

**FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO**

BRIAN F. EGOLF JR., et al.,

Plaintiffs,

v.

**No. D-101-CV-2011-02942
(Consolidated)**

DIANNA J. DURAN, et al.,

Defendants,

**THE NAVAJO INTERVENORS' CLOSING BRIEF FOR THE NEW MEXICO
STATE HOUSE OF REPRESENTATIVES REDISTRICTING TRIAL**

Plaintiffs in Intervention, the Navajo Nation, a federally recognized Indian tribe, Lorenzo Bates, Duane H. Yazzie, Rodger Martinez, Kimmeth Yazzie, and Angela Barney Nez (collectively "Navajo Intervenors") hereby submit the Navajo Intervenors' Closing Brief for the New Mexico State House of Representatives Redistricting Trial.

The evidence submitted during the New Mexico State House of Representatives trial (the "Trial") established that given growth, decline, and shifts in population, the current House districts are unconstitutionally apportioned. Evidence submitted at the Trial also established that the current House districting plan dilutes the voting strength of Native Americans and deprives Native Americans of equal access to New Mexico's electoral process in violation of Section 2 of the Voting Rights Act. The Navajo Intervenors' nine district partial redistricting plan ("Navajo Plan") provides the best remedy for addressing these issues because it increases Native American voting strength while respecting tribal self-determination and preserving Native American communities of interest. The Navajo Plan, therefore, should be incorporated without alteration into any statewide plan adopted by this Court.

THE NAVAJO PLAN

The Navajo Plan addresses house districts 1, 2, 3, 4, 5, 6, 9, 65, and 69. Navajo Intervenors' Exhibit ("Nav. Ex.") 3. The Multi-Tribal Plaintiffs have submitted a three-district partial plan concerning districts 6, 65, and 69, which mirrors the Navajo Intervenors' plan for districts 6, 65, and 69. During the course of this litigation, the Navajo Intervenors' partial redistricting plan was incorporated without alteration into the plans advocated by the Maestas Plaintiffs and the Egolf Plaintiffs. The Executive Defendants submitted Alternative Maps 2 and 3. Both of these alternative maps incorporate the Navajo Intervenors' Plan without alteration.¹ Three of the Navajo Nation's proposed house districts (6, 65, and 69) match districts passed by the New Mexico Legislature and advocated by the Legislative Defendants. There are minor differences between house districts 1, 2, 3, 4, 5, and 9 in the Navajo Plan, and house districts 1, 2, 3, 4, 5, and 9 in Legislative Defendants' Plan. See Brian Sanderoff Rebuttal Testimony, Cross Examination by Patricia Williams (Dec. 22, 2011). The James Plaintiffs and the Sena Plaintiffs have made no effort to incorporate the Navajo Plan into their proposed plans.

¹ Originally, the Navajo Intervenors included Bernalillo County Precinct 567 in House District 65. The Navajo Intervenors are no longer advocating that Bernalillo County Precinct 567 be included in House District 65. At present, the Navajo Intervenors' proposed House district 65, therefore, is identical to that proposed by the Maestas Plaintiffs, the Egolf Plaintiffs, the Multi-Tribal Plaintiffs, and the Legislative Defendants. The Executive Defendants' Alternatives 2 and 3 include Bernalillo County Precinct 567 in House District 65, because the Executive Defendants relied on the Navajo Intervenors' original maps in drafting Alternatives 2 and 3. None of the parties listed in this footnote are currently advocating that Bernalillo County Precinct 567 be included in House District 65.

ARGUMENT

I. THE EXISTING HOUSE DISTRICTS ARE UNCONSTITUTIONALLY APPORTIONED.

The most recent census was conducted in 2010, and established the total population of New Mexico has increased since the 2000 census. See Brian Sanderoff Direct Testimony (Dec. 12, 2011). The distribution of population growth, however, has not been uniform. Id. Between 2000 and 2010, some areas of the state lost population, while others gained population. Id. Given these changes, the existing New Mexico State House of Representative Districts are unconstitutional under both the United States Constitution Amendment XIV and the New Mexico Constitution, Art. II § 18. Indeed, the parties have filed a Joint Stipulation which expressly recognizes that the “current electoral districts for . . . the New Mexico House of Representatives . . . are unconstitutionally apportioned.” Joint Stipulation (Dec. 4, 2011). This Court, therefore, must adjust the current districts to take account of the regional population growth, decline, and shifts that have occurred over the last ten years.

