

December 19, 2011



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T. Christian Herren,  
Chief, Voting Section  
Civil Rights Division  
Room 7254 - NWB  
Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530

Re: Submission Under Section 5 of the Voting Rights Act;  
Request for Approval of Redistricting Plan for Navajo County's  
Supervisorial Districts and Northland Pioneer Community  
College District Precincts; Request for Approval of New Voting  
Precinct Adjustments)

Dear Mr. Herren:

In accordance with Section 5 of the Voting Rights Act, the Board of Supervisors of Navajo County, Arizona ("the Board"), hereby submits for your approval a redistricting plan for Navajo County's supervisorial districts and the new proposed precincts for the Northland Pioneer Community College District. These plans were approved by the Navajo County Board of Supervisors on November 15, 2011.

**The Change Affecting Voting; 28 CFR § 51-27(a)-(c)**

Pursuant to Arizona Revised Statutes ("ARS") § 11-201, Navajo County is governed by the Board of Supervisors. The statute provides that, "[t]he powers of a county shall be exercised only by the board of supervisors or by agents and officers acting under its authority and authority of law."

Under ARS §11-211, the Board consists of five Supervisors. Each Supervisor represents one of five Supervisorial Districts ("the Districts"). The County designates these as District I through District V. The Supervisors are elected to four-year terms at the general election at which the President of the United States is elected (meaning that the next election will be in November of 2012). Pursuant to ARS §11-213, each Supervisor is elected by the qualified electors of the District that he or she represents.

Copies of ARS §§ 11-201, 11-211, and 11-213 are attached hereto and incorporated herein as "**Exhibit 1.**"

Pursuant to Arizona Revised Statutes §11-212, the Navajo County Board of Supervisors is required to meet after the release of the United States decennial census and divide the county into five districts. The boundaries of those districts are required to be drawn so that there is not more than a ten percent difference in population between the proposed districts:

11-212. Supervisory districts

The board of supervisors shall meet at the county seat on or before December 1 following the release of the United States decennial census data and divide the county into three or five supervisory districts as provided in this article, which shall be numbered, respectively, districts one, two and three or districts one, two, three, four and five. The board shall define the boundaries and limits of each district and make the division equal or with not more than ten per cent difference in population. The county may redistrict as often as deemed necessary between each United States decennial census.

In addition to its responsibility for drawing new supervisory districts, the Board of Supervisors is also responsible for redrawing the community college district boundaries pursuant to A.R.S. 15-1441, which states as follows:

15-1441. Selection of precincts; district board members; terms; qualifications; vacancies

A. The board of supervisors shall establish in the same manner as provided in section 16-411 five precincts in a community college district for the election of a district board member from each precinct. A precinct in a community college district shall be composed of the number of election precincts as determined by the board of supervisors and shall have the same boundaries as are defined for the election precincts under section 16-411. If the board of supervisors redefines the boundaries of election precincts under section 16-411 that are included within a precinct in a community college district, the board of supervisors shall redefine the boundaries of the precinct in the community college district to conform with the election precinct changes . . .

The Community College District's board consists of five members and covers the entire County. Apparently, and largely for the sake of convenience, the Northland Pioneer Community College District's five precincts have always been drawn along

exactly the same lines as Navajo County's five-member Board of Supervisors supervisorial Districts.

The benchmark plan of Navajo County's supervisorial districts is one that has been in effect since it was approved by the Navajo County Board of Supervisors and approved by the United States Department of Justice on May 31, 2002. The NPC precincts presently used by the community college district have also been used since that time. Attached to this submission and incorporated by reference are maps showing the configuration of the currently existing and approved supervisorial districts and NPC precincts. See "**Exhibit 2.**"

The New Plan was adopted pursuant to ARS § 11-212 using the unadjusted data from the 2010 decennial census. It was adopted by the Board of Supervisors on November 15, 2011 pursuant to Resolution No. 59-11. A copy of Resolution No. 59-11 is attached hereto and incorporated herein as "**Exhibit 3**"

The New Plan will result in the reconfiguration of the five Districts as shown in "**Exhibit 3.**" These Districts will be effective for the election of Supervisors and members of the Northland Pioneer College District Governing Board at the general election in November of 2012.

The County's population as determined by the 2000 census was 97,420. According to the 2010 census, the County's population has grown to 107,449. This growth did not occur evenly across the County. It occurred primarily in the central and southern part of the County, which includes vacation and resort communities such as the city of Show Low, the town of Pinetop-Lakeside, Snowflake, Taylor, and the unincorporated community of Heber-Overgaard (as well as White Mountain Apache reservation land). Districts III, IV and V, which are located in this southern part of the County, grew by 13.06%, 31.56% and 10.64% respectively.

