

STATE OF NEW MEXICO  
COUNTY OF LEA  
FIFTH JUDICIAL DISTRICT COURT

LEA COUNTY COURT  
FILED IN MY OFFICE

2022 JAN 31 AM 11:53

MELBA GUERRA  
DISTRICT COURT CLERK

REPUBLICAN PARTY OF NEW MEXICO  
DAVID GALLEGOS, TIMOTHY JENNINGS,  
DINAH VARGAS, MANUAL GONZALES JR,  
BOBBY AND DEE ANN KIMBRO,  
And PEARL GONZALES

Plaintiffs.

LARRY MARKER

Intervening Plaintiff.

Vs.

Case No. D-506-CV-202200041

MAGGIE TOULOUSE OLIVER in her official  
Capacity as New Mexico Secretary of State.  
MICHELLE LUJAN GRISHAM in her official  
Capacity as Governor of New Mexico, HOWIE  
MORALES in his official capacity as New Mexico  
Lieutenant Governor and President of New Mexico  
Senate, MIMI STEWART in her official capacity  
As President Pro Tempore of the New Mexico  
Senate and BRIAN EGOLF in his official capacity  
As Speaker of the New Mexico House of  
Representatives.

Defendants.

**INTERVENING PLAINTIFFS COMPLAINT  
AND  
STATEMENT OF CONCURRENCE IN SUPPORT  
OF PLAINTIFFS ALLEGATIONS**

Larry Marker (Intervenor) files this Complaint and Statement of Concurrence in Support of Plaintiffs Allegations. Intervenor is a resident of New Mexico residing six miles North of Roswell in Chaves County. Intervenor is an Independent Oil Producer with other Business Interest related to Agriculture and activities common to traditional rural New Mexico. Intervenor has Conservative Christian beliefs and traditional values common among Citizens residing in all of Southeastern NM. Intervenor does have Standing in this Matter as a Citizen and Registered Voter in the State of New Mexico.

1-A special session of the New Mexico Legislature was held this past December of 2021. That special legislative session resulted in the redrafting of New Mexico voting Districts creating new boundaries for the New Mexico House and Senate, the Public Education Commission and the Congressional districts. The three elected Congressional Representatives from these Congressional Districts represent the Citizens of New Mexico in the United States Congress.

2-The subject of the case at bar is newly drafted Congressional Map created and made law by Senate Bill One (SB-1). The newly drafted and approved 2021 Congressional Map SB-1 is attached as Exhibit A. The current or old Congressional Map drafted and approved in 2012 is attached as Exhibit B.

**Intervening Plaintiffs Specific Allegation.**

3- The subject Senate Bill One Map (SB-1) is as drafted a Violation of Article II Section 8 of the New Mexico Constitution as relating to limiting Intervenor freedom of choice and association. *Please see Kane v. City of Albuquerque, 2015-NMSC-027.* The referenced authority is applicable in the area of limiting the field of Candidates that would share any common interest of Intervenor, obviously limiting his ability to vote for a Candidate of his choice.

4-New Mexico also in *Kane*, further determines that Laws limiting the field of candidates are unconstitutional when they burden an identifiable segment of voters, such as voters who share a particularized viewpoint, economic status, or associational preference.

5-The identifiable segment of voters burdened are the voters that have been able to support and vote for individuals that have for decades shared common economic and traditional interest in most if not all aspects of small town or rural life.

Intervenor is on all fours a member of that segment of voters that are now burdened with the reality of not having a legitimate opportunity of supporting or voting for a Candidate that we associate with or is part of our Community of interest.

6-The business, economic and cultural interest of Intervenor are not shared by any measurable amount with the vast majority of voters or traditional candidates in the newly drafted CD-1(Exhibit A), again limiting the field of Candidates also limits the Voters right to vote for a Candidate of his choice, this is as established by New Mexico Law a violation of I Plaintiffs Article II Section 8 rights.

7-Senate Bill one clearly removes Intervenor's opportunity and right of voting for or providing support for a Congressional Candidate that is part of his community of interest.

