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STATE OF ARIZONA  
ARIZONA INDEPENDENT REDISTRICTING COMMISSION

REPORTER'S TRANSCRIPT OF PROCEEDINGS

PUBLIC SESSION

Tempe, Arizona  
June 13, 2002  
10:00 a.m.

ARIZONA INDEPENDENT  
REDISTRICTING COMMISSION

LISA A. NANCE, RPR, CCR  
Certified Court Reporter  
Certificate No. 50349

1                   The State of Arizona Independent Redistricting  
2 Commission convened in Public Session on June 13, 2002,  
3 at 10:00 o'clock a.m., at the Wyndham Buttes Resort,  
4 Kachina Ballroom, 2000 Westcourt Way, Tempe, Arizona, in  
5 the presence of:

6

7 APPEARANCES:

8

CHAIRMAN STEVEN W. LYNN

9

VICE CHAIRMAN ANDI MINKOFF

10

COMMISSIONER JAMES R. HUNTWORK

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COMMISSIONER DANIEL R. ELDER

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COMMISSIONER JOSHUA M. HALL

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Phoenix, Arizona

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2     **ADDITIONAL APPEARANCES:**

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4             **LISA T. HAUSER, Commission Counsel**5             **JOSE de JESUS RIVERA, Commission Counsel**6             **M. MARGUERITE LEONI, NDC Counsel**7             **ADOLFO ECHEVESTES, IRC Executive Director**8             **LOU JONES, IRC Staff**9             **KRISTINA GOMEZ, IRC Staff**10            **DR. FLORENCE ADAMS, NDC, Consultant**11            **DOUG JOHNSON, NDC, Consultant**12            **DR. MICHAEL P. McDONALD, Consultant**13            **LISA A. NANCE, RPR, CCR, Court Reporter**

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2 SPEAKERS FROM THE PUBLIC:

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MAYOR JOSEPH C. DONALDSON, Flagstaff

4

CHAIRMAN ELIZABETH ARCHULETA, Coconino County Board  
of Supervisors

5

6 NEIL WAKE, Arizonans for Fair and Legal  
Redistricting, Inc.

7

CHAIRMAN WAYNE TAYLOR, JR., Hopi Tribe

8

DANNY ORTEGA, Attorney, Hopi Tribe

9

MICHAEL MANDELL, Arizona Minority Coalition

10

11 SCHEDULED SPEAKERS:

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DR. FLORENCE ADAMS

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DR. MICHAEL McDONALD

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MR. DOUG JOHNSON

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Public Session  
Tempe, Arizona  
June 13, 2002  
10:00 o'clock a.m.

P R O C E E D I N G S

CHAIRMAN LYNN: The Commission will come  
to order.

Roll call.

Mr. Elder?

COMMISSIONER ELDER: Here.

CHAIRMAN LYNN: Ms. Minkoff?

COMMISSIONER MINKOFF: Here.

CHAIRMAN LYNN: Mr. Hall?

COMMISSIONER HALL: Here.

CHAIRMAN LYNN: Mr. Huntwork?

COMMISSIONER HUNTWORK: Here.

CHAIRMAN LYNN: The Commission is  
represented by legal staff, and consultants are present.

Ladies and gentlemen, to give you an idea  
of how the next two days will proceed, we're going to  
begin, as is our custom, with public comment. By no  
means will the public comment at the beginning of the  
session be the only public comment we'll take. Because  
this is a process, and because we will be creating both

1 possible work products and actual work products as we go  
2 through this process, it's important to interact with  
3 the public periodically to make sure we're hearing how  
4 people are feeling with the work we're doing. So there  
5 will be other opportunities for you to speak.

6 I do at the moment have three requests for  
7 public input. I would encourage anyone else who wishes  
8 to speak to fill out a form at this time.

9 We will take public comment first, and  
10 then we'll have some reports. And then we will probably  
11 have additional public comment based on information in  
12 the reports.

13 There will be at some point in the day an  
14 Executive Session. And we'll try -- I'll try to give  
15 you -- keep you apprised of how that system will work  
16 and what time frames will be.

17 Without objection, we'll begin public  
18 comment. And the first slip that I have is for Chairman  
19 Wayne Taylor, Chairman of the Hopi Tribe.

20 And I don't see Chairman Taylor at this  
21 time.

22 A VOICE: Mr. Chairman, he's in the  
23 facility, but we'll call him.

24 CHAIRMAN LYNN: Since we only have three  
25 or four slips, Chairman Taylor has some time --

1                   Here he is.

2                   I don't want to rush you, Chairman Taylor,  
3 but if you are ready, we're ready for you.

4                   CHAIRMAN TAYLOR: I apologize. I am not  
5 ready just at this moment.

6                   CHAIRMAN LYNN: I'll put you back one or  
7 two and get to you as soon as we can.

8                   CHAIRMAN TAYLOR: Thank you.

9                   CHAIRMAN LYNN: Then let's go with Mayor  
10 Donaldson.

11                   Mayor Donaldson, Mayor of City of  
12 Flagstaff.

13                   MAYOR DONALDSON: Good morning,  
14 Commissioners.

15                   Mr. Chairman, Commissioners, thank you for  
16 the opportunity to present this morning. Again, please  
17 accept my appreciation for the efforts you have made to  
18 date.

