

INTERROGATORY 5: State whether or not each plaintiff has attended or participated in any day of prayer event in Colorado or any NDP event, and identify the date, time, and the actions each plaintiff took at such events, including but not limited to, whether any plaintiff was prevented from taking any action he or it wanted to take at such event.

RESPONSE: FFRF sues herein in its representative capacity, so the interrogatory is seemingly not applicable. The Governor's encouragement through annual proclamations that all citizens of Colorado should actively participate in Day of Prayer events puts the individual plaintiffs in the position of either violating their own freedom of conscience or being excluded from events touted by the Governor.

INTERROGATORY 6: Identify and state all facts and evidence supporting the

allegation that the governor or any other state official in any way affected or took any other action with regard to any plaintiff who did not attend or participate in the events referenced in the above paragraph.

RESPONSE: The plaintiffs do not contend that the Governor's annual declarations of a "Colorado Day of Prayer" are accompanied by coerced belief or participation in prayer events, but they do complain that the Governor's annual proclamations give the appearance of religious endorsement by elevating religion as a supposed solution to problems requiring rational solutions, and by encouraging all citizens of Colorado to believe in a God. The individual plaintiffs consider that such encouragement of all citizens to believe in a God violates their freedom of conscience by telling citizens that religion is the solution that should be endorsed.

INTERROGATORY 7: Identify how each plaintiff learned about or was exposed or subjected to the HP, including but not limited to, any coercion that caused him or it to be so exposed.

RESPONSE: The plaintiffs are aware of annual declarations of a "Colorado Day of Prayer" by the Governor through extensive media coverage, including on the internet, print media and visual coverage. The Governor's proclamations, moreover, are not issued secretly; they are intended to be broadcast and made known to the citizens of Colorado, including the plaintiffs.

INTERROGATORY 8: Identify what items in the state's budget relate to any allegation in the complaint, including but not limited to, the expenditure of tax monies.

RESPONSE: The plaintiffs do not contend that any line item in the State's budget is specific to the declaration of Days of Prayer. The plaintiffs note, however, that the

participation of Governor Ritter in Day of Prayer celebrations does involve the use of paid State personnel, including the Governor and his security.

INTERROGATORY 9: Identify and state all facts and evidence supporting your allegation concerning the governor's alignment or association with Reign Down USA.

RESPONSE: Sources on the internet report that Governor Ritter proclaimed April 26, 2008 to be a Day of Prayer in Colorado, in conjunction with an event sponsored by Reign Down USA.

INTERROGATORY 10: Identify the exact language and state all facts and evidence supporting the allegation that language in the HPs constitutes an exhortation or exhortations to pray.

RESPONSE: The issuance of proclamations declaring an annual "Colorado Day of Prayer" are issued for the purpose of encouraging all citizens to actively pray. All of the proclamations, in their entirety, therefore, implicitly are part of the appearance of the exhortation to pray. Each of the proclamations between 2004-2009, moreover, included specific language indicating that on the National Day of Prayer, "Americans will unite in prayer for our Nation, our State, our leaders and our people." Recognizing the National Day of Prayer as a day on which "Americans will unite in prayer," moreover, the Governor in each proclamation then proceeds to proclaim a "COLORADO DAY OF PRAYER" on the same day as the National Day of Prayer.

INTERROGATORY 11: Identify and state all facts and evidence supporting the allegation that the governor made "related pronouncements endorsing prayer."

RESPONSE: Governor Ritter has publicly participated in Day of Prayer celebrations at the Capitol, including in 2007 and 2008. The Governor has also participated

in prayer luncheon celebrations of religion, including in 2008. Discovery is still proceeding, moreover, and further evidence of such pronouncements may be forthcoming.

INTERROGATORY 12: Identify and state all facts and evidence supporting the allegation that there were approximately 70 events held in Colorado to commemorate the May 1, 2009 NDP and CDP, including whether the plaintiff attended these events, and how he or it were coerced to attend these events. If plaintiff failed to attend any of these events, describe any and all results or effects on his or its lives and activities, including their status as Colorado citizens.

RESPONSE: The plaintiffs do not contend specifically that 70 events were held in Colorado to commemorate the 2009 NDP and CDP, but they are aware that many such events were held in 2009, as occurs on an annual basis. On May 4, 2007, moreover, Gene Torkelson, of the Rocky Mountain News, reported that more than 70 National Day of Prayer events were held in Colorado in 2007. The plaintiffs do not claim that they were coerced to attend such events, but they do contend that the Governor's declaration of an annual "Colorado Day of Prayer" gives the appearance of religious endorsement by the government, as described in earlier interrogatory responses.

INTERROGATORY 13: Identify and state all facts and evidence supporting the allegation concerning any and all contacts between the governor and the NDP Task Force, either personally or through any member of his staff, who should be identified with particularity including by name and job title.

RESPONSE: Shirley Dobson, Chairman of the National Day of Prayer Task Force, writes to each governor, including the Governor of Colorado, requesting each governor to issue a Day of Prayer proclamation in coordination with the National Day of Prayer

celebration. At least since 2004, the Governor of Colorado has issued such proclamations, including proclamations in 2004-2008, that specifically included the National Day of Prayer Task Force annual theme and/or biblical reference. Mrs. Dobson, in her letters to the governors, identifies the NDP Task Force theme and scriptural reference for each year, which the Governor of Colorado has regularly included into his Day of Prayer proclamations, at least since 2004. In 2009, however, after the commencement of this lawsuit, Governor Ritter issued a prayer proclamation but did not include the NDP Task Force annual theme and/or scriptural reference.

INTERROGATORY 14: Identify and state all facts and evidence supporting the allegation that there was any and all joint action between the governor and the NDP Task Force, either personally or through any member of his staff, who should be identified with particularity including by name and job title.

RESPONSE: Shirley Dobson, Chairman of the NDP Task Force, has written to the Governor of Colorado, as well as the governors of all other states, on an annual basis, requesting each governor to issue a prayer proclamation in coordination with the National Day of Prayer. Mrs. Dobson identifies the annual NDP Task Force theme and scriptural reference in her letters to the governors. In at least 2004-2008, the Governor of Colorado included the NDP Task Force annual theme and/or scriptural reference. Only in 2009, during the pendency of the present action, did the Governor decide not to include the NDP Task Force annual theme and/or scriptural reference.

INTERROGATORY 15: Identify and state all facts and evidence supporting the allegation that governors of the 50 states proclaimed days of prayer in 2007, 2008, and 2009, as well as those who did not, if any.

RESPONSE: The State prayer proclamations from 2004-2009 will be produced.

INTERROGATORY 16: Identify and state all facts and evidence supporting the allegation that the proclamations specified in the above paragraph included references to the NDP Task Force annual theme and/or supporting scripture.

RESPONSE: See answer to Interrogatory No. 15.

INTERROGATORY 17: Identify and state all facts and evidence supporting your allegation that the governor has embraced the NDP Task Force, and/or Focus on the Family.

RESPONSE: In proclamations issued in 2004-2008, the Governor of Colorado expressly included the NDP Task Force annual theme and/or scriptural reference, as requested by Mrs. Dobson.

INTERROGATORY 18: Identify and state all facts and evidence supporting your allegation that the governor has or is working hand-in-glove with the NDP Task Force, and/or Focus on the Family.

RESPONSE: In at least the annual prayer proclamations issued by the Governor in 2004-2008, the Governor of Colorado included the NDP Task Force annual theme and/or scriptural reference in his annual prayer proclamations, as requested by Mrs. Dobson. No governor has incorporated an annual theme or scriptural reference that was not suggested by the National Day of Prayer Task Force.

INTERROGATORY 19: Identify and state all facts and evidence supporting your allegation that the governor has a collaborative relationship with the NDP Task Force, and/or Focus on the Family.

RESPONSE: In prayer proclamations issued at least in 2004-2008, the Governor of

Colorado expressly included the NDP Task Force annual theme and/or scriptural reference.

INTERROGATORY 20: Identify and state all facts and evidence supporting your allegation that the governor endorses the religious principles of the NDP Task Force, and/or Focus on the Family.

RESPONSE: In prayer proclamations issued at least in 2004-2008, the Governor of Colorado included the NDP Task Force annual theme and/or scriptural reference in his annual proclamations. The Governor of Colorado has not included annual themes or scriptural references promulgated by other religious groups; he has included only the scriptural references identified on an annual basis by the NDP Task Force, which are readily identifiable as being of biblical origin, according to Mrs. Shirley Dobson.

INTERROGATORY 21: Identify and state all facts and evidence supporting your allegation that the governor endorses religion in violation of the Colorado Constitution.