II. THE EVIDENCE PRESENTED AT TRIAL ESTABLISHES THAT THE EXISTING HOUSE DISTRICTS DILUTE NATIVE AMERICAN VOTING STRENGTH IN VIOLATION OF THE VOTING RIGHTS ACT.

Section 2 of the Voting Rights Act, 42 U.S.C. § 1973, prohibits any state from imposing any voting qualification, standard, practice or procedure that results in the abridgement of any citizen’s right to vote based on the voter’s race, color or status as a member of a language minority group. As recognized by this Court in Jepsen v. Vigil-Giron, No. D-0101-CV-2001-02177, Court’s Findings of Fact and Conclusions of Law Concerning State House of Representatives Redistricting (N.M. First Judicial District Court, Jan. 24, 2002), Native Americans are a protected minority group within the meaning of the Voting Rights Act. See also 42 U.S.C. § 1973b(f)(2); 42 U.S.C. § 1973aa-1a;

Brian Sanderoff Direct Testimony (Dec. 12, 2011); Brian Sanderoff Cross Examination by Patricia Williams (Dec. 13, 2011); Direct Testimony of Theodore Arrington (Dec. 15, 2011) and Cross Examination of Theodore Arrington by Patricia Williams (Dec. 15, 2011); Direct Testimony of Rebecca Tsosie (Dec. 20, 2011). A protected minority group establishes a Voting Rights Act violation when it demonstrates “that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 42 U.S.C. § 1973(b).

Thornburg v. Gingles, 478 U.S. 30 (1986), sets forth the contours of a Section 2 Voting Rights Act claim. Under Gingles, a protected minority must show that (1) it is sufficiently large, geographically compact and capable of electing a representative of choice in a hypothetical single member district, (2) it is politically cohesive; (3) non-minorities vote as a bloc such that they are usually able to defeat candidates of the minority group’s choice; and (4) under the totality of the circumstances, the challenged voting procedure dilutes minority voting strength. Id. at 49-51.

A. There are Sufficient Numbers of Native Americans Living Within a Geographically Compact Area of Northwest New Mexico to Support Six Majority Native American Districts.

In the last round of redistricting, the Court created six Native American majority districts in the northwest quadrant of the state with total adult Native American voting age population in each district of at least 60%. Jepsen v. Vigil-Giron, No. D-0101-CV-2001-02177, Court’s Findings of Fact and Conclusions of Law Concerning State House of Representatives Redistricting (N.M. First Judicial District Court, Jan. 24, 2002) at p. 5, ¶ 26. The Navajo Plan maintains six Native American majority districts in the northwest quadrant of the state—districts 4, 5, 6, 9, 65, and 69. Nav. Ex. 3; Direct Testimony of Leonard Gorman (Dec. 20, 2011); Trans. 213, 1.6-214, 1.1. Each of these six

proposed districts are reasonably compact and contiguous. Nav. Ex. 3; see also Cross Examination of Brian Sanderoff by Patricia Williams (Dec. 13, 2011); Direct Testimony of Theodore Arrington (Dec. 15, 2011) and Cross Examination of Theodore Arrington by Patricia Williams (Dec. 19, 2011). As proposed by the Navajo Intervenors, each of these six Native American minority-majority districts have total adult Native American voting age population of 65.1% or more, Nav. Ex. 3, and the total Native American non-Hispanic voting age populations in each of the Navajo Intervenors' proposed districts is 62.1% or higher. Id. The evidence establishes, therefore, that there are sufficient numbers of Native Americans living within the northwest quadrant of the State of New Mexico to create six majority-minority House districts from which Native Americans have the opportunity to elect a candidate of their choice. The Navajo Intervenors, therefore, satisfied prong one of Gingles.

B. Native American Voters in Northwest New Mexico Are Politically Cohesive, Voting in Northwest New Mexico is Racially Polarized, and Non-Natives Vote as a Bloc Against Native American Candidates of Choice.