19                   My remarks are made as Mayor speaking on  
20 behalf of the Flagstaff Council and the Flagstaff  
21 community.

22                   I have stated during this process and  
23 reiterated into it that the council maintains two policy  
24 positions on behalf of the community: Number one, the  
25 council emphasizes the imperative to maintain Flagstaff

1 and its metropolitan planning area in one Legislative  
2 District; and, secondly, the council strongly supports  
3 Legislative District boundaries established in  
4 recognition of our community of interest, that includes  
5 economic, natural resource, cultural, and local  
6 government considerations.

7                   Flagstaff and it's metropolitan planning  
8 area are most closely identified with a rural community  
9 of interest that includes Sedona and the Verde Valley.  
10 If you consider possible alternatives or changes to the  
11 2002 Legislative Redistricting Plan with respect to  
12 competitiveness and population deviations, I urge you to  
13 consider all the criteria set forth in Proposition 106,  
14 including geographic compactness, contiguity,  
15 communities of interest, and the use of visible  
16 geographic features, city, town, and county boundaries.

17                   While Flagstaff actively pursues and  
18 maintains strong relationships with its Northern Arizona  
19 partners, including Indian Nations, Northern Arizona and  
20 Flagstaff are not communities of interest.

21                   I provided at the October 2001 meetings  
22 extensive comments on the significant differences  
23 between sovereign nations and local governments. I  
24 believe you understand these differences of government  
25 structure, federal versus state, local funding,

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1 transportation and traffic, private property rights,  
2 judicial systems, and public safety, among others.

3 A Legislative District that places  
4 Flagstaff as as one local government in a district or  
5 splits Flagstaff, including the metropolitan planning  
6 area, is not an acceptable solution.

7 I appreciate your willingness to consider  
8 these points which are presented as a unified position  
9 of the state of Flagstaff, Coconino County, Northern  
10 Arizona University, and Flagstaff Unified School  
11 District.

12 Thank you.

13 With your permission, I'd like to read  
14 into the record a letter from the Chamber of Commerce.

15 CHAIRMAN LYNN: Without objection, if it's  
16 brief, or we can take the letter.

17 MAYOR DONALDSON: It's brief. I'd like to  
18 read it into the record.

19 "Dear Mr. Lynn.

20 "It is my understanding that your June  
21 13th meeting in Tempe may include discussion of possible  
22 changes to the new District 2 boundaries. Although I'm  
23 not able to attend your meeting, I wanted to be sure you  
24 received comments from the Chamber. We were an early  
25 and persistent voice throughout the redistricting

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1 process. Our message today remains the same. Any  
2 district boundaries should keep Flagstaff whole and  
3 should group us with our strongest communities of  
4 interest, specifically Sedona and the Verde Valley.

5 "We, of course, were not pleased with the  
6 final outcome of the redistricting. We are accepting  
7 new boundaries for the upcoming Legislative races hoping  
8 to elect appropriate leaders for Flagstaff.

9 "I am troubled to learn the IRC may  
10 revisit boundaries, make additional changes that could  
11 set us back further.

12 "Sincerely, David C. Maurer, president,  
13 CEO of the Chamber of Commerce."

14 CHAIRMAN LYNN: Thank you, Mr. Mayor.

15 I believe there may be a question.

16 Ms. Minkoff?

17 COMMISSIONER MINKOFF: Thank you.

18 Mayor Donaldson, this is probably an  
19 unfair question, but I'm sure you are used to those.

20 MAYOR DONALDSON: Yes, I'm sure.

21 COMMISSIONER MINKOFF: You were in the  
22 meeting when Flagstaff, the district for Flagstaff was  
23 adopted. You are aware of all the discussions and  
24 really the difficulties that we had in creating some of  
25 the districts in the northern part of the state.

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1                   One of the things that we're required to  
2 do which pretty much trumps everything else is create  
3 districts that allow minorities protected under the  
4 Voting Rights Act to elect candidates of their choice.  
5 And that was one of the issues that led to the creation  
6 of this district as it currently exists.

7                   We heard loud and clear what you said in  
8 terms of putting Flagstaff with the Verde Valley. I  
9 think most of the Commission recognized that as a  
10 community of interest, one of many communities of  
11 interest, competing around the state.

12                   What would be helpful for us is if you  
13 could provide us some alternatives to achieve the goals  
14 that we need to achieve under the Voting Rights Act,  
15 keep Flagstaff united, which it seems very important to  
16 you, and still achieve the other objections that you  
17 asked us to achieve.

18                   Frankly, we've tried to find a way to do  
19 that, and we can't. So if there is any input you can  
20 give us, some parties have submitted districts. We're  
21 happy to receive them. I wonder if that's something you  
22 can provide us.

23                   MAYOR DONALDSON: Mr. Chairman,  
24 Ms. Minkoff, I'll take the suggestion under advisement  
25 with my staff.

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1                   If you remember during the process in  
2 October I had a discussion with your consultants in  
3 charge of putting together your maps, and I asked them  
4 if they could keep Flagstaff whole in the area that we  
5 were concerned about, that those are communities of  
6 interest. And they related to me yes, they could,  
7 however, it has to be a direct order or directive from  
8 the Commissioners that this is important to them. Okay.  
9 So I talked to your folks. And I asked you to give us a  
10 directive and in consideration to Flagstaff, as you were  
11 giving to the metropolitan areas, I remember very  
12 specifically your direction to the consultant on the  
13 maps: This is the way we want it; now make it happen.  
14 And it happened.