RESPONSE: At least since 2004, the Governor of Colorado has issued an annual proclamation declaring a Day of Prayer, in conjunction with the National Day of Prayer. In at least 2007 and 2008, moreover, Governor Ritter participated in National Day of Prayer ceremonies publicly held, including on the Capitol steps in 2007. Governor Ritter has also participated in annual Colorado Prayer Luncheons, including in 2008. The Governor's participation in Day of Prayer activities, including by issuing annual proclamations in conjunction with the National Day of Prayer, gives at least the appearance of religious endorsement by the Governor, including because the National Day of Prayer itself is a day dedicated toward promoting prayer for its own sake. The Governor's actions in giving the appearance of supporting or preferring prayer are alleged to violate the Colorado Constitution.

INTERROGATORY 22: Identify and state all facts and evidence supporting your allegation that the governor supports an indelible bond between church and state.

RESPONSE: The issuance of annual Day of Prayer proclamations, at least since 2004, gives the appearance of State support for religion. This appearance is emphasized, such as in the proclamations issued in 2004-2008, by the express inclusion of annual themes and scriptural references promoted by the NDP Task Force, an avocuedly evangelical Christian organization.

INTERROGATORY 23: Identify and state all facts and evidence supporting your allegation that the governor endorses public celebration of religion by public officials, particularly as distinguished from freedom of religion.

RESPONSE: Object on the basis that the Interrogatory is vague and ambiguous. Without waiving said objection, the plaintiff relies on the fact that the Governor of Colorado has issued public proclamations declaring an annual Day of Prayer since at least 2004. The prayer proclamations give the appearance of endorsing religion; in fact they include an annual theme and scriptural reference in each proclamation issued in 2004-2008, as set forth and chosen by the NDP Task Force. The issuance of public proclamations constitute a celebration of religion by public officials. In addition, Governor Ritter has openly participated in such public celebrations, including in 2007 and 2008, when he participated in celebrations of the National Day of Prayer. Governor Ritter has also participated in Colorado Prayer Luncheons, such as in 2008, which further give the appearance of public celebration of religion. The distinction between celebration of religion and "freedom of religion," moreover, is unclear in this question, particularly as private speech endorsing religion is protected, but government speech endorsing or

preferring religion is not permissible under the Colorado Constitution.

INTERROGATORY 24: Identify and state all facts and evidence supporting your allegation that the words or phrases in the HPs convey to non-religious Americans that they are expected to believe in God.

RESPONSE: The Governor's annual declaration of a "Colorado Day of Prayer" gives the appearance that the government views religion as the solution to social problems and, therefore, elevates religion to the status of generally accepted dogma to which all citizens are encouraged to believe, including belief in a God. The plaintiffs, in particular, are non-believers who perceive the annual prayer proclamations to be an encouragement for him and others to believe in a God, which encouragement from the government violates the plaintiffs' own freedom of conscience.

INTERROGATORY 25: Identify and state all facts and evidence supporting your allegation that the governor prefers religion over non-religion for all Colorado citizens.

RESPONSE: The declaration of an annual "Colorado Day of Prayer" by the Governor gives the appearance that the State prefers religion over non-religion, including by elevating religion to the status of a preferred solution to problems and by encouraging all citizens to believe in a God.

INTERROGATORY 26: Identify and state all facts and evidence supporting your allegation that the governor believes that believers are political insiders and non-believers are political outsiders, with particular regard to how the governor's belief or beliefs have specific effects on the life of the plaintiff and other Colorado citizens.

RESPONSE: The issuance by the Governor of an annual declaration of a "Colorado Day of Prayer" gives the appearance that believers are political insiders, with special access

to government leaders, while non-believers are political outsiders without such access. Evidence of this distinction exists in the very fact that such proclamations are issued on an annual basis by the Governor, while no proclamations are issued extolling the role of reason. The appearance of access to government leaders by believers, moreover, is emphasized by the Governor's inclusion of the annual theme and/or scriptural reference chosen by the National Day of Prayer Task Force in Colorado's proclamations, at least in 2004-2008. (The plaintiff submits with these answers a summary of background information and materials relating to the National Day of Prayer and the NDP Task Force.) While the plaintiffs do not claim that the annual declaration of a Day of Prayer has coerced them into becoming believers, the proclamations do give the appearance to the plaintiffs and others that religion is preferred and expected, while the plaintiffs' non-belief is disfavored and discouraged. The plaintiffs are put in the position, therefore, of being disapproved and/or they are put in the position of having to justify their non-belief.

INTERROGATORY 27: Identify and state all facts and evidence supporting your allegation concerning how HPs become known to all citizens.

RESPONSE: Proclamations by the Governor declaring a Day of Prayer are intended to become known to all citizens of the State. The purpose and effect of a proclamation is not achieved by secrecy, and, in fact, proclamations are broadcast, including to the plaintiffs, through extensive media coverage on the internet, in print media, and by broadcast media sources.

INTERROGATORY 28: Identify and state all facts and evidence supporting the allegation that the HPs create a hostile environment for the plaintiff.

RESPONSE: The Governor's annual proclamation of a "Colorado Day of Prayer"

gives the appearance that religion is a preferred solution to problems and that all citizens should believe in a God, as encouraged by the Governor. The plaintiffs deem their non-belief to be a matter of personal conscience, which they should not have to defend in the face of the Governor's endorsement of religion. The plaintiffs view the Governor's promotion of the belief in a God as a violation of their freedom of conscience, which effect is magnified by the annual media hoopla associated with the Day of Prayer, as promoted by the Governor. The plaintiffs are made to feel like stigmatized outsiders and they are put in the position of defending or justifying their non-belief, in the face of the Governor's encouragement of belief.

INTERROGATORY 29: Identify and state all facts and evidence supporting the allegation that the plaintiff and other members of FFR in Colorado are subjected or exposed to unwanted HPs or any proclamations to pray.

RESPONSE: Annual declarations of a "Colorado Day of Prayer" by the Governor are intended to be broadcast publicly and to become known by the citizens of the State, including the plaintiffs. In fact, the plaintiffs are exposed to the Governor's annual exhortations to pray due to extensive media coverage, to which they are exposed on the internet, in print media, and/or via broadcast mediums.

INTERROGATORY 30: Identify and state all facts and evidence supporting the allegation that the government, including but not limited to the defendant state of Colorado and governor, induced any or all celebrations of religion in the public realm.

RESPONSE: Millions of persons, in thousands of events throughout the country, participate in public Day of Prayer celebrations, including many such events held throughout Colorado. These events do not all occur simultaneously on the designated Day

of Prayer coincidentally, but rather as a result of the Governor, the President and local officials, declaring a coordinated Day of Prayer. In at least 2007 and 2008, moreover, Governor Ritter participated in such public celebrations of the Day of Prayer, including at the State Capitol in 2007. Declarations of a Day of Prayer do not merely acknowledge ceremonies independently organized, but rather the proclamations create the occasion for the celebration of religion.

INTERROGATORY 31: Define the term religiosity, and identify and state all facts and evidence supporting the allegation that the governor's actions constitute a culture of officially-sanctioned religiosity.

RESPONSE: The term religiosity relates to belief in the supernatural, and prayer relates to appeals to the supernatural. The declaration of an annual "Colorado Day of Prayer," moreover, constitutes the endorsement by the government of religion, including through prayer, as well as the encouragement that all citizens believe in a God. The annual declarations of a Day of Prayer constitute the occasion to celebrate religion and prayer, including in thousands of ceremonies throughout the country. These celebrations of religion, with the encouragement of government officials, create a massive public celebration of religion that is explicitly precipitated, sanctioned and endorsed by the government.

INTERROGATORY 32: Identify and state all facts and evidence supporting the allegation that the governor has "dedicated" a day of prayer, including but not limited to, issuing HPs.

RESPONSE: At least since 2004, the Governor of Colorado has issued an annual prayer proclamation declaring a "COLORADO DAY OF PRAYER," to be held in

conjunction with the National Day of Prayer.

INTERROGATORY 33: Identify and state all facts and evidence supporting the allegation that the governor officially supports and advocates religion through the medium of prayer for all Colorado citizens, including but not limited to, issuing HPs.

RESPONSE: The annual declarations of a Day of Prayer by the Governor give the appearance of religious endorsement, including the endorsement of religion as practiced through prayer. The inherent endorsement of religion by the issuance of such annual proclamations is further magnified by the Governor's inclusion of an annual theme and/or scriptural reference in proclamations, including between 2004-2008, chosen by the National Day of Prayer Task Force, an openly evangelical Christian organization, headed by Mrs. Shirley Dobson.

INTERROGATORY 34: Identify and state all facts and evidence supporting the allegation that the interests and behavior of plaintiff and FFR members in Colorado are injured or affected by any and all actions of the governor, including but not limited to, issuing HPs.

