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STATE OF COLORADO
DEPARTMENT OF LAW

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**Natural Resources and
Environment Section**

November 16, 2017

Via certified mail, return-receipt requested

Jason Flores-Williams
Law Office of Jason Flores-Williams
1851 Bassett, Suite 509
Denver, CO 80202

Via electronic mail
jfw@jfwlaw.net

RE: Case No. 17-cv-02316

Dear Mr. Flores-Williams:

The purpose of this letter is to request that you consider voluntarily dismissing with prejudice the Amended Complaint. You filed the Amended Complaint on November 3, 2017. This letter constitutes notice to you and affords a reasonable opportunity to respond as contemplated in Fed. R. Civ. P. 11(c)(1).

The Amended Complaint fails to disclose law contrary to your position that Eleventh Amendment immunity does not apply. That failure violates Fed. R. Civ. P. 11(b) which requires a reasonable inquiry into the law and facts prior to signing a pleading, written motion or other document. For over a century, the law has been well-settled that simply naming the Governor in lieu of the State does not avoid the Eleventh Amendment's bar against private citizen suits in federal court. *See e.g., Young*, 209 U.S. 123, 157 (1908). The Amended Complaint fails to acknowledge even one of the numerous cases that are contrary to your position. Furthermore, a reasonable inquiry would have revealed that *Ainscough v. Owens*, 90 P.3d 851 (Colo. 2004) is inapposite. Regardless of whether that case might allow claims against the Governor in state court, you have chosen to file the Amended Complaint in federal court.

In addition, the Amended Complaint fails to address the numerous other deficiencies identified in the State's Motion to Dismiss, which was filed October 17, 2017. A copy of the Motion to Dismiss is attached hereto. The arguments raised in the State's Motion to Dismiss are incorporated herein by this reference as if fully set forth anew and are offered as additional support in order to assist you in making your decision to voluntarily withdraw the Amended Complaint.

If you choose not to voluntarily withdraw your Amended Complaint with prejudice by the close of business November 30, 2017, you are hereby on notice that the Defendant will pursue all sanctions and remedies available under Fed. R. Civ. P. 11.

Sincerely,

FOR THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read 'Scott Steinbrecher', written over a horizontal line.

SCOTT STEINBRECHER
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