15                   So in suggestion to you that it happened,  
16 you directed your map consultant to do that.

17                   But don't change the metropolitan area.  
18 Well, there has to be some flexibility within the entire  
19 state map in order to achieve what we need in Northern  
20 Arizona.

21                   I respect your decision to do what you did  
22 in the Maricopa area, but I ask you to consider that  
23 Flagstaff, and it's metropolitan planning area, is, in  
24 Northern Arizona, a rural area, the most  
25 underrepresented area in Arizona, with our rural

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1 district, our rural communities.

2                   The -- and as you know, and it's no  
3 secret, the -- Maricopa is referred to as the state of  
4 Maricopa. They have significant, and rightly so,  
5 significant power, because of numbers.

6                   But I think that there needs to be some  
7 consideration of rural areas, particularly metropolitan  
8 areas, such as Flagstaff, that they be given some  
9 weighted consideration in achieving for them what is  
10 necessary for them to be a viable, not only economic  
11 area, not only cultural area, but Legislative, able to  
12 impact legislation that affects their areas.

13                   The way it is, it doesn't do that, in our  
14 opinion.

15                   Can it work out? Possibly. But it  
16 takes -- it places, in my opinion, an undue burden on  
17 the legislators that will represent our area as it is.

18                   I firmly believe in equal representation.  
19 So in order for us to get that in Flagstaff, the way  
20 Flagstaff is set up right now, it's incumbent upon -- if  
21 it's independent legislators who represent us, it's  
22 important they understand how the sovereign piece works  
23 and how the nonsovereign piece works. If it's a  
24 Legislator from Flagstaff, it's important they know the  
25 same thing, how nonsovereigns work and how sovereigns

1 work. That's an extra burden on those people to  
2 understand those differences.

3 Are they in conflict? Obviously so.

4 Many times we have the same issues but our  
5 solutions are much more difficult to get at,  
6 particularly when you have areas that are not as  
7 developed as the City of Flagstaff.

8 So I just ask you to somehow, if you can,  
9 and I'll take it under advisement, take it back to my  
10 staff, see if we can make a recommendation to you.

11 COMMISSIONER MINKOFF: Thank you,  
12 Mr. Donaldson.

13 I do recall when we were looking at test  
14 maps, we did ask our consultants to develop a district  
15 that included the entire metropolitan planning area.  
16 First we told them not to split Flagstaff. We've not  
17 done that. Flagstaff is united, although only the City  
18 of it. We then asked them to include the metropolitan  
19 planning area, and it didn't work. It didn't work  
20 populationwise, and it didn't work in terms of the  
21 character of the district. So we couldn't even include  
22 the metropolitan planning area and obviously couldn't  
23 expand into the Verde Valley.

24 So the reason it ended up this way, as I  
25 recall, we asked you what would you rather see. Would

1 you rather see Flagstaff united but only the City of  
2 Flagstaff in this Northern District, or would you rather  
3 see Flagstaff divided and some of it in with these other  
4 areas? And the response of the city was: Please, at  
5 the very least, keep Flagstaff united, which is what we  
6 did.

7 Now, going forward, we are going to be  
8 making some changes. I would like to be able to address  
9 your other concerns, but it would be helpful if you  
10 could help us; because, honestly, we tried. And we  
11 haven't been able to find a way to do it. Maybe  
12 different minds can be a little bit more creative than  
13 we were.

14 MAYOR DONALDSON: Maybe.

15 Mr. Commissioner, may I respond?

16 CHAIRMAN LYNN: Certainly.

17 MAYOR DONALDSON: Yes. All I ask is that  
18 you consider it and see how you can help Flagstaff or  
19 assist Flagstaff in achieving, in my opinion, the  
20 significant position that needs to happen in Northern  
21 Arizona. So I appreciate your consideration.

22 Thank you.

23 CHAIRMAN LYNN: Thank you, Mr. Mayor.

24 Next speaker is Chairman of the Coconino  
25 Board of Supervisors, Elizabeth Archuleta.

1                   CHAIRMAN ARCHULETA: Thank you. Thank you  
2 for the correct pronunciation of my name.

3                   Thank you for the opportunity to address  
4 you this morning.

5                   Thank you for work you've done so far.

6                   I'll be very brief. In the past hearings  
7 we suggested that a community of interest be defined as  
8 simply those geographic areas, citizens, groups, or  
9 issues that relate closely to each other. And as you  
10 know, rumors sometimes abound and we understand you  
11 might be considering splitting Flagstaff again.

12                   I'm just here to basically ask you, if you  
13 are considering heading in that direction, that any  
14 proposal to split up Flagstaff, whether it be 5,000 or  
15 25,000, just doesn't work if the concept of community of  
16 interest is to be used as the abiding value.

17                   I understand that you've been using that  
18 as a guiding value throughout the hearings. There may  
19 be some other things that come under consideration in  
20 terms of looking at Flagstaff other than a community of  
21 interest.

22                   But I would say that that is the priority  
23 for citizens is to maintain that community of interest.