8- To further buttress Intervenor's allegation of violation of his Article II Section 8 rights. Established New Mexico law is that communities of interest shall be preserved in the redrafting of District Maps:

*Please see MAESTAS V. HALL, 2012-NMSC-006. ¶ 34 Districts shall be drawn consistent with traditional districting principles. Districts shall be composed of contiguous precincts, and shall be reasonably compact. To the extent feasible, districts shall be drawn in an attempt to preserve communities of interest and shall take into consideration political and geographic boundaries. In addition, and to the extent feasible, the legislature may seek to preserve the core of existing districts, and may consider the residence of incumbents.*

9-The Redrafting of boundaries not adhering to established law and principles did in fact facilitate the removal of Intervenor from the Current CD-3 (Exhibit B) to Congressional District CD-1 (Exhibit A) clearly prohibiting him from voting for a Candidate that would share his economic, cultural and traditional values.

10-Even a cursory review of the difference of the boundaries between the Congressional Map approved by SB-1 in Exhibit A and the current or old map shown by Exhibit B brings into question the legitimacy of the newly drafted Map.

11-Obvious to any individual with basic knowledge of New Mexico its history, traditions, culture and economic structure is the fact that the newly drafted SB-1 Map shown in Exhibit A denies Intervenor his right to participate in any meaningful way in future Congressional elections a clear violation of the Constitutional mandate of “Freedom of Elections” in Article II Section 8 of the New Mexico Constitution.

**Statement and Argument in Support of Plaintiffs Allegations and Complaint.**

12-Intervening Plaintiff does further state and support the allegations and specific claims Plaintiffs have put forth in their complaint filed on January 21<sup>st</sup> 2022.

13-The Congressional Districts drafted and approved by SB-1, Exhibit A also specifically violate Intervenor's Article II Section 18 rights as established by *MAESTAS V. HALL, 2012-NMSC-006*.

14- Established by *MAESTAS V. HALL*, are clear Legal Standards and Principles that were mostly if not completely ignored by New Mexico Legislature when drafting and approving the Subject Map.

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15-Exasperating the issue is the fact that The Governor inexplicably signed into law a Bill that even the most casual observer would conclude runs afoul the Constitution, established redistricting laws, principles and clearly violates well established principals relating to Political Gerrymandering.

**Conclusion and Relief Requested.**

16-Intervening Plaintiff does request this Court to fully consider the Legal Authorities, Facts and Pleadings as presented and issue an Order consistent with established redistricting laws and principles.

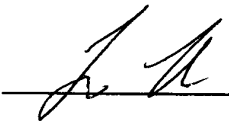
17-Intervening Plaintiff does request this Court issue an Order that declares Senate Bill One and the subject Congressional Map as drafted illegal and void. For violations of Article II Sections 8 and 18 of the New Mexico Constitution.

18-Intervening Plaintiff does request this Court to issue an Order that declares Senate Bill One and the subject Congressional Map as drafted illegal and void for violation of the established laws and principles relating to Partisan Gerrymandering.

19-Intervening Plaintiff does request this Court to issue an Order that is within its Authority and Jurisdiction as to the adoption of Congressional Concept E (Justice Chaves Map) attached as Exhibit C.

20-Intervening Plaintiff does request that in the Alternative this Court issue an Order that Senate Bill 1 and the subject Congressional Map as drafted is illegal and void and further order this matter be remanded back to the Legislature to provide the Citizens of New Mexico a Legal, Legitimate Congressional Map that fully adheres to established Laws and Principles of Redistricting and the Constitution of the State of New Mexico.

Respectfully Submitted:  
Larry Marker  
P.O. Box 3188  
Roswell, NM 88201  
575-910-0300  
larrym\_gdc@hotmail.com

 Date 1-31-22

Certificate of service.

I do certify a copy of this Motion to Intervene  
Was mailed first class to these Parties.