In contrast, Districts I and II, which are in the northern part of the County and are largely Navajo and Hopi reservation land, had little to no growth. District II, grew by only 0.19%. District I actually experienced a negative growth rate of -6.23%

This imbalance in growth presented a challenge to the Board in its effort to comply with the requirements of ARS § 11-212 (and the constitutional underpinnings of the statute) while avoiding any retrogressive effect on racial and language minority groups. The imbalance in District populations immediately before the adoption of the New Plan is shown in Table 1 (using population figures from the 2000 census). In other words, Table 1 shows the way that the Districts would look if the benchmark plan remained in place:

**Table 1.**  
**District Populations Before Adoption of New Plan**  
 (2010 Census)

<u>District</u>	<u>Population</u>
I	17,566
II	18,906
III	22,010
IV	26,855
V	22,112

The deviation between the smallest District (number I, with a population of 17,566) and the largest (number IV, with a population of 26,855) was 9,289. This made the total deviation between the largest and smallest District 43.23%, and thus made the benchmark plan far out of compliance with ARS § 11-212 and the constitutional principles on which it is based.

Achieving compliance with ARS § 11-212, and rebalancing the population between the Districts so that each was closer to the new ideal population level of 21,490, required a significant shift in population from the southern Districts (principally number III & IV) to the other Districts (principally numbers I and II). The challenge for purposes of Section 5 was that the other Districts (especially numbers I and II) had by far the largest racial and language minority group populations. District IV, in contrast, is predominately non-minority in nature. The balance in District populations achieved by the New Plan is shown in Table 2:

**Table 2.**  
**District Populations Under New Plan**  
 (2010 Census)

<u>District</u>	<u>Population</u>
I	20,594
II	21,683
III	21,962
IV	21,120
V	22,090

Under the New Plan, the deviation between the largest District (number V) and the smallest (number I) is 1,496. This creates a total deviation between the largest and smallest district of 6.96%. The New Plan thus will achieve compliance with ARS § 11-212 and the constitutional requirements set forth in Karcher v.

Daggett, 462 U.S. 725 (1983), and subsequent decisions. The effect of the New Plan on racial and language minority groups is discussed below.

Tables 1 is derived from the demographic breakdown of the County's benchmark plan in "**Exhibit 4.**" Table 2 is derived from the demographic breakdown of the County's New Plan which is included in "**Exhibit 3.**"

"**Exhibit 5**" includes precinct by precinct demographic data for each precinct within the five supervisorial Districts based on the 2010 census.

More detailed demographic data as required by 28 CFR 51.28 is included on an enclosed disk as "**Exhibit 26.**" Included on this disk is data for the benchmark plan, the New Plan, and all other plans that were given serious consideration by either the County's Board of Supervisors or the County's Redistricting Advisory Committee. If you encounter any problem with this disk, please contact the County's consultant, Tony Sissons at, [tsissons@researchadvisoryservices.com](mailto:tsissons@researchadvisoryservices.com), or by phone at (602) 230-9580.

In addition to reconfiguring the supervisorial districts and NPC precincts, Navajo County has reconfigured its voting precinct boundaries based upon the adoption and approval of the new supervisorial districts, as well as actions that are anticipated at the state level with regard to the existing congressional and legislative districts. Approval of these changes by the Department of Justice is being sought as well. See below for a separate discussion of those changes.

**The Name, Title, Address, and Telephone Number of the Person Making the Submission; 28 CFR § 51.27(d)**

This submission was prepared by the Navajo County Attorney's Office as statutory counsel for the Board of Supervisors:

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The submitting authority is the Board as the governing body of the County:

David Tenney  
Chairman of the Board  
Navajo County Board of Supervisors

P.O. Box 668  
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**The Name of the Submitting Authority and the Name of the Jurisdiction Responsible for the Change, if Different; 28 CFR §51.27(e)**

N/A.

**If the Submission is Not From a State or County, the Name of the County and State in Which the Submitting Authority is Located; 28 CFR § 51.27(f)**

N/A.

**The Redistricting Process, 28 CFR § 51-27(g)-(i)**

“**Exhibit 6**” includes all of the official minutes of the various meetings of the Board of Supervisors where Redistricting was agendized and discussed. “**Exhibit 7**” includes all of the the official minutes of the various Redistricting Advisory Committee meetings discussed below. All meetings of the Board of Supervisors and Redistricting Advisory Committee were duly noticed, agendized and conducted in accordance with the Arizona Open Meeting Law, ARS §§ 38-431 to 38-431.09. “**Exhibit 8**” includes the official minutes taken at various community meetings hosted by individual members of the Redistricting Advisory Committee.

The Navajo County Board of Supervisors has general authority to divide the County into precincts and districts as required by law under A.R.S. § 11-251:

11-251. Powers of board  
(L10, Ch. 238, sec. 1)

The board of supervisors, under such limitations and restrictions as are prescribed by law, may:

\*\*\*\*\*

2. Divide the counties into such districts or precincts as required by law, change them and create others as convenience requires.

As was explained above, the redistricting process was undertaken pursuant to the requirements of ARS §§ 11-212 and 15-1441, and the authority vested in the Board by those statutes.

**Step 1: Hiring of a Redistricting Consultant**

In order to assist the County in the redistricting process, the County utilized a consultant with expertise in redistricting. On October 12, 2010, the County by

action of the Board of Supervisors hired a firm to assist in the redistricting process. That firm was Research Advisory Services, Inc., Phoenix, Arizona, Tony Sissons, President.