Analysis of voting patterns conducted by Dr. Richard Engstrom and Dr. Rodolpho Espino established that Native Americans in the northwest quadrant of the State of New Mexico are politically cohesive because they tend to vote for the same candidates. Direct Examination of Richard Engstrom (Dec. 19, 2011) and Cross Examination of Dr. Richard Engstrom by Jenny Dumas (Dec. 19, 2011); Direct and Redirect Examinations of Rodolpho Espino (Dec. 20, 2011); Trans. p. 125, lines 15-17; p. 125, line 25 to p. 126, line 10; p. 126, line 21 to p. 127, line 9. Using homogeneous precinct analyses, ecological regression analyses, and multinomial-dirichlet ecological inference analyses, Drs. Engstrom and Espino have determined that voting in Native American majority-minority districts in New Mexico is racially polarized, and that in primary elections, non-

Native voters vote as a bloc to defeat Native American candidates of choice more often than not. Direct Examination of Richard Engstrom (Dec. 19, 2011) and Cross Examination of Dr. Richard Engstrom by Jenny Dumas (Dec. 19, 2011); Direct and Redirect Examinations of Rodolpho Espino (Dec. 20, 2011); Trans. p. 129, lines 5 to 130, line 10; p. 138 lines 10-15; p. 141 lines 13-18. No expert has been offered to refute the unequivocal conclusions reached by Drs. Engstrom and Espino. The second and third prongs of the Gingles analysis, therefore, are satisfied.

C. Under the Totality of the Circumstances, the Current Districting Scheme Continues to Dilute the Strength of the Native American Vote in New Mexico.

In assessing the totality of the circumstances pursuant to Gingles, the courts consider factors such history of discrimination in voting, whether voting is racially polarized, “the extent to which the minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process,” and the extent to which minority voters have been elected in the relevant jurisdictions. Gingles, 478 U.S. at 45.

Here, there is no question that Native Americans, and Navajos in particular, have historically been discriminated against in areas of voting. Native Americans were not authorized to vote in state elections in New Mexico until 1948. Sanchez v. King, No. 82-0246-JB, Court’s Findings of Fact and Conclusions of Law (U.S. Dist. Ct. N.M., Aug. 8, 1984) at 25. As late as 1962, candidates continued to challenge the validity of votes cast in state elections by Navajo Indians residing within the Navajo Nation’s territorial jurisdiction. See Montoya v. Bolack, 372 P.2d 387 (1962), 70 N.M. 196 (N.M. 1962).

There is no dispute that Native Americans in New Mexico, and Native Americans residing

on the Navajo Nation in particular, continue to suffer the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process. See generally, Direct Testimony of Kimmeth Yazzie (Dec. 20, 2011); Cross Examination of Brian Sanderoff by Patricia Williams (Dec. 13, 2011); Direct Testimony of Leonard Gorman (Dec. 20, 2011); Cross Examination of Theodore Arrigton by Patricia Williams (Dec. 15, 2011); Direct Testimony of Rebecca Tsosie (Dec. 20, 2011); Trans. p. 90, line 5 to p. 91, line 1. Indeed, unemployment on the Navajo Nation, when last officially measured by the United States Department of the Interior Bureau of Indian Affairs, was in excess of 52%. 2005 American Indian Population and Labor Force Report, United States Department of the Interior, Bureau of Indian Affairs, Office of Indian Services at 10. Nav. Ex. 8. Citizens of the Navajo Nation face additional barriers to voting, including difficulties in registering to vote, poverty, poor road conditions, lack of convenient polling locations or access thereto, and confusion regarding the differences between tribal and state governmental systems. See generally, Direct Testimony of Kimmeth Yazzie (Dec. 20, 2011).

Finally, very few Native Americans hold elective office in New Mexico's House of Representatives. According to the 2010 Census, 9.4% of New Mexico's citizens are American Indian or Alaska Native alone. Direct Testimony of Brian Sanderoff (Dec. 12, 2011). If Native Americans were represented in the New Mexico State House of Representatives at the level proportionate to their total population, Native Americans would occupy at least six seats in the House (total population of 193,562.83 (9.4% of 2,059,179) divided by 29,417 (the ideal district size) = 6.579 districts). Id. Native Americans currently hold only three seats in the New Mexico House of Representatives. See Cross Examination of Brian Sanderoff by Patricia Williams (Dec. 13, 2011);

Direct Testimony of Rod Adair (Dec. 21, 2011).

Given the foregoing, under the “totality of the circumstances test” of Section 2 of the Voting Rights Act and Gingles, the voting strength of Native Americans in the State has been diluted and Native Americans do not have an equal opportunity to participate in the political process and elect representatives of their choosing.