RESPONSE: The Colorado Constitution prohibits the government from endorsing religion, or giving the appearance of such endorsement, regardless whether such endorsement is accompanied by coercion. In the present case, the plaintiffs react to the Governor's annual proclamation of a Day of Prayer as the endorsement of religion, including the belief in a God. The government's encouragement, including to the plaintiffs, to believe in a God is further perceived by the plaintiffs to violate their freedom of personal conscience. The government's active encouragement of religion, and apparent preference for religion, also is stigmatizing to the plaintiffs, who must defend or justify their non-

belief, in the face of the government's actions supporting religion.

INTERROGATORY 35: Identify and state all facts and evidence supporting the allegation that the governor has officially admonished any one to pray, including but not limited to, issuing HPs.

RESPONSE: Object on the basis that the Interrogatory is vague and ambiguous. Without waiving the objection, plaintiff responds that the Governor's annual declarations of a "Colorado Day of Prayer" constitute encouragement to all citizens of the State to pray. The proclamations also constitute encouragement for citizens to believe in a God, which the government endorses as being appropriate.

INTERROGATORY 36: Identify and state all facts and evidence supporting the allegation that the text of the HPs endorses religion per se, as distinguished from religious freedom.

RESPONSE: Object on the basis that the Interrogatory is vague and ambiguous. Without waiving the objection, the plaintiff notes that the Governor's issuance of proclamations declaring a "Colorado Day of Prayer" give the appearance of religious endorsement by the government. Such endorsement is emphasized in the proclamations issued in 2004-2008, by including an annual theme and/or scriptural reference chosen by the National Day of Prayer Task Force, an openly evangelical Christian organization. The government violates the Colorado Constitution by engaging in such endorsement of religion, which is permissible only by private parties, but impermissible when done by the government.

INTERROGATORY 37: Identify and specify in detail any and all actions by the governor that could prohibit Colorado citizens from engaging in celebrations and

commemorations with regard to days of prayer.

RESPONSE: Object on the basis that the Interrogatory is vague and ambiguous. Without waiving the objection, the plaintiff is not aware of any actions by the Governor prohibiting Colorado citizens from engaging in celebrations and commemorations with regard to Days of Prayer. The plaintiff also is not seeking to compel the Governor to prohibit private citizens from engaging in religious celebrations. The plaintiff, however, does seek an end to the Governor's declaration of a state-created religious holiday, such as by declarations of a Day of Prayer. The annual Day of Prayer is not an existing occasion merely recognized by the government, but rather it is an occasion declared to exist in the first instance by the government.

INTERROGATORY 38: Identify and state all facts and evidence supporting the allegation that the governor initiated or organized any celebrations and commemorations with regard to days of prayer.

RESPONSE: Celebrations and commemorations with regard to the annual Day of Prayer do not coincidentally occur on the designated Day of Prayer. Such celebrations, instead, spring forth because the government declares a Day of Prayer as to which citizens are encouraged to participate in prayer activities.

REQUESTS FOR PRODUCTION

REQUEST 1: Produce the text of the 2007 HP.

RESPONSE: The text of prayer proclamations for 2004-2009 will be produced.

REQUEST 2: Produce the complete text of the governor's statement at the 2007 NDP event.

RESPONSE: The plaintiff does not have the complete text of the Governor's

statement at the 2007 NDP event.

REQUEST 3: Produce any and all references to this lawsuit on FFRF's website.

RESPONSE: The plaintiff FFRF will produce requested documents.

REQUEST 4: Produce any and all written communications of plaintiffs or other FFRF members that refer to this lawsuit.

RESPONSE: Responsive documents that FFRF has in its possession will be produced.

Dated: January _____, 2010.

As to objections:

/s/ Richard L. Bolton
Richard L. Bolton, Esq., State Bar No. 1012552
Attorneys for Plaintiffs

Boardman, Suhr, Curry & Field LP
1 South Pinckney Street, 4th Floor
P. O. Box 927
Madison, WI 53701-0927
Telephone: (608) 257-9521
Facsimile: (608) 283-1709
Email: rbolton@boardmanlawfirm.com

_____
Annie Laurie Gaylor, Co-President
Freedom From Religion Foundation, Inc.

Subscribed and sworn to before me
this _____ day of January, 2010.

_____
Notary Public, State of Colorado
My commission: _____

F:\DOCS\wd\26318\18\A0950520.DOC

Exhibit C

AFFIDAVIT OF RITA LAMBERT

STATE OF COLORADO)
) SS.
CITY AND COUNTY OF DENVER)

I, Rita Lambert, being duly sworn, hereby state the following:

1) I am over the age of eighteen years.

2) I have personal knowledge of the matters set forth herein.

3) I am employed by the State of Colorado Central Services/Capitol Complex as Parking & Permit Programs Manager.

4) I am responsible for managing the schedule for public events held on the grounds of the Colorado State Capitol and nearby state properties.

5) Permits are required to hold public events on the grounds of the Capitol.

6) Pursuant to requests made by a private organization identifying itself as "Colorado National Day of Prayer," permits were issued for "National Day of Prayer" events in 2006, 2007, 2008, and 2009.

7) Attached to this affidavit are true and accurate copies of permit applications filed by the "Colorado National Day of Prayer" in 2006, 2007, 2008, and 2009, as well as true and accurate copies of permits issued pursuant to those applications.

FURTHER AFFIANT SAYETH NAUGHT

Rita Lambert
Rita Lambert

Subscribed and sworn before me on this 10 day of May, 2010.

Victoria L Shinkle
NOTARY PUBLIC

My Commission Expires: 2-14-2014

State of Colorado

Bill Owens
Governor

Jeffrey M. Wells
Executive Director

Paul Farley
Deputy Executive Director

Scott Madsen
Division Director

DPA

Department of Personnel & Administration

Division of Central Services
Integrated Document Factory
1001 E 62nd Ave., A-11
Denver, Colorado 80216
Phone 303-866-3886
Fax 303-866-4024
www.colorado.gov/dpa/dcs

November 18, 2005

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): Colorado National Day of Prayer

DATE(S): BEGIN: May 4, 2006 END: May 4, 2006
TIME: BEGIN: 8:00 A.M. END: 3:00 P.M.
LOCATION: West Steps
ANTICIPATED NUMBER OF PARTICIPANTS: 500 - 1000 people

PURPOSE OF EVENT: Celebration of National Day of Prayer

EVENT COORDINATOR: Mike and Debra Vigil
ADDRESS: P.O. Box 36130 Denver CO, 80236
TELEPHONE: DAY: 303-918-2865 EVENING: 303-594-6079
FAX: 303-933-3800

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

2005 NOV -7 AM 6:25

DPA

REQUEST FOR USE OF STATE CAPITOL COMPLEX FACILITIES

Application Date: Nov 4, 2005 (Thursday)

1. Requested Date: May 4, 2006 Alternate Date: None

Exact location of proposed activity: ☒ West Steps Site ☐ Lincoln Park Site ☐ Special Request

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

Start Time: 8 a.m. ☒ a.m. ☐ p.m. End Time: 3:00 ☐ a.m. ☒ p.m.
(Include set up and clean up times)

2. Sponsor/Organization: Colorado National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization.

Contact: MIKE + DEBRA VIGIL Work Phone: 303 918-2865
Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: 303 594-6079 Fax: 303 933-3800

Home Phone: 303 948-9200 E-mail: MIKE@UTILITY-AUDIT.COM DEBRA VIGIL @ COMCAST.NET

Address: P.O. Box 36130 City: DENVER State: CO Zip 80236

3. Event Description: A celebration of Nat'l. Day of Prayer that is an annual holiday established by an act of Congress (1952) which encourages Americans to pray for our nation, its people, and its leaders.

4. Estimated Maximum Number of Participants: 500 - 1000.

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on separate a sheet.

A one hour program of worship + prayer by church + community leaders, legislators, color guard, home-schoolers (pledge) with worship band. A podium + sound system is used. Registration table for participants set up also.

5. Will you require access to electricity? ☒ Yes ☐ No

7. Will you provide an "Event Marshal"? ☒ Yes ☐ No
   If yes, please indicate how many and how they will be identified 4 - orange vests

APPLICATION NOT VALID UNLESS SIGNED

STATE COORDINATORS
Position of person filling the application

Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1525 Sherman Street, B-15
Denver, Colorado 80203
Phone: (303) 866-4367
Fax: (303) 866-3478

The Annual
NATIONAL DAY OF PRAYER
First Thursday of May

To: Lucy Trujillo
Division of Central Services
Permit Program Specialists

Fax: 303-894-2375 and 303-866-2470

From: Mike and Deb Vigil
Colorado National Day of Prayer
State Coordinators

Date: November 4, 2005

Subject: West Capital steps and Lincoln Park permit application

Message:

Lisa,

We will call you Monday morning November 7 to verify receipt of application. Thank you.