On February 22, 2011, during a scheduled work session following a regular Board of Supervisors meeting, Mr. Bruce Adelson provided the Board of Supervisors a training covering an overview of the process to redistrict and equalize populations between the districts. The presentation included coverage of the legal requirements of the redistricting process, including the requirements of federal and state law.

For details of this process, see "**Exhibit 6**," which includes the Board meeting minutes of October 12, 2011, February 22, 2011. A hard copy of the presentation provided Mr. Adelson to the Board of Supervisors on February 22, 2011 is attached hereto as "**Exhibit 9**".

### **Step 2: Creation of a Redistricting Advisory Committee**

The redistricting matter was again taken up by the Board of Supervisors at its public meeting held on March 8, 2011. At that time, the Board of Supervisors approved the creation of a Redistricting Advisory Committee ("RAC") which would have the following responsibilities:

- 1.) Serve as a mechanism through which the County could obtain public input from all areas of the County and all communities of interest in putting together a redistricting plan;
- 2.) Study different redistricting alternatives available to the County;
- 3.) Impartially and independently evaluate the impacts of each alternative; and
- 4.) Be responsible for making recommendations to the Board of Supervisors regarding a redistricting plan that could be implemented.

In creating the RAC, the Board of Supervisors approved a Resolution (Resolution 09-11) setting forth the procedure for selection of the RAC members, the principles that should guide the RAC during its deliberations, and the responsibilities and expectations of the RAC. A complete copy of Resolution 09-11 is attached hereto and incorporated herein as "**Exhibit 10.**"

The RAC was created as a five member Committee. Each member of the Board of Supervisors was required to nominate for appointment a registered voter from within his/her District. The responsibilities of the RAC members were set forth in Section 3 of Resolution 09-11. Among the included responsibilities were to:

**a.) Attend a minimum of three (3) RAC meetings with the County's staff and consultants.**

**b.) Attend two rounds of community fact finding meetings in the District where each member of the RAC resides, and to share the information learned during those meetings with the RAC as a whole. The places mandated by the Board of Supervisors as sites for the community meetings included:**

- 1.) Kayenta;**
- 2.) Pinon;**
- 3.) Dilkon;**
- 4.) Hopi Reservation;**
- 5.) Snowflake;**
- 6.) Taylor;**
- 7.) Holbrook;**
- 8.) Winslow;**
- 9.) Show Low;**
- 10.) Heber-Overgaard;**
- 11.) Pinetop-Lakeside;**
- 12.) Whiteriver.**

**c.) Evaluate the public input received at the community meetings with the guidance of the County's staff and consultants.**

**d.) Present no less than two proposed redistricting plans to the Board of Supervisors for its consideration.**

Importantly, Section 3(k) of Resolution 09-11 gave direction to the RAC in the form of the priorities the Board of Supervisors deemed to be most important in drawing up a redistricting plan for the new Supervisorial and Northland Pioneer Community College precincts:

***In considering the drawing of district boundaries and the plans to be presented to the Board of Supervisors, the Committee shall consider the following to be the top priorities of the Board:***

- 1.) *In order to comply with A.R.S. § 11-212 and the constitutional principle of "one person, one vote," all districts should be as nearly equal in population as is feasible, and in no event should there be more than a ten per cent difference in population between the largest and smallest districts.***
- 2.) *The plan should be narrowly tailored to avoid retrogression in***

***the position of racial minorities and language minorities as defined in the Voting Rights Act with respect to their effective exercise of the electoral franchise. Additionally, the plan should not fragment a geographically compact minority community or pack minority voters in the presence of polarized voting so as to create liability under Section 2 of the Voting Rights Act.***

***After assuring that the top two priorities above have been met, the Committee may consider the following desirable elements of any redistricting plan:***

- 3.) The redistricting plan should, to the extent feasible, be based on the existing districts.***
- 4.) The districts should be compact and composed of contiguous territory.***
- 5.) Where possible, easily identifiable geographic boundaries should be followed.***
- 6.) To the extent possible, incorporated municipalities should not be split.***
- 7.) Other communities of interest should be identified and maintained in a single district, where possible, and all reasonable attempts should be made to avoid splitting neighborhoods.***
- 8.) To the extent possible, districts should be composed of whole voting precincts. Where this is not feasible, districts should be drawn in a way that permits the creation of practical voting precincts and ensures that adequate facilities for polling places exist within each precinct.***
- 9.) Due consideration should be given to the preservation of incumbent-constituency relations by recognizing the residences of incumbents and their history in representing certain areas.***

The Board's creation of the RAC was submitted to the United States Department of Justice ("DOJ") for pre-clearance and approval on March 10, 2011. See "**Exhibit 11.**" On April 26, 2011, the DOJ responded, noting that it did not believe the creation of the RAC was a change in voting which required preclearance under Section 5 of the Voting Rights Act. See "**Exhibit 12.**"