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*1-31-22*

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Santa Fe NM 87501  
Office of the NM Lieutenant Governor  
Howie Morales  
490 Old Santa Fe Trail Suite 400  
Santa Fe NM 87501

Office of NM Senate President Pro Tem.  
Mimi Stewart  
313 Moon Street NE  
Albuquerque NM 87123

Office of NM Speaker of the House  
Brian Egolf  
State Capitol Suite 104  
Santa Fe NM 87501

Defendants.



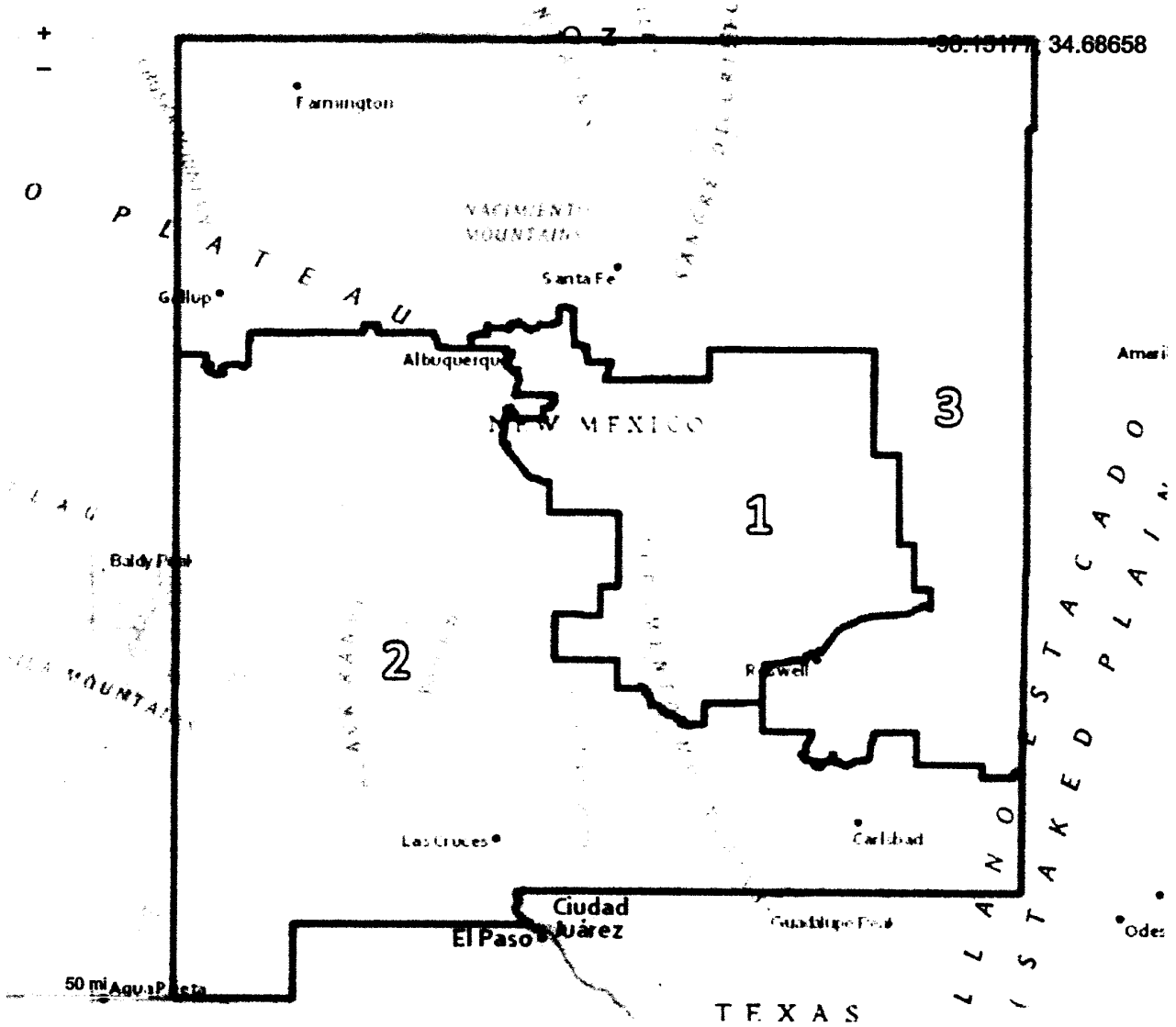
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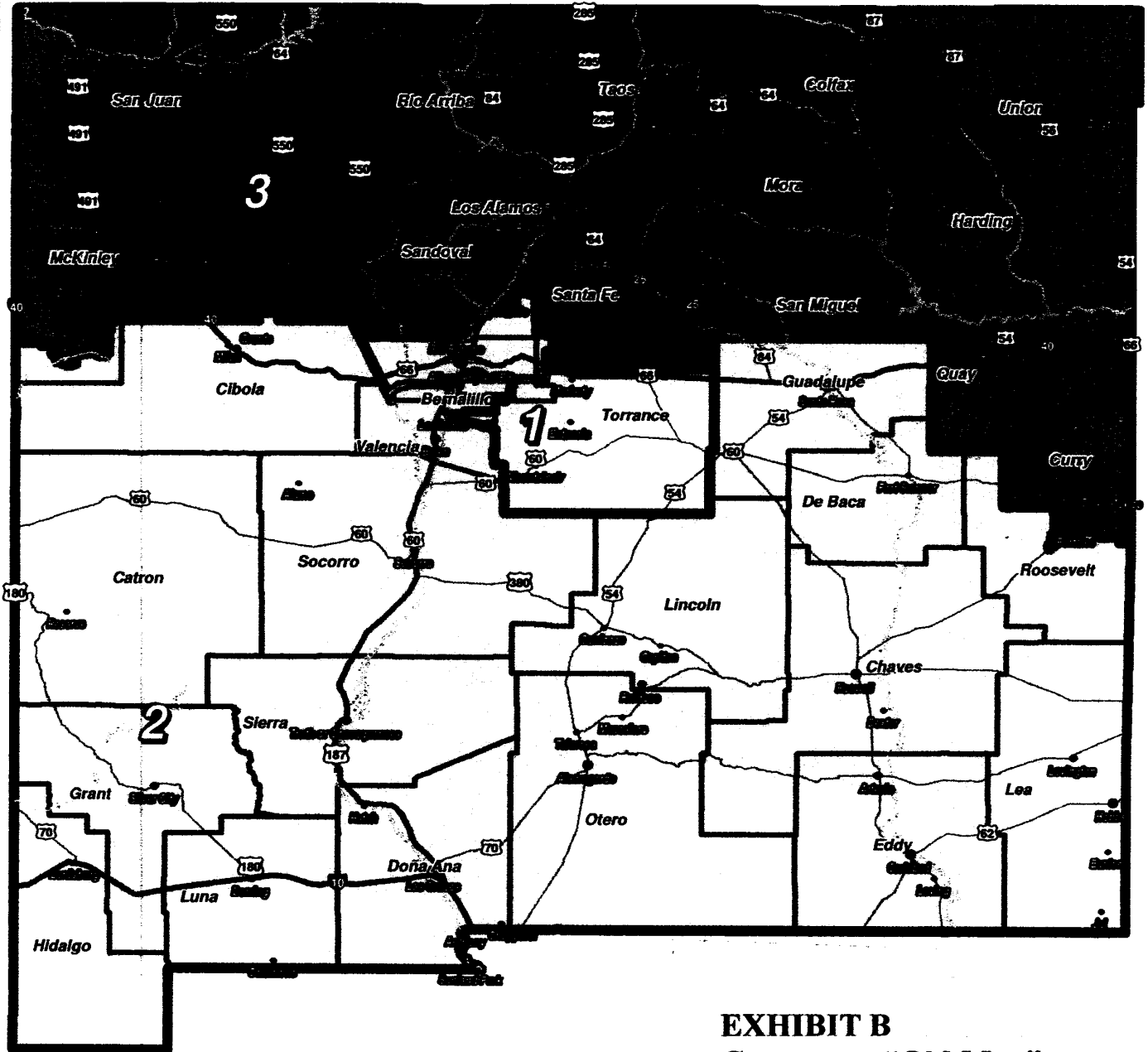
**SB 1 - CONGRESS - FINAL VERSION - 221711.1**