III. THE NAVAJO PLAN OFFERS THE BEST PLAN FOR REDISTRICTING NEW MEXICO’S NORTHWEST QUADRANT.

The Navajo Plan for six Native American majority districts in the northwest quadrant of New Mexico has been incorporated into or is consistent with the plans being advocated by the Maestas Plaintiffs, the Egolf Plaintiffs, and the Multi-Tribal Plaintiffs. The Navajo Plan has also been incorporated into the Executive Defendants’ Alternatives 2 and 3. The Navajo Plan should be incorporated into any statewide plan drafted by this Court because it adheres to traditional redistricting principles, provides for the best overall remedy to the current plan’s dilution of Native American voting rights, honors tribal self-determination, and provides the best set of electoral opportunities for Native Americans who have historically been deprived of such opportunities.

A. The Navajo Plan Increases Native American Voting Strength in the Six Native American Majority-Minority districts.

The Navajo Plan maintains the six existing Native American majority minority districts created in 2002. The Navajo Plan, however, improves upon these districts by increasing the total adult Native American voting age population in each district to between 65.1% and 76.4%, Nav. Ex. 3, and increasing the total Native-American non-Hispanic voting age populations in each of the Navajo Intervenors’ proposed districts to between 62.1% and 73.8%. Id. This increase is calculated to increase the chance that Native American constituents can elect a candidate of their choice in each

of the six districts. See generally, Direct Testimony of Leonard Gorman (Dec. 20, 2011).

B. The Navajo Plan Respects Native American Communities of Interest.

The testimony presented at Trial established that Native American tribes and their representatives are in the best position to define what communities of interest exist within and around their tribal lands. Direct Testimony of Rebecca Tsosie (Dec. 20, 2011); Trans. p. 84, lines 21-23, p. 92, line 12 to p. 93, line 5; Direct Testimony of Theodore Arrington (Dec. 15, 2011); Direct Testimony of James Williams and Cross Examination of James Williams by Jenny Dumas (Dec. 15, 2011); Direct Testimony of Leonard Gorman (Dec. 20, 2011); Direct Testimony of Richard Engstrom (Dec. 19, 2011).

1. The Navajo Intervenors Endorse the Maestas, Egolf, and Multi-Tribal Plans.

The Maestas Plaintiffs and the Egolf Plaintiffs have recognized this fact and have, therefore, incorporated the plans of the Navajo Intervenors and the Multi-Tribal Plaintiffs into their own plans with no alteration whatsoever. The Navajo Intervenors, therefore, support both the Maestas and Egolf plans. The Navajo Intervenors also support the Multi-Tribal Plaintiffs' partial plan, which draws the same districts 6, 65, and 69 as the Navajo Plan.

2. The Navajo Intervenors Do Not Endorse the Legislative Plan to the Extent that it Differs from the Navajo Plan.

While the New Mexico Legislature attempted to accommodate the interests of the Navajo Nation during the legislative session, the plan ultimately adopted by the legislature, and being advocated by the Legislative Defendants here, includes some compromises that were necessary to satisfy individual legislators. See generally, Direct Testimony of Brian Sanderoff (Dec. 12, 2011) and Cross-Examination of Brian Sanderoff by Patricia Williams (Dec. 13, 2011); Direct Testimony

of Leonard Gorman (Dec. 20, 2011); Trans. p. 148, line 8 to p. 150, line 11; Cross Examination of Kenny Martinez by Patricia Williams (Dec. 21, 2011). The preferences of those individual legislators need not be accommodated here and the Navajo Intervenors, therefore, are not supporting them.

3. The Navajo Intervenors Oppose the Executive Defendants' Original Plan and Alternative 1.

The Executive Defendants' original plan and the Executive Defendants' Alternative 1 are both unacceptable to the Navajo Intervenors because they fail to take into consideration and accommodate significant Native American communities of interest, geographical concerns, and tribal preferences. Direct Testimony of Leonard Gorman (Dec. 20, 2011); Direct Testimony of Richard Engstrom (Dec. 20, 2011); Direct Testimony of Governor Richard Luarkie (Dec. 15, 2011); Direct Testimony of Lt. Governor David Garcia (Dec. 15, 2011); Direct Testimony of Conroy Chino (Dec. 19, 2011).

4. The Navajo Intervenors Endorse the Executive Defendants' Alternatives 2 and 3.

The Executive Defendants' Alternative 2 and Alternative 3 incorporate the Navajo Intervenors' proposed districts and are therefore, unobjectionable to the Navajo Intervenors.