24                   It will -- as you know, if you split it,  
25 it will affect the strength of this community of

1 interest, regardless of the size of the split I  
2 mentioned.

3                   The Mayor mentioned the Flagstaff  
4 metropolitan planning organization. He did mention  
5 we've engaged in a regional planning effort for the  
6 entire metropolitan area and outlying areas of Flagstaff  
7 similar to boundaries of the metropolitan planning  
8 organization, just engaged in a land use plan for the  
9 area.

10                   And the county and City of Flagstaff have  
11 many common efforts where we look at the City of  
12 Flagstaff as a whole and it's outlying communities.

13                   If it was to be split, we feel like it  
14 would be detrimental.

15                   I just wanted to let you know we are  
16 concerned about that, I look forward to commenting as  
17 the day progresses.

18                   Thank you.

19                   CHAIRMAN LYNN: Thank you, Ms. Archuleta,  
20 very much.

21                   CHAIRMAN LYNN: Next speaker, Mr. Wake,  
22 representing Arizonans for Fair and Legal Redistricting.

23                   I'm worried. You have typed and prefilled  
24 out this form. That scares me.

25                   MR. WAKE: I know that is probably

1 frightening. It just means I was working yesterday with  
2 access to a typewriter.

3                   And I really will be brief. I have one  
4 small but very important point that I would like to  
5 express to the Commission, and that is the need to  
6 reduce the population deviation from the interim plan  
7 that has been approved by the court before a permanent  
8 plan is implemented.

9                   And if I may, I brought along a short  
10 letter with an attachment. If I could pass it to  
11 counsel, I would like to have copies for each member of  
12 the Commission, counsel.

13                   CHAIRMAN LYNN: Certainly. Without  
14 objection.

15                   MR. WAKE: Here is the point. The interim  
16 plan has a maximum deviation of 9.1 percent. And the  
17 comments I'm going to make do not in any way presume  
18 that this Commission thinks that that is good or  
19 desirable. To the contrary, I would think the  
20 Commission would like to reduce the population  
21 deviation.

22                   I would like to speak to some of the  
23 reasons why that is not only a good idea but  
24 constitutionally required. And it is this: The Federal  
25 Constitution cases allow a 10 percent deviation as a

1 rule of thumb that is presumptively beyond -- within  
2 that -- federal courts will not allow any further. Any  
3 discrimination within a 10 percent deviation, that would  
4 be sufficient to rebut the federal presumption.

5                   However, our Constitution requires  
6 equality of population to the extent practicable.

7                   I supplied the Court a brief excerpt of  
8 recent cases by the Alaska Supreme Court decided in  
9 March under identical constitutional provisions of their  
10 state constitution.

11                   In that case, their redistricting board  
12 was found to have violated the State Constitution, even  
13 though it would not have violated the Federal  
14 Constitution, with deviation of 9.6 percent. And the  
15 reasoning was that the phrase, "as equal as  
16 practicable," is affected by technology. And technology  
17 allows us now to achieve much greater equality  
18 population than it have been possible 30 or 40 years ago  
19 when the Federal Supreme Court adopted that principle.

20                   The Alaska case also notes that in that  
21 case, their board was presented with an alternate plan  
22 that would have achieved greater population equality and  
23 that the Court held that because they were presented  
24 with alternate plans would have had more equal  
25 population, it was wrong not to pursue the other plans.

1                   The attachment we've given you is an  
2 attempt to do that. It's a revision that works off of  
3 the interim plan. And what it does, basically, it takes  
4 the few districts in the East Valley have excessive  
5 population and ripples that population further out. And  
6 it does a little of the same in Pima County, to spread  
7 them out. It does no significant change to the  
8 character of any district, but it equalizes the  
9 population with little effort. We got the deviation  
10 down to 3.8 percent.

11                   I'll submit the map, and I can give  
12 counsel the computer files.

13                   Again, I'm not presenting this with the  
14 request that you adopt that map. I do it to show that  
15 it can be done.

16                   And under the Alaska case, if it can be  
17 done, then it must be done.

18                   And I'm sure that your experts can do a  
19 better job than we did in a short period of time to  
20 bring this deviation down.

21                   So again, I prefer to speak in terms of  
22 what is wise and fair; but I'm a lawyer, so I also talk  
23 in terms of what the law requires. And with -- if one  
24 follows the example of this Alaska case, then the law  
25 does require that the population deviation be brought

1 down. We ask the Commission to make those changes.

2 Our proposal does not tamper with any  
3 districts outside of Pima Pinal and Maricopa County. I  
4 think the letter said Pinal County. In fact, we did not  
5 tamper with Pinal County. There is no attempt to change  
6 communities of interest, not changing that, no attempt  
7 to deal with the Northern Districts, which are the  
8 subject of no less than four parties who are suing now  
9 over those Northern Districts; and the Court's will sort  
10 that out if the parties can't reach something acceptable  
11 to the Commission.

12 Those are my comments. If I can leave my  
13 disks, I'll yield the podium.

14 CHAIRMAN LYNN: I believe there's a  
15 question.

16 We'll be happy to have the electronic  
17 version so not only counsel but the consultants can see  
18 the methodology to attempt to bring down deviation.