Hide stats

District	Population	Deviation	% Deviation	18+ HISP	18+ WHT	18+ NAT AM	18+ BLK	18+ ASN	Dem Perf	Rep Perf
1	705832	-9	0.0%	37.6%	49.4%	3.9%	2.4%	2.8%	53.5%	46.5%
2	705846	5	0.0%	56.1%	33.3%	4.9%	1.9%	1.2%	53.0%	47.0%
3	705844	3	0.0%	39.7%	38.4%	16.5%	1.3%	1.2%	56.0%	44.0%

**EXHIBIT A**  
**Senate Bill One Map**



**EXHIBIT B**  
Current or "Old Map"

**RESEARCH & POLLING**

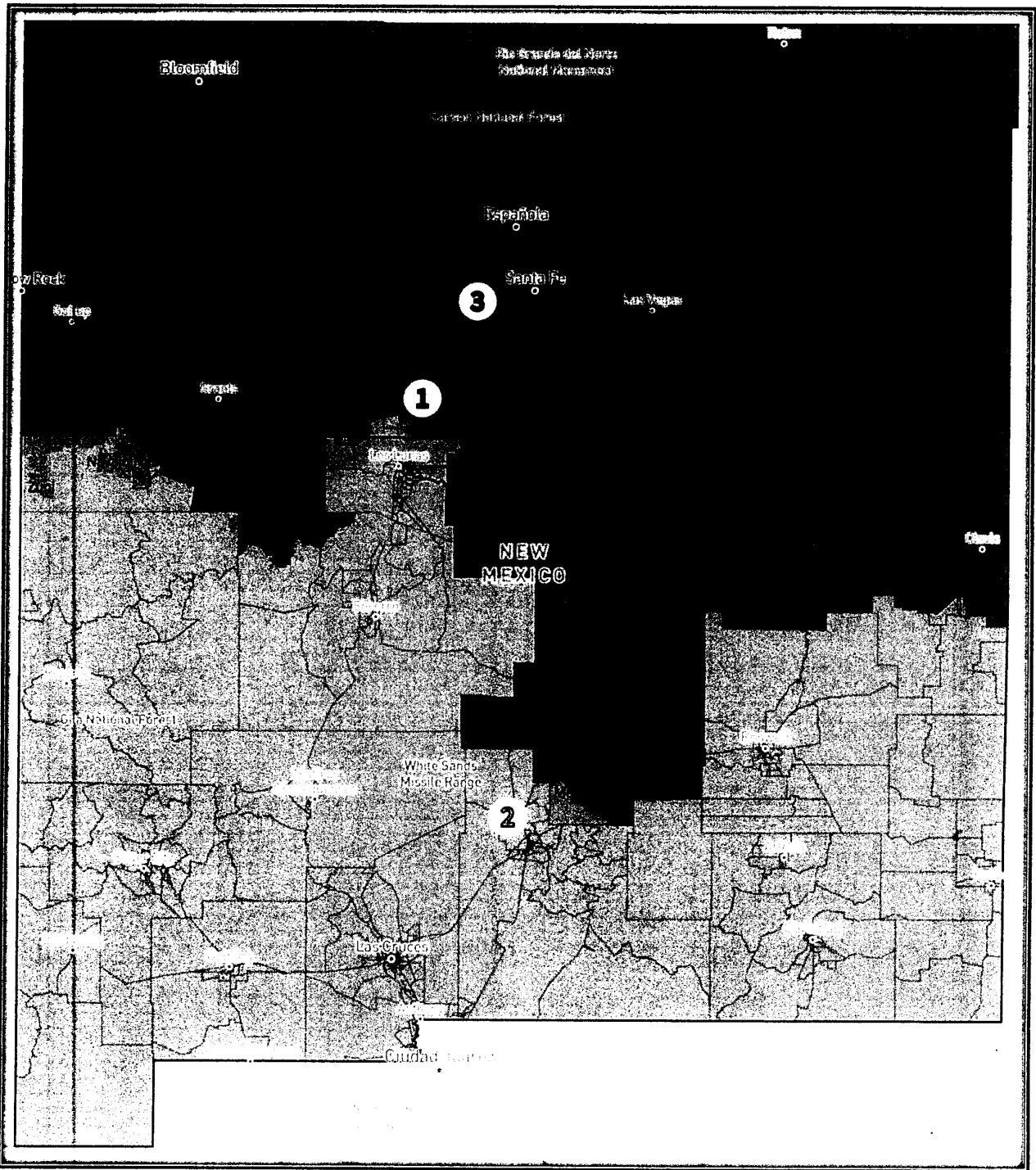
For the New Mexico  
Legislative Council Service