### **Step 3: Appointment of Committee Members to the RAC**

After the creation of the Committee, the next step in the process was to appoint the Committee members. At its regular meetings held on April 12 & 26, 2011, the Board of Supervisors appointed the following persons to the RAC:

District I	Robert Black, Jr.
District II	Leonard L. Tsosie
District III	Marlin Gillespie
District IV	Alice Franco Anderson
District V	Michael Peddie

See Navajo County Board of Supervisors Meeting Minutes dated April 12 & 26, 2011, attached hereto and incorporated herein as "**Exhibit 6.**"

### **Step 4: Meetings of the RAC and Community Fact-Finding Meetings by RAC Committee Members**

After the formation of the Committee and the County's receipt of the non-determination letter from the DOJ dated April 26, 2011, the RAC had its inaugural meeting. At that meeting, the RAC was advised by the County's consultants about demographic changes that had occurred in the County between 2000 and 2010, and the current boundaries of the Supervisorial Districts and NPC Precincts. The Committee heard from legal counsel regarding the legal requirements of the redistricting process and the requirements of Arizona's Open Meeting Law. The RAC also elected a chair and vice-chair to preside over future meetings of the Committee, and reviewed and finalized the schedule of proposed community meetings. See "**Exhibit 7.**"

After conducting its initial meeting, the RAC members individually proceeded to conduct the first round of community meetings in the Districts they represented. The purpose of the first round of community meetings was to inform the public regarding the legal requirements associated with redistricting, including the requirements to rebalance the County's population amongst the various districts in a way that is compliant with the Voting Rights Act. A copy of the presentation given to members of the public at these meetings is included herein as "**Exhibit 13.**" Additionally, County staff and the relevant RAC members discussed with the public the demographic changes in the County and the challenges those changes presented to the redistricting project. The public was then given an opportunity to provide initial input on how the County could be redistricted in a fair manner. Finally, those who attended the meetings were shown an interactive tool created by the County's redistricting consultants and available on the County's website which allowed any member of the public to create and submit their own

potential redistricting plans for review by members of the RAC and ultimately, the Navajo County Board of Supervisors. The link to the County's online interactive redistricting tool is located at :

<http://www.navajocountyaz.gov/pdfdisplay.aspx?pdfpage=/bos/redistricting/docs/Online%20Interactive%20Redistricting%20Map.pdf&department=35>

Those attending the first round of meetings were also informed and shown how to subscribe to an e-mail list which would automatically send them an e-mail whenever an update was made to the County's redistricting web page. This allowed subscribers to automatically receive updates regarding meeting schedules, proposed maps submitted by members of the public, etc. The link to the location where members of the public could subscribe to the e-mail list is located at:

<http://www.navajocountyaz.gov/bos/redistricting/>

Notice of all community meetings was published in a newspaper of general circulation and on Navajo County's Redistricting website:

<http://www.navajocountyaz.gov/bos/redistricting/>

Additionally, meeting notices occurring on the Navajo reservation were included in the Navajo Times, and notice of the community meetings was broadcast over the radio including KTNN, which services the Navajo Reservation. In order to ensure language minority voters received notice of the community meetings, translations were provided in Navajo on the Navajo Indian Reservation, Hopi on the Hopi Reservation, and Apache on the White Mountain Apache Reservation. For meeting locations outside of the three reservations, copies of all meeting notices were provided in Spanish as well as English. At each of the meetings, translators (Spanish, Navajo, Hopi, and Apache as relevant) were provided by the County. A copy of all of the public notices published is included as "**Exhibit 14.**" The same exhibit also contains a copy of two CD-ROM's which contain audio files of some of the meeting notices provided on KTNN.

The first round of community meetings were conducted on the following dates:

**District I**

Kayenta, June 7, 2011  
Pinon, June 9, 2011

**District II**

Dilkon, June 20, 2011  
Hotevilla, June 22, 2011  
Bacavi Village, July 12, 2011  
Kykotsmovi Village, July 12, 2011

**District III**

Snowflake, June 21, 2011  
Holbrook, June 23, 2011  
Winslow, June 27, 2011

**District IV**

Taylor, June 29, 2011  
Show Low, July 5, 2011  
Heber-Overgaard, July 7, 2011

**District V**

Pinetop-Lakeside, July 11, 2011  
Whiteriver, July 13, 2011

After the conclusion of the first round of community meetings, the RAC held its second public meeting on August 5, 2011. During that meeting, the RAC reviewed sixteen different proposed redistricting plans that had been submitted to the County through the interactive redistricting tool available on the County website. All sixteen of the originally submitted plans are attached to this submission as "**Exhibit 15.**" Ultimately, the RAC approved five of those plans to serve as a basis for the County's consultants to draw alternative redistricting plans, and which would be circulated and shown at the second series of community meetings. At the direction of the RAC, the county's consultant drew five different alternative redistricting plans, designated respectively as "AFA01," "DP1," "MG07," "TLP04," and "RB06." Copies of each of the proposals is attached hereto as "**Exhibit 16.**"

The RAC then circulated the approved maps prepared by the consultant for public comment at a second round of public meetings held on the following dates:

**District I**

Pinon, September 12, 2011  
Kayenta, September 21, 2011

**District II**

Hopi Tribal Chambers (Kykotsmovi), August 30, 2011  
Dilkon, September 1, 2011

**District III**

Snowflake, August 15, 2011  
Holbrook, August 17, 2011  
Winslow, August 22, 2011

**District IV**

Taylor, August 23, 2011  
Show Low, August 29, 2011  
Heber-Overgaard, August 31, 2011

**District V**

Whiteriver, September 6, 2011  
Pinetop-Lakeside, September 7, 2011

After completing its round of second public meetings, the RAC held a third public meeting on September 27, 2011. At that time, in addition to the five maps the RAC had previously approved for publication, it considered a sixth map that was formally submitted to the County by the Navajo Nation Human Rights Commission (NNHRC) on September 26, 2011. See "**Exhibit 17.**" The NNHRC map

was significantly different than the five previously approved maps. In part, the reason for that difference was that the NNHRC had access to special mapping software not available to other county residents who had submitted proposals to the County via the County's provided Interactive website. While the County's site permitted moving only entire voting precincts at one time, the NNHRC had the ability to draw redistricting maps without regard to the existing voting precincts. Another significant difference is that while the NNHRC's map was similar to at least one previously submitted plan in terms of general configuration (TLP04), the ability to draw district lines without regarding to existing voting precincts enabled the NNHRC to draw a map that had significantly less adverse impact on the percentage of Native American voting percentages in District II.

At the RAC meeting on September 27, the body as a whole voted to accept the submission of the NNHRC plan and add it to the other plans being considered. The RAC also voted to eliminate two of the maps under consideration, those being DP01 and MG07. That left maps AFA01, RB06, TLP04, and the NNHRC map under consideration. Finally, the County's consultant was asked to create a map combining some of the features of the TLP04 and NNHRC maps, as both had some common features and it was hoped that a blended plan might better preserve some communities of interest while still maximizing the total Native American populations in Districts I and II.

On November 8, 2011, the RAC had its final public meeting. At the time of that meeting, the County's consultant presented the blended plan combining TLP04 and the original NNHRC map. See "**Exhibit 18.**" At the time of the meeting, RAC also reviewed a revised NNHRC plan approved by an NNHRC subcommittee the day before. This map contained some minor revisions made at the suggestion of County staff. See NNHRC Plan Revision 11.7.11, "**Exhibit 19.**" The NNHRC's representative additionally presented a revised plan from the one approved the subcommittee had approved the day before. See NNHRC Plan Revision 11.8.11, "**Exhibit 20.**" After considering all of the plans presented, the RAC voted to eliminate the AFA01 plan. The RAC also voted to recommend that the Board of Supervisors consider the blended TLP04/NNHRC plan, the RB06 plan and the TLP04 plan.

#### **Step 5: Proceedings before the Navajo County Board of Supervisors**

The Navajo County Board of Supervisors met on November 15, 2011 for the purpose of adopting a new plan for the Supervisorial Districts and NPC precincts.

At the meeting, the County's legal counsel advised the Board regarding the three maps that has been recommended for their consideration by the Redistricting Advisory Committee. After motion and a second, the Board also

voted to take up for consideration with the other maps the NNHRC Plan Revision 11.7.11.

During the Board meeting, the Board of Supervisors heard from multiple members of the community. The Board also heard from representatives of the Navajo Nation and Hopi tribal government. After hearing remarks from the public, the Board asked staff to work with the County's consultant to make some additional revisions to the NNHRC Plan Revision dated 11.7.11. The changes requested by the Board of Supervisors had the impact of keeping most of the registered voters inside the incorporated community of Winslow inside the same Supervisorial District, and slightly increased the Voting Age Native American population in District II above what it has been in either the original NNHRC plan of September 26, 2011, or the revised NNHRC plan of 11.7.11. The changes that were made to the NNHRC plan of 11.7.11 are reflected in "**Exhibit 21.**"

After the changes were made to the NNHRC plan of 11.7.11, and after hearing additional public comments on those changes from members of the community, including representatives of both the Navajo and Hopi Nations whom were present, the Board of Supervisors took action to approve Resolution No. 59-11. The Resolution adopted the NNHRC plan of 11.7.11 as the County's redistricting plan, with the amendment of the minor changes to the plan in and around the Winslow, AZ area which the Board had requested staff to make during the meeting. A detailed map of the New Plan is included herein as "**Exhibit 22.**"

**The Date on Which the Change is to Take Effect; 28 CFR § 51.27(j)**

The change will be implemented as soon as the County receives DOJ preclearance.

**A Statement that the Change Has Not Yet Been Enforced or Administered, or an Explanation of Why Such A Statement Cannot be Made; 28 CFR § 51.27(k)**

The proposed change has not yet been administered or enforced.

**Where the Change Will Affect Less Than the Entire Jurisdiction, an Explanation of the Scope of the Change; 28 CFR § 51.27(l)**

The New Plan will impact the entire County.

