



PUEBLO COUNTY

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GILBERT ORTIZ
COUNTY CLERK
AND RECORDER
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September 27, 2011

VIA E-MAIL AND FIRST CLASS MAIL

Scott Gessler
Colorado Secretary of State
1700 Broadway, Suite 200
Denver, CO 80290

Re: Military Service Inactive Failure to Vote ("IFTV") Voters

Dear Secretary Gessler:

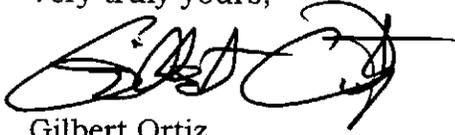
I am currently faced with the decision of whether or not to transmit a ballot and balloting materials to military service voters who are registered to vote but whose status is listed as "inactive." Under C.R.S. § 1-1-110(1), before making that decision, I am obliged to consult with you regarding your interpretation of the Election Code. Similarly, I am legally required to follow orders promulgated by you.

On September 14, 2011, it was my intent to mail ballots for the upcoming November 1, 2011 state wide election to all military service voters who are registered to vote in Pueblo County. However, on that date, my office was informed by a staff member of your office, that Pueblo County was prohibited from sending ballots to IFTV voters who are in the military service of our country.

After consulting with legal counsel, I respectfully submit that your office's legal interpretation of governing law is incorrect. I note that the Clerk of the City and County of Denver has already mailed ballots to "inactive" military service voters. The legal guidance required to resolve this issue can be found in the Uniform Military and Overseas Voters Act, C.R.S. § 1-8.3-101, *et seq.* ("State Act"). My reading of the State Act is that the November 1, 2011 election is a "covered election." C.R.S. § 1-8.3-103(1)(b) and (c). Consequently, under C.R.S. § 1-8.3-110(1), I am obligated to transmit a ballot and balloting materials to all "covered voters" as defined in C.R.S. § 1-8.3-102(2). "Covered" military service voters are voters who are eligible to vote. Ballots are not restricted to eligible active electors. **Under the State Act, I am legally required to mail ballots to uniformed service voters who are eligible to vote, whether or not they are "inactive."**

In the absence of an express Order, signed by you, directing me not to mail ballots to IFTV military service voters, I intend to do so on September 30, 2011, as required by C.R.S. § 1-8.3-110(1).

Very truly yours,

A handwritten signature in black ink, appearing to read 'Gilbert Ortiz', with a large, sweeping flourish extending to the right.

Gilbert Ortiz
Pueblo County Clerk and Recorder