**LEGEND** Created: December 17, 2011

Precincts	Rivers	Interstate
Counties	Lakes / Ponds	US Highway
		State Highway

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# Congressional Concept E-Revised (Justice Chávez Map)



To view the map in full detail, see previous district boundaries, county boundaries, demographic data, and other data please click or search the following link: <https://districtr.org/plan/63307?portal>

## Congressional Concept E-Revised

### Adoption

The following Committee members voted to adopt this map: Ryan Cangioli, Hon. Lisa Curtis, Hon. Michael Sanchez, Robert Rhatigan, Christopher Saucedo, and Justice Edward Chávez. The following member voted against the adoption of this map: Joaquin Sanchez.

### Population and Deviations

District	Populations	Deviation	
1	705,822	-19	0.0%
2	705,813	-28	0.0%
3	705,887	46	0.0%
<b>NM Total</b>	<b>2,117,522</b>	<b>Ideal</b>	<b>705,841</b>

### Demographics

District	Adult Hispanic	Adult NA Any	Adult Non-Hispanic					Total
			White	Native American	Black	Asian	Other	
1	43.6%	7.3%	42.8%	4.0%	2.8%	3.1%	3.6%	56.4%
2	54.4%	4.7%	38.2%	1.8%	1.8%	1.0%	2.7%	45.6%
3	35.3%	22.2%	40.4%	19.1%	1.0%	1.2%	3.0%	64.7%
<b>NM Total</b>	<b>44.3%</b>	<b>11.5%</b>	<b>40.5%</b>	<b>8.4%</b>	<b>1.9%</b>	<b>1.8%</b>	<b>3.1%</b>	<b>55.7%</b>

### Overall Plan Evaluation

Congress Concept E-Revised Overall	Mean
Total Deviation	0.0%
Largest Positive Deviation	0.0%
Largest Negative Deviation	0.0%
Mean Deviation +/-	0.0%
Median Deviation	0.0%
Assigned Population	2,117,522
Unassigned Population	0

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Assigned Population	2,117,522
Unassigned Population	0

## Compactness

Measure of Compactness	Mean
Reock	0.46
Polsby-Popper	0.29

\*By comparison the 2011 Court approved maps had the following compactness scores: Reock 0.42; Polsby-Popper 0.35

## Split Counties, Split Cities, and Contiguity

Congressional Concept E-Revised splits 0 cities with a greater-than-ideal population, 5 cities with a less-than-ideal population, and 6 Counties. Congressional Concept E-Revised has no contiguity issues.

## VRA Compliance

A VRA analysis was not required for Congressional maps. See pages 24-25, at footnotes 3 and 4 *supra*.

## Description of Map Objectives and Development based on public input

- This plan is based on Concept E except it uses the 2020 precincts. Population deviation is 0.01%
- This map also splits the Mescalero Apache Nation consistent with Pueblo and Apache map feedback and equalizes population by taking some precincts from the western side of Cibola County.
- Urban Albuquerque/Rio Rancho (CD 1)
- CD 2 retains its core in southern NM and includes the unincorporated areas of the South Valley
- CD 3 retains its core in the north

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