**A Statement of the Reasons for the Change; 28 CFR § 51.27(m)**

The redistricting accomplished by the New Plan is required by A.R.S. §11-212 (as described above) in order to balance the populations of the five Districts in light of the 2010 census data.

**A Statement of the Anticipated Effect of the Change on Members of Racial or Language Minority Groups; 28 CFR §51.27(n)**

**Discussion of Native American Population**

The largest racial and language minority groups in Navajo County consists of its Native American population (Navajo, Hopi, and White Mountain Apache). Since 1984, the Supervisors representing Districts I and II as well as the Board members elected from the NPC precincts have been (and currently are) Native Americans. Detailed information concerning Supervisorial District elections over the past ten years is included as "Exhibit 23" to this submission. Clearly, the Native American populations in District I and II have historically had the ability to elect candidates of their choice.

The Native American population of each District under the benchmark plan (2000 data) and the New Plan (2010 data) is shown in the following Table:

**Native American Population of Districts**

District	Benchmark	New Plan
I	17,778 (94.92%)	17,714 (86.02%)
II	14,712 (77.02%)	14,807 (68.29%)
III	2,926 (15.07%)	2,174 (9.90%)
IV	764 (3.78%)	736 (3.48%)
V	9,958 (49.75%)	11,052 (50.03%)

The percentage of voting age Native American population within each District under the benchmark plan (2000 data) and the New Plan (2010 data), are as follows:

**Voting Age Native American Population (Percentage)**

District	Benchmark	New Plan
I	10,851 (95.28%)	11,463 (82.84%)
II	9,986 (77.77%)	10,064 (67.66%)
III	1,967 (12.36%)	1,433 (9.38%)
IV	634 (3.16%)	477 (2.94%)
V	6,844 (44.86%)	6,845 (44.92%)

While the necessary growth of Districts I and II in order to balance population between the Districts has resulted in a decline of the voting-age Native American population in both Districts I and II, these Districts will retain their Native American supermajority under the County's new redistricting plan. The changes will not impact the ability of Native Americans to elect candidates of their choice in either Districts I or II.

Further supporting this conclusion is "**Exhibit 27**,"<sup>1</sup> which carefully analyzes the number of registered voters and actual votes cast in the voting precincts which will make up most all of new Supervisorial District II. Due to the heavy Democratic majority in both the old and new District II, the outcome of the election for the District II Supervisor position is likely to be decided in the primary election. During both the 2004 and 2008 primaries, not only did Native American voter registration significantly outnumber non-native voter registration in the precincts that will comprise District II, but the Native American precincts also enjoyed a higher voter turnout. In the 2008 primary, Native American turnout in the reservation precincts that will comprise District II was 22.55% compared with 22.04% in precincts that were off the reservation. In 2004, those numbers were even more pronounced in the primary season, with the reservation precincts having a turnout rate of 23.03% compared to that of 18.69% in the off-reservation precincts. Clearly, this supports the conclusion that Native American voters in District II will be able to elect a candidate of their choice in the primary.

While the advantage in voter turnout has been with the non-reservation precincts in the last two general elections in 2004 and 2008, the evidence in "**Exhibit 27**" supports the conclusion that even in the event of a contested general election for the District II Supervisorial position, Native-American voters would still be able to elect a candidate of their choice in District II. In the 2008 election, voter turnout favored the non-reservation precincts by a margin in excess of 20% (69.32% "off-reservation" vs. 48.15% "on-reservation"). Even so, owing to the significantly greater number of registered voters, the number of votes cast in the reservation precincts (3,606) greatly exceeded those in the non-reservation precincts (2,817). In 2004 general election, the gap in voter turnout between reservation and non-reservation precincts was significantly less (50.01% on-reservation vs. 56.28% off-reservation), and again, the number of votes cast in the reservation precincts (3,630) heavily outnumbered those in non-reservation precincts (2,684). The statistics from these two elections demonstrate conclusively that even in the event voter turnout was low on the reservation precincts, Native-American voters would continue to control the outcome of the election for the District II Supervisorial race.

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<sup>1</sup> The data on which Exhibit 27 is based can be gleaned from a review of the election outcome information from the general and primary elections in 2004 and 2008. These are contained in Exhibit 23.

While District I also sees a significant reduction in the percentage of its voting age Native-American population, at 82.84%, it is even safer for a Native-American candidate than the District II position. Not only is the Native American voting age approximately population fifteen percent higher in District I than in District II, the 82.84% number is deceptive. The newly constituted District I will include the population of a state prison south of Winslow, Arizona. That population is largely non-native American in character. While the prisoners there are "voting-age," the reality is that their status as convicted felons prohibits them from being registered voters. As such, District I is even safer for Native-American candidates than the 82.84% voting age population advantage might suggest.

Also pertinent to the discussion of Districts I and II, the County would point out that it has adopted significant portions of the design elements of the redistricting plan presented to it originally by the Navajo Nation Human Right Commission (NNHRC). In fact, the plan the Board of Supervisors has chosen to implement actually goes further to preserve the supermajority in District II than the plan originally submitted by the NNHRC on September 26, 2011 (67.66% vs. 64.96%). Finally and importantly, with the adoption of this plan, the County has been willing and able to accommodate informal requests made by Hopi tribal officials that the Hopi people be kept together in one District to the greatest extent possible. The design features of District II preserve the ability of the Hopi people to have an influence in the outcome of elections in that District, while helping the County to achieve its stated redistricting goal of keeping communities of interest together within the same District.