-Deb

State of Colorado

Bill Owens
Governor

Jeffrey M. Wells
Executive Director

Paul Farley
Deputy Executive Director

Scott Madsen
Division Director

DPA

Department of Personnel & Administration

Division of Central Services
Integrated Document Factory
1001 E 62nd Ave., A-11
Denver, Colorado 80216
Phone 303-866-3886
Fax 303-866-4024
www.colorado.gov/dpa/dcs

March 28, 2006

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): National Day Of Prayer

DATE(S): BEGIN: May 4, 2006 END: May 4, 2006
TIME: BEGIN: 9:00 A.M. END: 5:00 P.M.
LOCATION: Lincoln Park
ANTICIPATED NUMBER OF PARTICIPANTS: 300+ people

PURPOSE OF EVENT: Prayer and Praise for National Day of Prayer

EVENT COORDINATOR: Willow Kauffman
ADDRESS: 15481548 South Mountain view Road Castle Rock CO, 80109
TELEPHONE: DAY: 303-905-6970 EVENING: 303-905-6970
FAX: 303-814-2919

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

DCS

2006 MAR 14 PM 3:12

DPA

REQUEST FOR USE OF STATE CAPITOL COMPLEX FACILITIES

Application Date: ~~Nov 4, 2005~~ March 14, 2006

1. Requested Date: May 4, 2006 Thursday Alternate Date: None

Exact location of proposed activity: ☐ West Steps Site ☒ Lincoln Park Site ☐ Special Request

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

Start Time: 9:00 ☒ a.m. ☐ p.m. End Time: 5:00 ☐ a.m. ☒ p.m.
(Include set up and clean up times)

2. Sponsor/Organization: National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization.

Contact: Willow Kaufman Work Phone: ( )

Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: ( ) 303-905-6970 Fax: ( ) 303-814-2919

Home Phone: ( ) 303-660-1827 E-mail:

Address: 1548 S. Mountainview Rd City: Castle Rock State CO Zip 80109

3. Event Description Prayer + Praise in the Park for National Day of Prayer.

4. Estimated Maximum Number of Participants: 300+

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on separate a sheet.

Worship bands, prayer teams,
free hotdogs & lemonade
tables w/ prayer activities.

8. Will you require access to electricity? ☐ Yes ☒ No

7. Will you provide an "Event Marshal"? ☒ Yes ☐ No
If yes, please indicate how many and how they will be identified 2+ orange vests

APPLICATION NOT VALID UNLESS SIGNED

Volunteer CD, NDP
Position of person filing the application

Willow A. Kauffman
Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1526 Sherman Street, B-16
Denver, Colorado 80203
Phone: (303) 866-4357
Fax: (303) 866-2470

The Annual
NATIONAL
DAY OF
PRAYER
First Thursday of May

Fax Form

Colorado National Day of Prayer
1548 S. Mountainview Rd.
Castle Rock, CO 80109
Phone # 303-660-1827
Fax # 303-814-2919

TO: Huey Trujillo

Fax#: 303-866-2470

FROM: Willow Kauffman
Colorado Coordinator, National Day of Prayer

DATE: March 14, 2006

PAGES: 3 **(including cover sheet)**

SUBJECT: Reserve Lincoln Park for May 4, 2006

Special Instructions/ Message

Please confirm that you received this application to Willow 303-660-1827 cell 303-905-6970

Thank-you very much!

State of Colorado

Bill Ritter, Jr.
Governor

Rich Gonzales
Executive Director

Scott Madsen
Division Director

DPA

Department of Personnel & Administration

Division of Central Services
Administrative Offices
1001 East 62nd Avenue
Denver, Colorado 80216
Phone 303-866-3970
Fax 303-866-4024
www.colorado.gov/dpa/dcs

January 25, 2007

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): Colorado National Day Of Prayer

DATE(S): BEGIN: May 3, 2007 END: May 3, 2007
TIME: BEGIN: 10:30 A.M. END: 3:00 P.M.
LOCATION: West Steps
ANTICIPATED NUMBER OF PARTICIPANTS: 300+ people

PURPOSE OF EVENT: Prayer and Praise for National Day of Prayer KPOF and KRKS Radio will have vans to air this program

EVENT COORDINATOR: Willow Kauffman
ADDRESS: 1548 South Mountain View Rd Castle Rock, CO 80109
TELEPHONE: DAY: 303-905-6970 EVENING: 303-660-1827
FAX: 303-814-2919

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

2007 APR 12 AM 10:04

DPS

DPA

REQUEST FOR USE OF STATE CAPITOL COMPLEX FACILITIES

Application Date: Nov 3, 2006

1. Requested Date: Thursday MAY 3, 2007 Alternate Date: —

Exact location of proposed activity: ☒ West Steps Site ☐ Lincoln Park Site ☐ Special Request

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

Start Time: 10 30 ☒ a.m. ☐ p.m. End Time: 3:00 pm ☐ a.m. ☒ p.m.
(Include set up and clean up times)

2. Sponsor/Organization: Colorado National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization.

Contact: Willow Kauffman Work Phone: ( ) —
Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: (303 905-6970 Fax: (303 - 874-2919

* Home Phone: (303 - 660-1827 E-mail: DustyBritchesRanch@att.net

Address: 1548 S. Mountainview Rd. Castle Rock (State CO Zip 80109

3. Event Description A Celebration of Nat'l. Day of Prayer that is an annual holiday established by an act of Congress (1952) which encourages Americans to pray for our nation, its people, and its leaders.

4. Estimated Maximum Number of Participants: 500 - 1000

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on seperate a sheet.

A one hour program of worship + prayer by Church and Community leaders, legislators, Color guard, home-schoolers (pledge) with worship band. A podium + sound system is used. Registration table for participants set up also.

Also, a Bible Marathon on 4 sides of Capitol from 10:30 - 11:30 am. up to 75 people on each side (N.S.E.W) reading their Bibles. (will stay out of the way of steps + traffic) KPOF + KRKS radio will have vans to air this program live.

8. Will you require access to electricity? ☒ Yes ☐ No

7. Will you provide an "Event Marshal"? ☒ Yes ☐ No
If yes, please indicate how many and how they will be identified. 4 -- orange vests

APPLICATION NOT VALID UNLESS SIGNED

Colorado Coordinator, NDP
Position of person filing the application

William A. Kaufman
Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1525 Sherman Street, B-15
Denver, Colorado 80203
Phone: (303) 866-4357
Fax: (303) 866-2470

The Annual
NATIONAL
DAY OF
PRAYER
First Thursday of May

Fax Form

Colorado National Day of Prayer
1548 S. Mountainview Rd.
Castle Rock, CO 80109
Phone # 303-660-1827
Fax # 303-814-2919

TO: Lucy Trujillo

Fax#: 303-866-2470

FROM: Willow Kauffman
Colorado Coordinator, National Day of Prayer

DATE: 4/12/07

PAGES: 3 **(including cover sheet)**

SUBJECT: National Day of Prayer

Special Instructions/ Message

Lucy, I have added
ICPOF + KRKS vans to our application
these radio stations will air the
program live.
P.S. Governor Ritter will be a part
of this program.

State of Colorado

Bill Ritter, Jr.
Governor

Rich Gonzales
Executive Director

Scott Madsen
Division Director

DPA

Department of Personnel & Administration

Division of Central Services
Administrative Offices
1001 East 62nd Avenue
Denver, Colorado 80216
Phone 303-866-3970
Fax 303-866-4024
www.colorado.gov/dpa/dcs

January 25, 2007

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): Colorado National Day Prayer

DATE(S): BEGIN: May 3, 2007 END: May 3, 2007
TIME: BEGIN: 9:00 A.M. END: 5:00 P.M.
LOCATION: Lincoln Park
ANTICIPATED NUMBER OF PARTICIPANTS: 300+ people

PURPOSE OF EVENT: Prayer and Praise for National Day of Prayer

EVENT COORDINATOR: Willow Kauffman
ADDRESS: 1548 South Mountain View Rd Castle Rock, CO 80109
TELEPHONE: DAY: 303-905-6970 EVENING: 303-660-1827
FAX: 303-814-2919

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

DGS

DPA

REQUEST FOR USE OF STATE CAPITOL COMPLEX FACILITIES

LT

Application Date: Nov 3, 2006

Thursday

OK 1. Requested Date: MAY 3, 2007 Alternate Date: —

OK Exact location of proposed activity: ☐ West Steps Site ☒ Lincoln Park Site ☐ Special Request

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

OK Start Time: 9:00 ☒ a.m. ☐ p.m. End Time: 5:00 ☐ a.m. ☒ p.m.
(Include set up and clean up times)

2. Sponsor/Organization: Colorado National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization.

Contact: Willow Hauffman Work Phone: ( )
Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: (303-905-6970 Fax: (303-814-2919

*Home Phone: (303 660-1827 E-mail: DustyBritchesRanch@att.net

Address: 1548 S. Mountainview Rd City: Castle Rock State CO Zip 80109

3. Event Description Prayer & Praise in the Park for National Day of Prayer.

4. Estimated Maximum Number of Participants: 300+

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on separate a sheet.