19 COMMISSIONER MINKOFF: Mr. Wake, one of  
20 the other Constitutional requirements of the State of  
21 Arizona is we need to make districts as competitive as  
22 possible when they do not significantly detract from the  
23 other criteria. We've obviously just seen this for the  
24 first time and haven't had a chance to really look at  
25 it. Can you tell us what impact, if any, the changes

1 you suggest would have on the competitiveness of the  
2 districts?

3 MR. WAKE: I think it has no great effect  
4 on competitiveness. Mr. Chairman, Commissioner, I would  
5 prefer to look at the numbers and make a focused  
6 analysis. There might be some difference.

7 We did this exercise with the eye toward  
8 achieving greater equality. So if you will allow me,  
9 I'll do that and perhaps I might speak later if we Judge  
10 there is some effect. But we did not do it with the  
11 purpose of affecting the politics of the districts in  
12 any way.

13 COMMISSIONER MINKOFF: I'm very  
14 appreciative of your analysis, if you could get to us at  
15 a later date.

16 MR. WAKE: Thank you. I'll try to do it  
17 later today.

18 CHAIRMAN LYNN: Let me ask Chairman  
19 Taylor, are you prepared at this point? We'll be happy  
20 to hear from you.

21 Chairman Wayne Taylor, Hopi Tribe.

22 CHAIRMAN TAYLOR: Thank you, Mr. Chairman,  
23 Members of the Commission.

24 The Commission, as part of their mission  
25 to draw Legislative District lines, held hearings and

1 took committee input throughout Arizona. During those  
2 hearings, the Hopi Tribe repeatedly made every attempt  
3 possible to inform the Commission of historic, cultural,  
4 and political issues that are at the center of the Hopi  
5 Tribe's objection to being placed within a Legislative  
6 district dominated by the Navajo Nation.

7                   According to the Commission's plan, one of  
8 their highest priorities was identification of  
9 communities of interest.

10                   The Hopi Tribe has provided the Commission  
11 statements and factual background regarding their  
12 particular community of interest.

13                   When the Commission issued its final  
14 district maps, we were disappointed the Hopi's concerns  
15 were largely ignored due to emphasis placed on  
16 maintaining a high level of Native American voting age  
17 population in a district which is predominantly Navajo.

18                   The Commission's concentration on the  
19 Native American numbers disregarded the Hopi's right to  
20 choose their candidates of choice and fair and effective  
21 representation.

22                   The numbers ignore the reality. The Hopi  
23 Tribe cannot be fairly represented within a Navajo  
24 dominated Legislative District.

25                   It is an established fact that the Hopi

1 Tribe has a long-standing historical conflict with the  
2 Navajo Nation and should not be included in the same  
3 Legislative District.

4           The conflict has been evident even in  
5 these proceedings when you consider the Navajo Nation's  
6 opposition to the Hopi's position to be placed in a  
7 separate district. They haven't shown any respect to  
8 the Hopi Tribe's desires.

9           The US Department of Justice did not  
10 object to the separation of the Hopi Tribe and Navajo  
11 Nation in the Congressional District map. It stands to  
12 reason that the same rationale would be applied to the  
13 Legislative District map.

14           The present Legislative Redistricting plan  
15 does not give a member of the Hopi Tribe an opportunity  
16 to be elected to the State Legislature even when acting  
17 in concert with other non-Navajo voters. In addition,  
18 the Hopi Tribe's opportunity to elect someone of their  
19 own choosing is literally nonexistent within the Navajo  
20 dominated Legislative district. The Navajo tribe  
21 outnumbers the Hopi ten to one within the new district  
22 boundaries. Population of 100,000 Navajos to 10,000  
23 Hopi.

24           The Hopi Tribe is of the view that the  
25 Hopi inclusion within a Navajo dominated Legislative

1 District will be detrimental to the rights and political  
2 interests of the Hopi Tribe. This conclusion is founded  
3 on the following principles: First, the issue for the  
4 Hopi is one of fair representation. We are not arguing  
5 that the Hopi are being deprived of the right to vote or  
6 that the Hopi vote is not counted. Instead, we believe  
7 that fair and effective representation is not possible  
8 for members of the Hopi Tribe within a Navajo dominated  
9 district.

10 Based on an abundance -- second, based on  
11 an abundance of prior experience, the Hopi believe that  
12 their inclusion in a Navajo-dominated district will also  
13 lead to a lack of responsiveness by those elected within  
14 the district, namely citizens of the Navajo Nation to  
15 the political concerns and needs of the Hopi people.

16 Third, the Redistricting Commission has  
17 proceeded on a false premise. Essentially the  
18 Commission argues just because the Hopi will never be  
19 able to elect a Hopi representative to the Legislature,  
20 in light of the Navajo dominance of the district, does  
21 not necessarily mean that the Hopi will not be fairly  
22 represented.

23 Should we assume that the Navajo will  
24 adequately represent all identifiable groups within the  
25 district?

1                   While this conclusion may be valid in  
2 another context, it is not valid in the case of the Hopi  
3 who would not only have a slim to none chance of  
4 electing a Hopi representative but would also have  
5 little or no opportunity to influence Navajo  
6 representatives to act favorably on behalf of the Hopi  
7 and their political interests.

8                   The history of Hopi interests to garner  
9 Navajo political support in the State Legislature bears  
10 this conclusion out.

