

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:18-cv-1672-WYD-MEH

BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY;
BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY; and
CITY OF BOULDER,

Plaintiffs,

v.

SUNCOR ENERGY (U.S.A.) INC.;
SUNCOR ENERGY SALES INC.;
SUNCOR ENERGY INC.; and
EXXON MOBIL CORPORATION,

Defendants.

PLAINTIFFS' NOTICE OF MOTION AND MOTION TO REMAND

Pursuant to 28 U.S.C. § 1447(c), Plaintiffs Board of County Commissioners of Boulder County, the Board of County Commissioners of San Miguel County and the City of Boulder hereby move the Court for an Order remanding this case to state court. The basis for Plaintiffs' Motion is that this case should be remanded because none of the bases laid out in Defendants' Notice of Removal create subject matter jurisdiction in this Court.

This motion is not governed by the 30-day time period provided for under 28 U.S.C. § 1447(c) because this Court lacks subject-matter jurisdiction. *Huffman v. Saul Holdings Ltd. P'ship.*, 194 F.3d 1072, 1076-77 (10th Cir. 1999) ("A defect in subject matter jurisdiction can never be waived and may be raised at any time"). However, out of an abundance of caution, Plaintiffs are filing this Notice of Motion and Motion within that time-period. These issues will

be fully briefed in Plaintiffs' memorandum of law according to the schedule set out in the Court's July 24, 2018 Minute Order (ECF No. 24).

Plaintiffs have conferred with defense counsel on the filing of this Notice of Motion and Motion and defense counsel did not object to the Motion as long as it included a reference to the Court's July 24, 2018 Minute Order (ECF No. 24).

Dated this 30th day of July, 2018

Respectfully submitted,

/s/ Kevin S. Hannon

Kevin S. Hannon

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CERTIFICATE OF SERVICE

I hereby certify and affirm that on the 30th day of July 2018, I electronically filed a true and correct copy of the foregoing filing with the Clerk of the United States District Court for the District of Colorado using its CM/ECF system and served the same via the CM/ECF system on all counsel of record.

s/ Kevin S. Hannon