Worship bands, prayer teams,
free hot dogs & lemonade.
tables with prayer activities

6. Will you require access to electricity? ☐ Yes ☒ No

7. Will you provide an "Event Marshal"? ☒ Yes ☐ No
If yes, please indicate how many and how they will be identified. 2+ orange vests

APPLICATION NOT VALID UNLESS SIGNED

Colorado Coordinator, NOP
Position of person filing the application

William A. Kaufman
Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1525 Sherman Street, B-15
Denver, Colorado 80203
Phone: (303) 866-4387
Fax: (303) 866-2470

The Annual
NATIONAL
DAY OF
PRAYER
First Thursday of May

Fax Form

Colorado National Day of Prayer
1548 S. Mountainview Rd.
Castle Rock, CO 80109
Phone # 303-660-1827
Fax # 303-814-2919

2006 NOV -3 PM 4:09

TO: Lucy Trujillo

Fax#: 303-866-2470

FROM: Willow Kauffman
Colorado Coordinator, National Day of Prayer

DATE: Nov 3, 2006

PAGES: 5 **(including cover sheet)**

SUBJECT: Colorado National Day of Prayer
May 3, 2007 Ruxine west steps + Lincoln Park

Special Instructions/ Message

Lucy - 180 days falls on Saturday so I am faxing this to you today because offices are closed tomorrow!

Could you please confirm that you received these applications? 303-660-1827

Thank-you very much!

State of Colorado

Bill Ritter, Jr.
Governor

Rich Gonzales
Executive Director

Scott Madsen
Division Director

DPA

Department of Personnel & Administration

Division of Central Services
Administrative Offices
1001 East 62nd Avenue
Denver, Colorado 80216
Phone 303-866-3970
Fax 303-866-4024
www.colorado.gov/dpa/dcs

April 27, 2007

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): Colorado National Day of Prayer

DATE(S): May 3, 2007 BEGIN: END:
TIME: BEGIN: 9:00AM END: 12:00PM
LOCATION: East Steps
ANTICIPATED NUMBER OF PARTICIPANTS: 200

PURPOSE OF EVENT: Bible reading event at the Capitol

EVENT COORDINATOR: Willow Kauffman
ADDRESS: 1548 S Mountain View Road Castle Rock Co 80109
TELEPHONE: DAY: 303-905-6970 EVENING: 303-660-1823
FAX: 303-814-2919

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

2007 APR 27 AM 7:02

DGS

DPA

REQUEST FOR USE OF STATE CAPITOL COMPLEX FACILITIES

Application Date: Nov 3, 2006 thursday

1. Requested Date: MAY 3, 2007 Alternate Date: ——

Exact location of proposed activity: ☐ West Steps Site ☐ Lincoln Park ☒ Special Request East Side Capitol

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

Start Time: 9:00 ☒ a.m. ☐ p.m. End Time: 12:00 NOON ☒ a.m ☐ pm
(include set up and clean up times)

2. Sponsor/Organization: Colorado National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization

Contact: Willow Kauffman Work Phone: (Cell) 303-905-6970 (Hm) 303-660-1823
Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: (303-905-6970 Fax: (303-814-2919

*Home Phone: (303 660-1827 E-mail Dusty Britches Ranch @ att.net

Address: 1548 S. Mountainview Rd City: Castle Rock State CO Zip 80109

3. Event Description Bible Reading Event at Capitol with National Day of Prayer

4. Estimated Maximum Number of Participants: 200

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on separate a sheet.

We would like to set up a registration table on the East side of the Capitol for our Bible Reading that will take place from 10:30 – 11:30

6. Will you require access to electricity? ☐ Yes ☒ No

7. Will you provide an "Event Marshal"? ☐ Yes ☒ No
If yes, please indicate how many and how they will be identified

APPLICATION NOT VALID UNLESS SIGNED

Colorado Coordinator, NOP
Position of person filing the application

William A. Kauffman
Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1525 Sherman Street, B-15
Denver, Colorado 80203
Phone: (303) 866-4357
Fax: (303) 866-2470

The Annual
NATIONAL
DAY OF
PRAYER
First Thursday of May

Fax Form

Colorado National Day of Prayer
1548 S. Mountainview Rd.
Castle Rock, CO 80109
Phone # 303-660-1827
Fax # 303-814-2919

TO: Lucy Trujillo

Fax#: 303-866-2470

FROM: Willow Kauffman
Colorado Coordinator, National Day of Prayer

DATE: MAY 3, 2007

PAGES: 3 **(including cover sheet)**

SUBJECT: Bible Reading

Special Instructions/ Message

Lucy - because our Bible reading will begin right when our West Step permit begins, I am requesting to be able to set up a registration table on the East side of the Capitol.

Thank-you!

State of Colorado

Bill Ritter, Jr.
Governor

Rich Gonzales
Executive Director

Scott Madsen
Division Director

DPA

Department of Personnel & Administration

Division of Central Services
Administrative Offices
1001 East 62nd Avenue
Denver, Colorado 80216
Phone 303-866-3970
Fax 303-866-4024
www.colorado.gov/dpa/dcs

November 13, 2007

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): Colorado National Day Of Prayer

DATE(S): BEGIN: May 1, 2008 END: May 1, 2008
TIME: BEGIN: 10:30 A.M. END: 3:00 P.M.
LOCATION: West Steps
ANTICIPATED NUMBER OF PARTICIPANTS: 500-1000 people

PURPOSE OF EVENT: Celebration for National Day of Prayer

EVENT COORDINATOR: Amy Everette
ADDRESS: 132 Pine Oak Circle Franktown, CO 80116
TELEPHONE: DAY: 303-814-1379 EVENING: 303-246-5395
FAX: 443-817-1379

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

2007 NOV -2 AM 6:34

DCS
First Choice for Service

DPA

REQUEST FOR USE OF STATE CAPITOL COMPLEX FACILITIES

Application Date: Nov 2, 2007

1. Requested Date: Thursday May 1, 2008 Alternate Date: N/A

Exact location of proposed activity: ☒ West Steps Site ☐ Lincoln Park Site ☐ Special Request

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

Start Time: 10:30 ☒ a.m. ☐ p.m. End Time: 3:00 ☐ a.m. ☒ p.m.
(Include set up and clean up times)

2. Sponsor/Organization: Colorado National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization.

Contact: Amy Everette Work Phone: ( ) 303-814-1379
Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: ( ) 303-246-5395 Fax: ( ) 443-817-1379

Home Phone: ( ) 303-814-1975 E-mail: amy@amtechmarketing.com

Address: 132 Pin Oak Circle City: Franktown State CO Zip 80116

3. Event Description Celebration of National Day of Prayer - a government sanctioned annual holiday established by an Act of Congress in 1952. The event encourages Americans to pray for our nation

4. Estimated Maximum Number of Participants: 500 - 1000

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on separate a sheet.

more room is needed, please attach information on separate a sheet.

A 1-hour program of worship and prayer by church and community leaders, legislators, color guard, home school families, and others. A podium and sound system is used along with a registration table. Radio stations (at least 2) will have vans to air the program. A Bible Reading Marathon will take place on all 4 sides of the Capital from 10:30 - 11:30 am. Up to 75 people on each side (N, E, S, W) reading their bibles. We will stay out of the way of steps + sidewalk traffic.