5. The Navajo Intervenors Oppose the Sena Plan.

The Sena Plan was developed as the Republican caucus plan during the special session and no effort was made on behalf of the Republican caucus to discern what Native Americans wanted with respect to redistricting. Direct Testimony of Leonard Gorman (Dec. 20, 2011); Trans. P. 189, lines 4-8. The Sena Plan packs Native American voters into House District 4, thereby reducing the strength of the Native American vote in House Districts 5 and 9. See Cross Examination of Brian

Sanderoff by Jenny Dumas during Sena Case in Chief (Dec. 13, 2011). In addition, the Sena plan makes no effort to accommodate Native American communities of interest, preferences, and concerns, and is therefore objectionable for the same reasons as the Executive Defendants' original plan, and Executive Alternative 1. Id.; Direct Testimony of Leonard Gorman (Dec. 20, 2011).

6. The Navajo Intervenors Oppose the James Plan.

The James Plan eliminates one of the six Native American majority-minority districts in New Mexico, despite tribal consensus that maintaining six districts is in the Native American community's best interest. Direct Testimony of Leonard Gorman (Dec. 20, 2011); Direct Testimony of Richard Engstrom (Dec. 19, 2011); Direct Testimony of Governor Richard Luarkie (Dec. 15, 2011); Direct Testimony of Lt. Governor David Garcia (Dec. 15, 2011); Direct Testimony of Conroy Chino (Dec. 19, 2011). The result is a plan that virtually every expert has agreed, is heavily skewed toward Republican interests. Eg., Direct Testimony of Theodore Arrington (Dec. 15, 2011); Direct Testimony of James Williams (Dec. 15, 2011); Direct Testimony of Brian Sanderoff (Dec. 12, 2011). The drafter of the James Plan did not consult with tribes when crafting this plan but instead simply asserts that he knows better than the tribes what is best for tribes. Direct Testimony of Rod Adair (Dec. 21, 2011); Direct Testimony of Leonard Gorman (Dec. 20, 2011). This is completely inconsistent with the important and established policy of supporting tribal self-determination. Direct Examination of Rebecca Tsosie (Dec. 20, 2011); Trans. p. 85, lines 14-22.

C. Adoption of the Navajo Plan Honors the Right of Self-Determination.

The Navajo Nation has a right of self-determination, which requires the Court to consider the Nation's expressed preferences regarding the drawing of house districts in the northwest quadrant of the state. Direct Testimony of Rebecca Tsosie (Dec. 20, 2011). Self-Determination is a principle that has been recognized on the international, national, and state level. Id.; Trans. p. 78, line 1-8,

p. 80, line 8. As explained by Professor Rebecca Tsosie:

[T]he principle of self-determination at the root is a principle of autonomy. . . . [T]he principle of self-determination puts the agency in the indigenous Nation to actually describe what would serve that Nation’s aspirations the best. That is a principle that basically overturns a history of essentially injustice where other governments, other people paternalistically told Native American people, “Well, this is what you need to do, and this is for your own good.”

Trans. p. 77-85.

The State of New Mexico has recognized the importance of honoring tribal self-determination, by directing each of its agencies to collaborate with tribes, on a government-to-government basis. New Mexico State-Tribal Collaboration Act (2009) (SB196), submitted as Multi-Tribal Plaintiffs’ Exhibit 16. In the last round of redistricting, this court expressly recognized tribal self-determination as a legitimate factor to be considered in drawing legislative districts in New Mexico. Jepsen v. Vigil-Giron, No. D-0202-CV-2001 (N.M. First Judicial District Court, January 24, 2002) at p.13, ¶10 (deferring to plans presented by the Navajo and Jicarilla Apache Nations in part because they “further[ed] significant state policies, such as. . . respect for tribal self-determination.”). Consistent with that recognized policy, this Court should honor the expressed preferences of the tribal entities who are parties to this litigation, which are reflected in the Navajo Plan.

IV. THE NAVAJO INTERVENORS’ PLAN CREATES ACCEPTABLE POPULATION DEVIATIONS THAT ARE JUSTIFIED BY NATURAL, POLITICAL, AND TRADITIONAL BOUNDARIES AND THE NEED TO REMEDY VIOLATIONS OF THE VOTING RIGHTS ACT.