11                   The Hopi believe that any Navajo candidate  
12 elected to the State Legislature from a Navajo-dominated  
13 district will ignore the interests of Hopi interests in  
14 favor of the majority constituents, the Navajo.

15                   Political pressure, expediency, and a long  
16 history of animosity and competing interests between the  
17 Hopi and Navajo will make it impossible for the Hopi to  
18 be fairly and effectively represented from within a  
19 Navajo dominated district.

20                   And lastly, placing the Hopi within a  
21 Navajo dominated district will have the effect of  
22 consistently degrading the Hopi vote and the Hopi  
23 ability to influence the political process as a whole.

24                   The Hopi testified before the  
25 Redistricting Commission previously and demonstrated a

1 history of disproportionate result, a lack of political  
2 power, and a denial of fair representation whenever Hopi  
3 interests have been lumped in with Navajo interests.

4           We need only to remember the Hopi's  
5 disastrous experience when lumped in with the Navajo in  
6 the so-called Navajo-Hopi joint use area. The Hopi lost  
7 one-third of their reservation to the Navajo.

8           Having stated all the above, we propose  
9 that a map be designed that also protects the Hopi  
10 Tribe's community of interest and places the Hopi in a  
11 Legislative District separate from the Navajo Nation.  
12 The proposal would move the Hopi Tribe out of  
13 Legislative District 2 and into District 1. We would  
14 join the Yavapai County area along with the Yavapai  
15 Prescott and Apache tribes. District 2 would include  
16 the Navajo Nation, San Carlos Apache, White Mountain  
17 Apache, Hualapai, and Havasupai tribes. The inclusion  
18 of these tribes in District 2 would increase Native  
19 American voting age population to a percentage that  
20 would be greater than the District 2 that the Commission  
21 designed. We believe that this proposal would protect  
22 all Native American -- Native Americans rights to choose  
23 candidates of their choice and avoid any division of  
24 established reservations by district lines in other  
25 parts of the state.

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Phoenix, Arizona

1                   One of the stated concerns during the  
2 public hearing process, it would also promote the  
3 interests of the Eastern Arizona Counties by keeping  
4 them together.

5                   We are hopeful that the Redistricting  
6 Commission will take what we believe to be an excellent  
7 proposal under serious consideration for the 2004  
8 Legislative District maps.

9                   Once again, I thank you all for your  
10 diligence in this very important process and for your  
11 service to the people of our state.

12                   I will leave a copy of my statement with  
13 you.

14                   Also, at this time, I want to have our  
15 attorney, Danny Ortega, come up and address any specific  
16 questions you might have on our proposal.

17                   CHAIRMAN LYNN: Thank you, Chairman.  
18 Thank you thank you very much.

19                   Mr. Ortega.

20                   MR. ORTEGA: Mr. Chairman, thank you very  
21 much.

22                   My name is Danny Ortega. I'm an attorney  
23 for the Hopi Tribe. If you have any questions, what  
24 we're proposing is just some general ideas to the  
25 Commission about what could possibly be done to separate

1 the Hopi from District 1 and include the Apache up in  
2 District 1.

3 We believe that it's a win-win for Native  
4 Americans tribes. Number one, it will primarily  
5 separate the Hopi from District 1, the Navajo Nation;  
6 will increase the Native American numbers as the Apache  
7 increases substantially, increases four, five percent,  
8 depending on what configuration you make.

9 It would clearly make the connector for  
10 the Apache Tribe almost look like the connector for the  
11 Hopi Tribe, so we're consistent on both counts.

12 CHAIRMAN LYNN: Mr. Ortega, a question  
13 from me, maybe questions from other Commissioners.

14 In Chairman Taylor's remarks, he  
15 referenced the Commission's solution to the  
16 Congressional mapping process with respect to separation  
17 between the Hopi and Navajo and the fact that that was a  
18 precleared map.

19 I assume that you and your clients are  
20 familiar with the letter we did receive from the  
21 Department of Justice -- I believe it's dated May 25th,  
22 is that right date of the letter -- the 20th, in which  
23 they cite five specific districts in which they had  
24 difficulty in approving the map that was submitted but  
25 by reference did not make reference to 25 districts that

1 had been submitted in which they did not object and did  
2 not have a problem. The districts in question in  
3 Chairman's Taylor's remarks, and certainly your client's  
4 areas of interest, were included in the 25 districts  
5 they did not object to.

6 I trust, number one, you are aware of  
7 that, and, number two, it would lead us to believe that  
8 a map resubmitted with those districts pretty much  
9 intact would result in same response from the Department  
10 of Justice.

11 MR. ORTEGA: I think Chairman Taylor's  
12 remarks, if you made a change by separating the Hopi,  
13 because they're separated on the Congressional side, it  
14 would be approved on the Legislative side.

15 More importantly, if you took the Hopi  
16 out, bring Native Americans down below a number  
17 potentially unacceptable to the Department of Justice,  
18 we believe our proposal remedies that by including the  
19 Apache in that district and increasing numbers even  
20 greater than the number approved by Justice for you all.