As to District V, the Native American voting age population within that District will grow slightly as a result of the implementation of the new plan (44.86% to 44.92%). The ability of Native Americans in District V to influence the outcome of elections in that District will therefore not be impacted by this plan. In discussing District V, it should be noted that in terms of total minority population, District V is a minority-majority District under both the benchmark plan (53.32%) and the new plan (53.39%). The new plan makes no statistically significant change in the total percentage of voting age minority residents in District V, and is therefore, not retrogressive in that District either.

### **Discussion of Hispanic Population**

The Hispanic population of the County is much smaller than the Native American population, but did grow from 8,013 (8.22%) in 2000 to 11,571 (10.77%) in 2010. The following table represents the percentage of the voting age Hispanic population under both the benchmark and new plans:

#### **Voting Age Hispanic Population of Districts (Percentage)**

District	Benchmark	New Plan
I	120 (1.05%)	941 (6.80%)
II	857 (6.67%)	1,719 (11.56%)
III	3,257 (20.47%)	2,022 (13.24%)
IV	1,976 (9.84%)	1,529 (9.41%)
V	1,097 (7.19%)	1,096 (7.19%)

As can be seen, the Hispanic voting age population under the new plan grows significantly in both Districts I and II, and remains largely stable in Districts IV and V.

The only District in which the voting age Hispanic population will see any notable decline is in District III. Most of that decline is directly attributable to the need for Districts I and II to grow in size and add population in this redistricting cycle. The only logical place in which Districts I and II could gain population was from District III, which has a significant Hispanic population. In serving the interests of bringing the population deviation between the Districts into compliance with the law, while at the same time preserving the Native American supermajorities in Districts I and II, some loss of Hispanic population in District III was inevitable. In any event, even under the benchmark plan, the Hispanic population would not have had the ability to elect a candidate of their choice at 20.47%. Therefore, retrogression does not appear to be an issue in that District.

**Discussion of Black Population**

The Black population of the County is very small and the County's redistricting changes have little impact on that population:

**Voting-Age Black Population of Districts**

District	Benchmark	New Plan
I	20 (0.18%)	260 (1.88%)
II	98 (0.76%)	228 (1.53%)
III	493 (3.10%)	142 (0.93%)
IV	88 (0.44%)	69 (0.42%)
V	44 (0.29%)	44 (0.29%)

The Black population of the County did grow from 888 in 2000 to 990 in 2010. The Black population as a total percentage of the County's population remained stable at 0.92%. The New Plan proposed by the County makes no meaningful change upon the percentage of Black population within any District in the County,

and as such should have no negative impact on the voting rights of the County's Black population.

**A Statement Identifying Any Past or Pending Litigation Concerning the Change or Related Voting Practices; 28 CFR §51.27(o)**

None

**A Statement that the Prior Practice Has Been PreCleared (with the date) or is Not Subject To The Preclearance Requirement and A Statement that the Procedure for the Adoption of the Change Has Been PreCleared (with the date) or is Not Subject to the Preclearance Requirement, or an Explanation of Why Such Statements Cannot be Made, 28 C.F.R. 28 § 51.27(p)**

The Civil Rights Division approved Navajo County's 2002 redistricting submission which is referred to as the "benchmark" plan herein by letter dated May 31, 2002. See "Exhibit 24." The procedures utilized by the County in adopting the "New Plan" were made in accordance with approved Arizona law, with the exception of the County's use of the Redistricting Advisory Committee, which the DOJ previously indicated did not need Section 5 approval.

**Demographic Information and Maps, 28 C.F.R. § 51.28(a)-(b)**

See Exhibits 3, 4, 5 and 22 for information on the demographic information and maps that will result from the proposed changes. Also, please see the information provided by the County's consultant on the enclosed disk as "Exhibit 26" for demographic information on the benchmark and proposed plans, as well as other alternatives considered by the County.

**Election Return Information, 28 C.F.R. § 51.28(d)**

This information is provided in "Exhibit 23."

**Publicity and Participation, 28 C.F.R. § 51.28(f)**

The public meeting and public participation process was described above and is supported by Exhibits 5, 6, 7, 14, 15, 16, 17, and 20. Newspaper articles discussing the County's redistricting process are attached as "Exhibit 28."