Any lawful plan for New Mexico House districts must comply with the equal protection clauses of the New Mexico and U.S. Constitutions. The principles of equal protection require that legislative districts provide “opportunity for equal participation by all voters in the election of state legislators.” Reynolds v. Sims, 377 U.S. 533, 566 (1963). This goal is achieved by creating state

legislative districts with a total population deviation of no more than 10% from the ideal. Voinovich v. Quilter, 507 U.S. 146 (1993); Jepsen v. Vigil-Giron, No. D-0101-CV-2001-02177, Court's Findings of Fact and Conclusions of Law Concerning State House of Representatives Redistricting (N.M. First Judicial District Court, Jan. 24, 2002) at p. 12, ¶ 5 (citing White v. Regester, 412 U.S. 755 (1973)). Population deviations within the range of five percent over or under the ideal, are acceptable so long as they are not motivated by some identified illegitimate or discriminatory purpose. Voinovich, 507 U.S. 146; Larios v. Cox, 524 U.S. 947 (2004) (rejecting districts that had no neutral justification even though populations were within the 10% deviation).

The population deviations in the Navajo Plan comply with principles of equal protection because they are within the 10% acceptable population deviation range, Nav. Ex. 3, and there has been no allegation that these deviations are motivated by any improper purpose. The deviations in the Navajo Plan are justified by natural, political, and traditional boundaries, the need to comply with the Voting Rights Act, and the principles of tribal self-determination. See Cross Examination of Brian Sanderoff by Patricia Williams (Dec. 13, 2011); Direct Testimony of Theodore Arrington (Dec. 15, 2011); Cross Examination of Theodore Arrington by Patricia Williams (Dec. 19, 2011); Direct Examination of James Williams and Cross Examination of James Williams by Jenny Dumas (Dec. 15, 2011); Direct Testimony of Leonard Gorman (Dec. 20, 2011).

CONCLUSION

The Navajo Intervenors' plan provides the best remedy for curing violations of the Voting Rights Act and increasing the strength of Native American voting power in New Mexico, while also respecting relevant communities of interests and the self determination of sovereign Indian tribes. Consistent with that plan, therefore, six majority Native American districts should be established in the northwest quadrant of the state as follows: (1) Representative district one should be composed

of San Juan county precincts 28, 29, 31 through 34, 39, 41, 42, 44, 46 through 49, 57 through 59 and 67; (2) Representative district two should be composed of San Juan county precincts 35 through 38, 40, 43, 45, 50 through 56 and 70; (3) Representative district three should be composed of San Juan county precincts 60 through 66, 68, 69 and 71 through 77; (4) Representative district four should be composed of San Juan county precincts 1 through 7, 20 through 27 and 30; (5) Representative district five should be composed of McKinley county precincts 5, 7 through 10, 13, 19, 23, 35, 36, 43, 44, 46 through 49, 55 and 56; and San Juan county precincts 10 through 14, 17 and 18; (6) Representative district six should be composed of Cibola county precincts 1, 5, 7, 8 and 13 through 15; and McKinley county precincts 15, 17, 18, 24 through 30 and 52 through 54; (6) Representative district nine should be composed of McKinley county precincts 1 through 4, 6, 20 through 22, 31 through 34, 37 through 42, 45, 50 and 57 through 59; and San Juan county precincts 8 and 9; (7) Representative district sixty-five should be composed of Rio Arriba county precincts 24 and 29; San Juan county precincts 16 and 19; and Sandoval county precincts 1 through 4, 8 through 10, 14, 15, 19, 20, 24 through 27 and 29; (8) Representative district sixty-nine should be composed of Bernalillo county precincts 31 and 93; Cibola county precincts 2 through 4, 6, 9 through 12 and 16 through 25; McKinley county precincts 11, 12, 14 and 16; San Juan county precinct 15; Socorro county precinct 15; and Valencia county precinct 13.

Respectfully submitted,

WIGGINS, WILLIAMS & WIGGINS
A Professional Corporation

By s/ Jenny J. Dumas

Patricia G. Williams

Jenny J. Dumas

1803 Rio Grande Blvd., N.W. (87104)

P. O. Box 1308

Albuquerque, New Mexico 87103-1308

(505) 764-8400

Dana L. Bobroff, Deputy Attorney General
Navajo Nation Department of Justice
P.O. Box 2010
Window Rock, Arizona 86515
(928) 871-6345/6205

Attorneys for Navajo Intervenors

We hereby certify that a copy of the foregoing was electronically served to counsel of record through the Court's electronic filing system and was e-mailed to all counsel of record and the Honorable James Hall in .pdf format on this 28th day of December, 2011.

WIGGINS, WILLIAMS & WIGGINS, P.C.

By s/ Jenny J. Dumas
Jenny J. Dumas