21 CHAIRMAN LYNN: Thank you.

22 Mr. Elder?

23 COMMISSIONER ELDER: Let me find out which  
24 button works this morning.

25 Have you considered the ripple effect

1 there? My recollection is that in the Apache, it's  
2 something like a 23-, 26-thousand population. And the  
3 Hopi is in about a 10,000 population, 9,000, somewhere  
4 in that range. We shift those in two separate  
5 districts. Now we have either an overload in one and  
6 deficiency in other. I believe one of the previous  
7 speakers was looking at the deviation we already have  
8 now.

9                   Where would you propose to either add the  
10 differential, 14,000 back in to where the Apache were,  
11 and how do you justify or where would you divest  
12 yourselves in District 2 of the 10,000 --

13                   MR. ORTEGA: Commissioner Elder, Members  
14 of the Commission, it's suggested in concept, hoping the  
15 able-bodied consultant you have would figure out how to  
16 handle the ripple and not affect or offend communities  
17 of interest.

18                   The Hopi wanted to propose this in concept  
19 with the hope there could be a possible solution to the  
20 Hopi Tribe's objection to the map.

21                   CHAIRMAN LYNN: Understood.

22                   Mr. Huntwork.

23                   COMMISSIONER HUNTWORK: Mr. Ortega, we  
24 had -- we did have plans we looked at when we adopted  
25 the original map that did what you are suggesting. We

1 had a couple alternative plans. The problems that we  
2 face included, number one, that we wanted to keep all  
3 reservations intact. In other words, we did not want to  
4 split any individual reservation. When we moved the  
5 Apache Reservations, as a whole, into the district with  
6 the Navajos, it certainly did give us numbers that would  
7 have allowed us to take out the Hopi Reservation and in  
8 fact take out the City of Flagstaff and solve some -- a  
9 number of concerns in that regard, but one number, at  
10 least in my book and judgment of that map, that was  
11 unacceptable, and that was that the voting age  
12 population of Native Americans in that district was  
13 approaching 80 percent.

14           As you know, we're facing lawsuits in  
15 Maricopa County where we have Hispanic voting age  
16 population in the 50 percent range on the ground that  
17 we've packed those districts. And as you also know,  
18 packing is equally prohibited by the federal Voting  
19 Rights Act as well as those considerations under the  
20 State Constitution. I looked at those numbers, and I  
21 had grave concern that that is exactly what we were  
22 doing was packing that district.

23           I'd be interested in your reaction to  
24 those numbers and whether you think there is a Voting  
25 Rights Act argument that could possibly justify voting

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Phoenix, Arizona

1 age populations approaching 80 percent.

2 MR. ORTEGA: We believe the impact of  
3 including Apache tribes with the Navajo Nation in  
4 District 1 and taking out the Hopi would not -- would --  
5 it would increase Native American numbers, from the  
6 Native American voting age standpoint, not so much as to  
7 lead to a conclusion by Justice, or legally, the courts,  
8 that it would be packing. I don't think there's any  
9 danger of that.

10 COMMISSIONER HUNTWORK: Would you -- okay.

11 MR. ORTEGA: You are talking about a three  
12 to four percent increase in Native American voting age  
13 population if you take the configuration that we are  
14 talking about in concept from the numbers that I  
15 remember, unless I'm wrong about the numbers.

16 Okay?

17 COMMISSIONER HUNTWORK: Thank you.

18 CHAIRMAN LYNN: We'll take a look at  
19 those.

20 MR. ORTEGA: I think a 68 percent voting  
21 age population, Native American voting age population in  
22 that part of the state, would not be a problem,  
23 irrespective of what it was before.

24 CHAIRMAN LYNN: Thank you, Mr. Ortega,  
25 very much.

1                   The last slip I have for this morning's  
2 session, Michael Mandell.

3                   Any other members of the public wish to be  
4 heard?

5                   We do need a slip brought forward fairly  
6 quickly at this point.

7                   Mr. Mandell.

8                   Mr. Mandell representing the Arizona  
9 Minority Coalition.

10                  MR. MANDELL: Thank you, Commissioners,  
11 for the opportunity to speak.

12                  It is curious invitations came out for  
13 speakers to come before you yet the minority coalition  
14 speaker did not receive one in regard to  
15 competitiveness.

16                  MR. RIVERA: Yes, you did.

17                  MR. MANDELL: Was it sent to --

18                  MR. RIVERA: Mary Rose Wilcox.

19                  MR. MANDELL: Copy to Paul?

20                  MR. RIVERA: Yeah.

21                  MR. MANDELL: We didn't clear that up.

22                  CHAIRMAN LYNN: What we tried to do is  
23 send invitations to people we viewed as primary  
24 spokespersons or the person heading the group, if we  
25 knew who that person was. Clearly Supervisor Wilcox was

1 on the list and sent a letter. I don't know if she  
2 received it, but she was sent one.

3 MR. MANDELL: I know I spoke with Paul  
4 Eckstein this morning. He had not received it.

5 That's beside the point.

6 I think one of the things we wanted to  
7 say, and Commissioner Minkoff touched on it earlier,  
8 alternatives to separate Flagstaff out provide for the  
9 San Carlos -- fix the San Carlos White Mountain Apache  
10 problems as well as fix issues in Flagstaff.

11 You do have maps before you to do that,  
12 the Navajo preferred plan submitted as part of the  
13 federal court litigation which modify districts in  
14 Maricopa County reflect changes necessary to do that,  
15 and you would have a plan that would provide for a  
16 competitive Flagstaff district, that would provide a 70  
17 percent voting age Native American population in with  
18 the Navajos and other two tribes, and can also keep  
19 competitiveness across the state.