**Availability of Submission, 28 C.F.R. § 51.28(g)**

This submission is a public record under Arizona's Public Records Laws, ARS §§ 39-121 to 39-125. A link to this submission will be made available on the Redistricting portion of the County's web page, and a press release regarding the new

Redistricting Plan and the availability of this submission have been has been sent to the major newspapers circulating within the County, the Navajo Times, Holbrook Tribute, and White Mountain Independent. A copy of this release is attached hereto and incorporated herein as "**Exhibit 25.**"

**Minority Group Contacts, 28 C.F.R. § 51.28(h)**

A list of minority group contacts who participated in the redistricting process or who may be interested in the New Plan is set forth below. The Board would emphasize that two Supervisors on the current Board are Native Americans, and two Native Americans were members of the RAC:

Mr. Jonathan Nez (Navajo County Board of Supervisors)  
P.O. Box 668  
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[Jonathan.Nez@navajocountyaz.gov](mailto:Jonathan.Nez@navajocountyaz.gov)

Mr. Jesse Thompson (Navajo County Board of Supervisors)  
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Mr. Robert Black (RAC Committee Member)  
P.O. Box 7310  
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Mr. Leonard Eltsosie (RAC Committee Member)  
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Mr. Leonard Gorman  
Executive Director  
Office of Navajo Nation Human Rights Commission  
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Ms. Karen Shupla

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### **VOTING PRECINCT BOUNDARY CHANGES**

As part of the County's redistricting effort, some changes to the County's voting precincts are needed in order to recognize the newly adopted Supervisorial District boundaries and the anticipated adoption of new Legislative and Congressional Districts. Changes to the map are also needed in order to "clean-up" many of the small and untenable precincts the County was forced to create for purposes of administrative convenience by the State's tardy adoption of Legislative and Congressional districts during the last redistricting cycle. Many of the County's precincts currently have only a handful of people populating them, and some have no population living in them at all. See "**Exhibit 5.**"

While many of the County's precinct boundaries are unchanged, there are also many that will be combined, eliminated, or have their boundaries adjusted. A list of precincts impacted by the changes is set forth in "**Exhibit 29.**" Board of Supervisors Resolution 61-11, which actually approves the changes, is attached hereto as "**Exhibit 30.**" This Exhibit includes the new proposed precinct map, the polling place for each location, and a list of the new precincts that have no suitable polling place and which will utilize polling places in an adjoining precinct. All of the polling places themselves have been previously utilized by the County as such, and therefore the use of the polling places themselves do not constitute a

"change in voting" procedures and practices that would require Section 5 approval.

While it would be impossible to go into detail regarding every boundary adjustment and change that needed to be made to develop the new precinct map, some of the highlights are as follows:

- A.) Shonto #2 Precinct, has been eliminated and absorbed into a newly configured "Shonto" Precinct.
- B.) Pinon precincts #1, #2, and #3 have been combined into one new "Pinon" precinct.
- C.) Low Mountain precincts #1 and #2 have been combined into one new "Low Mountain" Precinct.
- D.) Jeddito precincts #1, #2, and #3 have been redrawn and now form two precincts, Jeddito #1 and Jeddito #2.
- E.) Hardrock precincts #1 and #2 have been combined into a new "Hardrock" precinct.
- F.) Hardrock #3 Precinct has been eliminated and combined into the Toreva precinct.
- G.) The Whooperwill Springs Precincts #1 and #2 have been eliminated, and there is now in their place a new "Whooperwill Springs" precinct.
- H.) Teesto Precincts #1, #2, #3, and #4 have been combined into one new precinct simply designated "Teesto."
- I.) Whitecone #1, #2, and #3 precincts have been reconfigured and joined together as new "Whitecone #1" and "Whitecone #2."
- J.) Boundary adjustments have been made between the Greasewood and Indian Wells precincts.
- K.) The five Winslow precincts have been reconfigured to include only four voting precincts instead of five. As part of this reconfiguration, part of what was formerly Winslow precinct #2 has been incorporated into newly formed Heber-Overgaard #2 precinct.
- L.) The Heber-Overgaard precinct has been split into two new precincts, one of which absorbs part of old Winslow #2 precinct.
- M.) The Joseph City voting precinct has been split into new Joseph City Precinct #1 and Joseph City Precinct #2.
- N.) The three Holbrook precincts have been reconfigured to acknowledge the new line between Supervisorial Districts #1 and #3.

Most of the other changes to the map are minor boundary adjustments made for the purposes of administrative or voter convenience, or at the request of a particular jurisdiction within the County. Many of the lines now being followed on the Navajo Indian Reservation were made at the request of the Navajo Nation Human Rights Commission. Those changes were made to make the County's voting precincts correspond more closely to Chapter boundaries. Tribal officials

that have discussed this matter with the County believe having voting precincts that follow Chapter boundaries will reduce voter confusion on the Navajo Indian Reservation, and increase voter turnout. The County's Elections Director has evaluated the new precinct map, and does not believe it will have any negative impact on voter wait times or cause an undue burden on the County's voters.

The County's authority to change and establish voting precincts is contained in A.R.S. § 16-411, which is included in "**Exhibit 1.**" For the sake of convenience in reviewing these changes, the County has included the shape files for the existing and proposed new voting precincts on a separate disk included as "**Exhibit 31.**"

### CONCLUSION

Thank you for your consideration of this preclearance submission. If you have any questions or need any additional information, please feel free to contact me directly at (928) 524-4307.

Sincerely,



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Jason S. Moore  
Deputy County Attorney