West Steps Site
p. 2

6. Will you require access to electricity? ☒ Yes ☐ No

7. Will you provide an "Event Marshal"? ☒ Yes ☐ No
If yes, please indicate how many and how they will be identified. 4 Marshalls wearing Orange vests

APPLICATION NOT VALID UNLESS SIGNED

Colorado Coordinator, NDP
Position of person filing the application

Evette
Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Request for Waiver of 30 Day Notification

Pursuant to State Capitol Buildings Group Grounds Permit Regulation 1.32:

> Applicants shall submit legible and complete permit applications in writing on a form provided by the Executive Director so as to be received by the Executive Director at least thirty (30) days in advance of any demonstration or special event. Applications will not be accepted more than one year before the proposed demonstration or special event is scheduled to occur. *The Executive Director may waive the thirty (30) day notice requirement for demonstrations but only if: (1) the applicant can demonstrate the impossibility of applying for a permit within the time limitations set out in this paragraph; (2) a permit is applied for before the demonstration begins; and (3) the Executive Director determines that all relevant and appropriate conditions, limitations and requirements are or will be met, and he issues a permit for the demonstration.*

Please provide explanation for waiver request: _____

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1525 Sherman Street, B-15
Denver, Colorado 80203
Phone: (303) 866-4357
Fax: (303) 866-2470

State of Colorado

Bill Ritter, Jr.
Governor

Rich Gonzales
Executive Director

Scott Madsen
Division Director

DPA

Department of Personnel & Administration

Division of Central Services
Administrative Offices
1001 East 62nd Avenue
Denver, Colorado 80216
Phone 303-866-3970
Fax 303-866-4024
www.colorado.gov/dpa/dcs

November 13, 2007

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): Colorado National Day Of Prayer

DATE(S): BEGIN: May 1, 2008 END: May 1, 2008
TIME: BEGIN: 9:00 A.M. END: 5:00 P.M.
LOCATION: Lincoln Park
ANTICIPATED NUMBER OF PARTICIPANTS: 300 people

PURPOSE OF EVENT: Prayer and Praise to Honor Our Nation During National Day of Prayer

EVENT COORDINATOR: Amy Everette
ADDRESS: 132 Pine Oak Circle Franktown, CO 80116
TELEPHONE: DAY: 303-814-1379 EVENING: 303-246-5395
FAX: 443-817-1379

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

2007 NOV -2 AM 6:35

DCS
First Choice for Service

DPA

REQUEST FOR USE OF STATE CAPITOL COMPLEX FACILITIES

Application Date: Nov 2, 2007

1. Requested Date: Thursday May 1, 2008 Alternate Date: N/A

Exact location of proposed activity: ☐ West Steps Site ☒ Lincoln Park Site ☐ Special Request

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

Start Time: 9:00 ☒ a.m. ☐ p.m. End Time: 5:00 ☐ a.m. ☒ p.m.
(Include set up and clean up times)

2. Sponsor/Organization: Colorado National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization.

Contact: Amy Everette Work Phone: (303 814-1379
Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: (393 246 5395 Fax: ( ) 443-817-1379

Home Phone: ( )303 814 1975 E-mail: amy@amtechmarketing.com

Address: 132 Pin Oak Circle City: Franktown State CO Zip 80116

3. Event Description Prayer + praise in the park to honor our nation during the National Day of Prayer

4. Estimated Maximum Number of Participants: 300

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on separate a sheet.

Worship bands, prayer teams, free hot dogs + drinks
Prayer tents or tables for prayer activities
Agenda is to pray for people participating in the national Day of Prayer and passers by

6. Will you require access to electricity? ☐ Yes ☒ No

7. Will you provide an "Event Marshal"? ☒ Yes ☐ No
If yes, please indicate how many and how they will be identified. 2 marshalls wearing Orange vests

APPLICATION NOT VALID UNLESS SIGNED

Colorado Coordinator, NDP
Position of person filing the application

Evette
Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Request for Waiver of 30 Day Notification

Pursuant to State Capitol Buildings Group Grounds Permit Regulation 1.32:

> Applicants shall submit legible and complete permit applications in writing on a form provided by the Executive Director so as to be received by the Executive Director at least thirty (30) days in advance of any demonstration or special event. Applications will not be accepted more than one year before the proposed demonstration or special event is scheduled to occur. *The Executive Director may waive the thirty (30) day notice requirement for demonstrations but only if: (1) the applicant can demonstrate the impossibility of applying for a permit within the time limitations set out in this paragraph; (2) a permit is applied for before the demonstration begins; and (3) the Executive Director determines that all relevant and appropriate conditions, limitations and requirements are or will be met, and he issues a permit for the demonstration.*

Please provide explanation for waiver request: _____

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1525 Sherman Street, B-15
Denver, Colorado 80203
Phone: (303) 866-4357
Fax: (303) 866-2470

State of Colorado

Bill Ritter, Jr.
Governor

Rich Gonzales
Executive Director

Scott Madsen
Division Director

DPA

Department of Personnel & Administration

Division of Central Services
Administrative Offices
1001 East 62nd Avenue
Denver, Colorado 80216
Phone 303-866-3970
Fax 303-866-4024
www.colorado.gov/dpa/dcs

November 13, 2007

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): Colorado National Day Of Prayer

DATE(S): BEGIN: May 1, 2008 END: May 1, 2008
TIME: BEGIN: 9:00 A.M. END: 12:00 Noon
LOCATION: East Steps
ANTICIPATED NUMBER OF PARTICIPANTS: 200 people

PURPOSE OF EVENT: Bible Reading Marathon in support of National Day of Prayer

EVENT COORDINATOR: Amy Everette
ADDRESS: 132 Pine Oak Circle Franktown, CO 80116
TELEPHONE: DAY: 303-814-1379 EVENING: 303-246-5395
FAX: 443-817-1379

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

2007 NOV -2 AM 6:35

DGS
First Choice for Service

DPA

REQUEST FOR USE OF STATE CAPITOL COMPLEX FACILITIES

Application Date: 11/2/07

1. Requested Date: Thursday May 1, 2008 Alternate Date: N/A

Exact location of proposed activity: ☐ West Steps Site ☐ Lincoln Park Site ☒ Special Request East Side Capital Bldg

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

Start Time: 9:00 ☒ a.m. ☐ p.m. End Time: 12:00 noon ☒ a.m. ☐ p.m.
(Include set up and clean up times)

2. Sponsor/Organization: Colorado National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization.

Contact: Amy Everette Work Phone: ( ) 303 814 1379
Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: ( ) 303 246 5395 Fax: ( ) 443-817-1379

Home Phone: ( ) 303 814 1975 E-mail: amy@amtechmarketing.com

Address: 132 Pin Oak Circle City: Franktown State CO Zip 80116

3. Event Description Bible Reading Marathon in support of National Day of Prayer

4. Estimated Maximum Number of Participants: 200

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on separate a sheet.

Registration Table on the east side of the capital building. Participants will sit so as to not block the flow of traffic while they read their bibles from 10:30 11:30 am There will be 75+ people on each side of the capital for this event.

East side special Request
p. 2

6. Will you require access to electricity? ☐ Yes ☒ No

7. Will you provide an "Event Marshal"? ☒ Yes ☐ No
If yes, please indicate how many and how they will be identified. 1 marshall wearing an orange vest

APPLICATION NOT VALID UNLESS SIGNED

Colorado Coordinator NDP — Position of person filing the application

Amy Everette — Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Request for Waiver of 30 Day Notification

Pursuant to State Capitol Buildings Group Grounds Permit Regulation 1.32:

Applicants shall submit legible and complete permit applications in writing on a form provided by the Executive Director so as to be received by the Executive Director at least thirty (30) days in advance of any demonstration or special event. Applications will not be accepted more than one year before the proposed demonstration or special event is scheduled to occur. *The Executive Director may waive the thirty (30) day notice requirement for demonstrations but only if: (1) the applicant can demonstrate the impossibility of applying for a permit within the time limitations set out in this paragraph; (2) a permit is applied for before the demonstration begins; and (3) the Executive Director determines that all relevant and appropriate conditions, limitations and requirements are or will be met, and he issues a permit for the demonstration.*

Please provide explanation for waiver request: _____

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1525 Sherman Street, B-15
Denver, Colorado 80203
Phone: (303) 866-4357
Fax: (303) 866-2470

State of Colorado

Bill Ritter, Jr.
Governor

Rich Gonzales
Executive Director

Jennifer Okes
Deputy Executive Director

Scott Madsen
Division Director

Frank Lombardi
Manager

DPA

Department of Personnel & Administration

Division of Central Services
Capitol Complex Facilities
1525 Sherman Street, #B-15
Denver, Colorado 80203
Phone (303)-866-4357
Fax (303) 866-2470
www.colorado.gov/dpa/dcs

November 17, 2008

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): Colorado National Day of Prayer

DATE(S):	Thursday	BEGIN: May 7, 2009	END: May 7, 2009
TIME:		BEGIN: 10:30 A.M.	END: 3:00 P.M.
LOCATION:	West Steps		
ANTICIPATED NUMBER OF PARTICIPANTS:		1000	

PURPOSE OF EVENT: Prayer and worship to honor our nation.

EVENT COORDINATOR:	Lori McKinney	
ADDRESS:	PO Box 18481, Denver CO 80218	
TELEPHONE:	DAY: 720-482-1462	EVENING: 720-891-7944
	FAX: 443-817-1379	

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

DCS
First Choice for Service

DPA

REQUEST FOR USE OF STATE CAPITOL COMPLEX FACILITIES

Application Date: Nov 12, 2008

1. Requested Date: Thurs. May 7, 2009 Alternate Date: N/A

Exact location of proposed activity: ☒ West Steps Site ☐ Lincoln Park Site ☐ Special Request

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

Start Time: 10:30 ☒ a.m. ☐ p.m. End Time: 3:00 ☐ a.m. ☒ p.m.
(Include set up and clean up times)

2. Sponsor/Organization: Colorado National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization.

Contact: Lori McKinney Work Phone: ( ) 720 482 1462
Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: ( ) 720-891-7944 Fax: ( ) 443-517-1379

Home Phone: ( ) 720 482 1462 E-mail: lorimckinney2002@yahoo.com

Address: PO Box 18481 City: Denver State CO Zip 80218

3. Event Description National Day of Prayer Celebration - a government sanctioned day of prayer established by an Act of Congress in 1952 - encourages Americans to pray for our country

4. Estimated Maximum Number of Participants: 500 - 1000

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on separate a sheet.

A two hour program of worship and prayer by community leaders, church leaders, intercessors, school leaders, business leaders, etc. A podium and sound system is used along with a registration table. At least 2 radio stations will have vans on site to air the meeting.

West Steps Request
p. 2

6. Will you require access to electricity? ☒ Yes ☐ No

7. Will you provide an "Event Marshal"? ☒ Yes ☐ No
If yes, please indicate how many and how they will be identified. 4 Marshalls wearing orange vests

APPLICATION NOT VALID UNLESS SIGNED

State Coordinator
Position of person filing the application

Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Request for Waiver of 30 Day Notification

Pursuant to State Capitol Buildings Group Grounds Permit Regulation 1.32:

Applicants shall submit legible and complete permit applications in writing on a form provided by the Executive Director so as to be received by the Executive Director at least thirty (30) days in advance of any demonstration or special event. Applications will not be accepted more than one year before the proposed demonstration or special event is scheduled to occur. *The Executive Director may waive the thirty (30) day notice requirement for demonstrations but only if: (1) the applicant can demonstrate the impossibility of applying for a permit within the time limitations set out in this paragraph; (2) a permit is applied for before the demonstration begins; and (3) the Executive Director determines that all relevant and appropriate conditions, limitations and requirements are or will be met, and he issues a permit for the demonstration.*

Please provide explanation for waiver request: _____

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1525 Sherman Street, B-15
Denver, Colorado 80203
Phone: (303) 866-4357
Fax: (303) 866-2470

State of Colorado

Bill Ritter, Jr.
Governor

Rich Gonzales
Executive Director

Jennifer Okes
Deputy Executive Director

Scott Madsen
Division Director

Frank Lombardi
Manager

DPA

Department of Personnel & Administration

Division of Central Services
Capitol Complex Facilities
1525 Sherman Street, #B-15
Denver, Colorado 80203
Phone (303)-866-4357
Fax (303) 866-2470
www.colorado.gov/dpa/dcs

November 17, 2008

IN ACCORDANCE WITH THE "STATE CAPITOL COMPLEX BUILDINGS AND GROUNDS REGULATIONS" EFFECTIVE APRIL 30, 2004, PERMISSION IS GRANTED TO CONDUCT A SPECIAL EVENT TO THE FOLLOWING:

PERSON(S) AND/OR ORGANIZATION(S): Colorado National Day of Prayer

DATE(S): Thursday BEGIN: May 7, 2009 END: May 7, 2009
TIME: BEGIN: 9:00 A.M. END: 5:00 P.M.
LOCATION: Lincoln Park
ANTICIPATED NUMBER OF PARTICIPANTS: Up to 2000

PURPOSE OF EVENT: Prayer and worship to honor our nation.

EVENT COORDINATOR: Lori McKinney
ADDRESS: PO Box 18481, Denver CO 80218
TELEPHONE: DAY: 720-482-1462 EVENING: 720-891-7944
FAX: 443-817-1379

THIS PERMIT IS GRANTED SUBJECT TO THE CONDITIONS THAT WERE ATTACHED TO THE ORIGINAL APPLICATION. THESE CONDITIONS CAN ALSO BE FOUND ON THE STATE'S WEBSITE AT THE FOLLOWING WEB ADDRESS:
WWW.COLORADO.GOV/DPA/DCS/CAPCOM/INDEX.HTM

Frank Lombardi
Property Maintenance Manager
cc: Permit File
Colorado State Patrol

DCS
First Choice for Service

DPA

REQUEST FOR USE OF
STATE CAPITOL COMPLEX FACILITIES

Application Date: Nov. 12, 2008

1. Requested Date: Thurs. May 7 2009 Alternate Date: N/A

Exact location of proposed activity: ☐ West Steps Site ☒ Lincoln Park Site ☐ Special Request

If you chose "Special Request", mark the specific location ☐ Pearl Harbor Memorial ☐ Closing Era Monument ☐ Armenian Garden ☐ U.S.S. Colorado Memorial ☐ Civil War Monument ☐ Sand Creek Plaque

Start Time: 9:00 ☒ a.m. ☐ p.m. End Time: 5:00 ☐ a.m. ☒ p.m.
(Include set up and clean up times)

2. Sponsor/Organization: Colorado National Day of Prayer
If your organization goes by an acronym (initials), indicate full name of organization.

Contact: Lori McKinney Work Phone: ( ) 720-482-1462
Note: The Contact Person on this application MUST be present for the entire event.

Cell Phone: ( ) 720-891-7944 Fax: ( ) 443-817-1379

Home Phone: ( ) 720-482-1462 E-mail: lori.mckinney2002@yahoo.com

Address: PO Box 18481 City: Denver State CO Zip 80218

3. Event Description Prayer and Worship in the park to honor our Nation during the National Day of Prayer

4. Estimated Maximum Number of Participants: 1,000-2,000

5. All Events. Include a list of all principal speakers, agenda, props, stages, sound equipment and other items to be provided by applicant/sponsor, if available (approx. number and size(s) of supports, standards and handles, necessary medical/sanitary facilities and other similar items). Also include proposed route of any march or parade and plans for the orderly termination and dispersal of the proposed activity that might affect the regular flow of traffic. If more room is needed, please attach information on separate a sheet.

Worship bands, prayer teams, Concessions, prayer tables. Agenda is to pray for people participating in the National Day of Prayer and for passers by.

Lincoln Park Request
p. 2

6. Will you require access to electricity? [X] Yes [ ] No

7. Will you provide an "Event Marshal"? [X] Yes [ ] No
If yes, please indicate how many and how they will be identified. 2-6 Marshalls Wearing Orange vests

APPLICATION NOT VALID UNLESS SIGNED

State Coordinator
Position of person filing the application

A. Everette
Signature of person filing the application

Note: If the person signing this application is different than the contact person listed in section 2 above, please print the signer's name and contact number:

Request for Waiver of 30 Day Notification

Pursuant to State Capitol Buildings Group Grounds Permit Regulation 1.32:

> Applicants shall submit legible and complete permit applications in writing on a form provided by the Executive Director so as to be received by the Executive Director at least thirty (30) days in advance of any demonstration or special event. Applications will not be accepted more than one year before the proposed demonstration or special event is scheduled to occur. *The Executive Director may waive the thirty (30) day notice requirement for demonstrations but only if: (1) the applicant can demonstrate the impossibility of applying for a permit within the time limitations set out in this paragraph; (2) a permit is applied for before the demonstration begins; and (3) the Executive Director determines that all relevant and appropriate conditions, limitations and requirements are or will be met, and he issues a permit for the demonstration.*

Please provide explanation for waiver request: _____

Return the completed, signed application to:

Division of Central Services
Permit Program Specialist
1525 Sherman Street, B-15
Denver, Colorado 80203
Phone: (303) 866-4357
Fax: (303) 866-2470

Exhibit D

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street, Denver, CO 80202 FREEDOM FROM RELIGION FOUNDATION, INC., MIKE SMITH, DAVID HABECKER, TIMOTHY G. BAILEY and JEFF BAYSINGER, Plaintiffs, v. BILL RITTER, JR., in his official capacity as GOVERNOR OF THE STATE OF COLORADO, and THE STATE OF COLORADO, Defendants.	▲ COURT USE ONLY ▲
Attorneys for the Plaintiffs: Daniele W. Bonifazi, Atty. No. 30645 John H. Inderwish, Atty. No. 10222 Inderwish & Bonifazi, P.C. 6377 S. Revere Parkway, Suite 400 Centennial, CO 80111 Telephone: (720) 208-0111 Fax: (720) 208-0130 Email: dbonifazi@i-blaw.com jhi@i-blaw.com Richard L. Bolton, Esq. Boardman, Suhr, Curry & Field LLP 1 South Pinckney Street, 4th Floor P. O. Box 927 Madison, WI 53701-0927 Telephone: (608) 257-9521 Fax: (608) 283-1709 Email: rbolton@boardmanlawfirm.com	Case Number: 08CV9799 Courtroom: 19
BACKGROUND STATEMENT OF NDP HISTORY AND NDP TASK FORCE INVOLVEMENT	

102. A tremendous outpouring of prayer and repentance encompasses the nation at the time of the National Day of Prayer as hands join together to cry out to God and hearts are allegedly changed and hope restored. (Ex. 36 at 1.)

103. The NDP Task Force hopes that its annual theme and supporting scripture will draw Americans closer to God. (Ex. 37 at 1.)

104. The NDP Task Force promotes, publicizes and provides resources to "constituents" to help them celebrate the National Day of Prayer. (Ex. 2 at 16.)

105. The NDP Task Force limits participation by coordinators and volunteers to persons holding a Judeo-Christian perspective. (Ex. 44 at 1.)

L. Governors Issue Proclamations In Conjunction With The National Day of Prayer.

106. The NDP Task Force, led by Mrs. Dobson writes to each state governor on an annual basis requesting a prayer proclamation, while referencing the NDP Task Force annual theme and supporting scriptural reference. (Exs. 21-24.) (Ex. 2 at 21, 23, 50, 585, 115 and 121.)

107. Letters written by the NDP Task Force to governors requesting proclamations are signed by Shirley Dobson, who reviews such letters before signing them. (Ex. 2 at 23 and 148.)

108. The NDP Task Force requests state governors to designate the same day as the day set aside by the President for the National Day of Prayer. (Ex. 2 at 28.)

109. The NDP Task Force considers it desirable if governors incorporate the NDP Task Force's annual theme and scriptural reference in their official proclamations. (Ex. at 86.)

110. All state governors issued NDP Proclamations in 2009, including proclamations from the Governors of Arkansas, Florida, Iowa, Idaho, Indiana, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New Mexico, South Dakota, Texas, Utah, Virginia,

Wisconsin and Wyoming, which all included references to the NDP Task Force annual theme and supporting scripture. (Ex. 3 at 1-17.)

111. All state governors also issued NDP Prayer Proclamations in 2008, including proclamations by the governors of Colorado, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Missouri, Nebraska, New Jersey, Utah, Virginia, Wisconsin and Wyoming, which proclamations included the NDP Task Force annual theme and supporting scripture. (Ex. 4 at 1-14.)

112. All state governors likewise issued NDP Prayer Proclamations in 2007, including proclamations by the governors of Colorado, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Nebraska, Utah, Virginia, Wisconsin and Wyoming, which included the NDP Task Force annual theme and supporting scripture. (Ex. 5 at 1-16.)

113. All state governors issued NDP Prayer Proclamations in 2006, including proclamations by the governors of Arkansas, Colorado, Florida, Idaho, Illinois, Indiana, Louisiana, Nebraska, Utah, Wisconsin and Wyoming which included the NDP Task Force annual theme and supporting scripture. (Ex. 6 at 11.)

114. All state governors issued NDP Prayer Proclamations in 2005, including proclamations by the governors of Arkansas, Colorado, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Missouri, Nebraska, North Carolina, Texas, Utah, Virginia and Wisconsin, which included the NDP Task Force annual theme and supporting scripture. (Ex. 7 at 1-17.)

115. All state governors issued NDP Prayer Proclamations in 2004, including proclamations by the governors of Arkansas, Colorado, Florida, Idaho, Illinois, Louisiana, Massachusetts, Missouri, Nebraska, New York, North Carolina, Texas, Virginia, Wisconsin and

Exhibit E

January 24, 2006

COPY

<Name>
<Address 1>
<City>, <State> <Zip Code>

Dear Governor < >;

Warm greetings from National Day of Prayer Task Force headquarters in Colorado Springs! We are quickly approaching yet another National Day of Prayer, and I consider it an honor to extend an invitation for you to join us in observing this meaningful and historical occasion. In 1952 President Truman, with the support of Congress, officially established an annual, national day of prayer. President Reagan amended the law in 1988, permanently establishing the first Thursday of every May as the National Day of Prayer. This tradition has since become a cherished event as millions of Americans gather to beseech God's guidance and blessing upon our country.

We're convinced that our theme for this year, **America, Honor God**, will serve as a valuable reminder that the Lord is at work in this great land and is deserving of our veneration and absolute trust. Whether facing difficulties at home or overseas, we hope people will look to the promise found in I Samuel 2:30: "Those who honor me I will honor." With your support, we can further our efforts to call the nation to prayer, acknowledging our Creator and asking for guidance and protection on behalf of our families, our government, and our armed forces.

Will you join with us in this endeavor by issuing a proclamation declaring Thursday, May 4, 2006, as a Day of Prayer for <State>? It has become customary for the President of the United States, as well as governors of the 50 states, Puerto Rico, and the U.S. Virgin Islands, to officially endorse the National Day of Prayer, and we hope you will do the same this year.

We respectfully request that you send your proclamation to us here at NDP Task Force headquarters by **April 3.** (The copy we receive will be placed in a special commemorative book presented to President Bush that includes all proclamations from our states and territories.) We also ask that you prepare a *second* copy for our <State> State Coordinator, who will be contacting you soon with more details. If you have any questions, don't hesitate to get in touch with our Public Relations Manager, Mrs. Bobbie Hill, at 719/268-4802. She can also be reached via e-mail at bobbie.hill@fotf.org.

We look forward to hearing from you. Your proclamation will be a meaningful contribution to this year's NDP observance, and to the people of <State>. May God bless you and your staff in the coming months.

Sincerely,

Mrs. James C. Dobson (Shirley)
Chairman, NDP Task Force

(1)

EXHIBIT
24

January 22, 2009

COPY

<Name>
<Street Address>
<City>, <State> <Zip Code>

Dear <Name>:

Warm greetings from National Day of Prayer Task Force headquarters! I hope you and your loved ones had a wonderful Christmas season and are looking ahead to all 2009 has in store! Now that the new year has arrived, we are closing in on the last several months of preparations for the National Day of Prayer on May 7th. The overwhelming response last year was deeply encouraging, and we anticipate even greater involvement as more individuals come to recognize the deep needs of a hurting nation.

As you well know, throughout its history, there have been many times when America has faced grave dangers and troubles. Although spoken over two centuries ago, the words of Thomas Jefferson in 1781 which are now engraved on the Jefferson Memorial in Washington, D.C., reflect the importance of our nation relying on the Almighty for help and guidance as we traverse stormy waters. Bemoaning the state of the infant republic, he said, "God who gave us life gave us liberty. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the Gift of God." Today, our trials may be different from those of our Forefathers, but like them, we must remain committed to seeking our Heavenly Father's wisdom and mercy. And when we do come before His throne, we can be confident that He will hear the petitions of His children. It is in that spirit that we chose, **Prayer...America's Hope!** as our theme for 2009. It is my great hope that millions will turn to God and pray in accord with Psalm 33:22, "May your unfailing love rest upon us, O Lord, even as we put our hope in you."

As in the past, it is critical that we garner the support of our nation's leaders for our efforts. In your role as a State Coordinator, we ask that you help in obtaining a written proclamation from your governor declaring May 7 as a National Day of Prayer. In order to do so, we encourage you to schedule a personal visit to your governor's office. If this is not possible, we suggest that you send a letter similar to the enclosed example. We ask that all proclamations are received at our office by **April 1** so that we may have them bound for presentation to President Obama.

We also urge you to invite your governor to actively participate in an NDP observance, most appropriately on the steps of the Capitol building. In order to maintain your credibility – and that of the NDP Task Force – it is imperative that such an event involve a well-organized, substantial assembly. As you consider how best to approach such a proposal, consider enlisting the aid of a personal friend of the governor, a staff member, or his or her pastor. For additional ideas, feel free to get in touch with your National Area Leader.

EXHIBIT
11

Again, thank you for your ongoing commitment to furthering the cause of prayer. Know that you are making a difference in hearts and lives for the future good of our country. As Ronald Reagan said, "The time has come to turn to God and reassert our trust in Him for the healing of America...our country is in need of and ready for a spiritual renewal." May God's joy be yours as you serve Him at this crucial hour in history!

Every blessing,

Mrs. James C. Dobson (Shirley)
Chairman, NDP Task Force

Enclosure