20 One of the things the Constitution  
21 requires is competitiveness be favored. That means in  
22 districts where you can, you try to bring them closer  
23 together. That is easily done in the Flagstaff area by  
24 bringing Flagstaff in and following configurations we  
25 have provided.

1                   We've also provided or solved the problem  
2 that Kingman had, leaving Kingman in with river  
3 communities, and also solved the Tri-Cities, Prescott,  
4 Prescott Valley, Chino Valley area, by putting them in  
5 the same district.

6                   What it does do, it does create a  
7 difficulty in EACO because you have to come down by  
8 doing that, rather than using a small sliver that comes  
9 down to pick up the San Carlos White Mountain Apaches,  
10 there is potential, potentially comply with two  
11 principles the Commission ought to follow, one being  
12 compactness, and the second one being the potential of a  
13 Shaw vs. Reno challenge, reaching out based on race to  
14 pull in one ethnic organization.

15                   It also violates a third, which is  
16 gerrymandering. Bringing the sliver down, I recall  
17 going to one of the first meetings the Commission had,  
18 and you guys had a Power Point presentation, districts  
19 with little fingers, arms, things going out. That would  
20 be the effect of doing that.

21                   One of the ways to keep all Navajo County  
22 in the same district, come down, pick up that portion,  
23 also go in and pick up the San Carlos and White Mountain  
24 Apache Tribe.

25                   So with that, I just wanted to provide

1 there are tough decisions that need to be made. But in  
2 doing so, that would create additional competitiveness.  
3 And you could also look to our changes in Tucson which  
4 provide for District 26 to probably become a competitive  
5 district.

6 One of the things I notice based on new  
7 data provided, the seven competitive districts are down  
8 to four. So I think that this would provide an  
9 opportunity for the Commission to adhere to its goals as  
10 well as provide for competitive districts.

11 With that, I would be happy to answer any  
12 questions.

13 CHAIRMAN LYNN: Mr. Hall.

14 COMMISSIONER HALL: With respect to your  
15 last comment, that your perception is that the  
16 competitiveness went from seven to four, isn't it  
17 logical in light of the fact that Department of Justice  
18 has required that we place additional Hispanic voters  
19 into districts that, therefore, in light of the fact  
20 that Hispanic voters typically are registered Democrat,  
21 that would have an effect on the ability, on the  
22 competitiveness of those districts?

23 MR. MANDELL: To a modified extent, that's  
24 correct.

25 When you look at an actual map of the

1 districts deemed competitive before and deemed  
2 competitive now, districts in Maricopa County where a  
3 large Hispanic area resides, you have the 13, 14, 15,  
4 16. The Districts 10 and 12 are still competitive under  
5 the new analysis as well. You actually don't need to  
6 change in Maricopa County wherein the large portion of  
7 Hispanics reside to find competitiveness across the rest  
8 of the state.

9                   24, which was the Yuma area, although was  
10 competitive before, we believe is still competitive in  
11 the configuration you provide, I think ours is almost  
12 identical to that. Why it became uncompetitive, I'm not  
13 sure. But, yes, it is possible to continue to adhere to  
14 the principles of the Voting Rights Act and provide  
15 competitiveness.

16                   COMMISSIONER HALL: When you analyze  
17 competitiveness, what analysis are you using?

18                   MR. MANDELL: From the statements I've  
19 just made, we had -- well, first off, it was the  
20 analysis done by the Commission itself and by  
21 Dr. McDonald, using his analysis as well as the AQD  
22 analysis. If you look back, the analysis under the old  
23 map, before you realized the voting data problems,  
24 provided for seven competitive districts. The new  
25 analysis just done provided for four. The difference is

1 you didn't use any districts in Maricopa County.

2                   The change to comply with Department of  
3 Justice didn't affect competitive districts other than  
4 26. You moved 26 into across the river in Tucson headed  
5 south and to pick up additional competitive areas.

6                   COMMISSIONER HALL: You are saying you  
7 used the same analysis we're utilizing?

8                   MR. MANDELL: Exactly.

9                   CHAIRMAN LYNN: Mr. Huntwork.

10                  COMMISSIONER HUNTWORK: I want to make  
11 sure I understood something you said. I'm sure I  
12 misunderstood something you said.

13                  Were you suggesting that District 2 could  
14 be made into a competitive district after including the  
15 Apache Reservations with the Navajo Reservation by  
16 putting in the rest of Navajo County? Did I hear you  
17 say that?

18                  MR. MANDELL: Mr. Chairman, Commissioner  
19 Huntwork, no. It's nearly impossible to make that  
20 district competitive, Navajo District, the Native  
21 American District, no.

22                  What would happen if you took the  
23 native -- the Navajo County, as well as the Navajo  
24 reservation came down and picked up the San Carlos White  
25 Mountain, not competitive, it could create a competitive

1 district using Flagstaff as a basis and using the  
2 surrounding areas and Verde Valley.

3 COMMISSIONER HUNTWORK: Are you saying it  
4 wouldn't be a competitive district using the balance of  
5 Navajo County? I'm trying to understand what the point  
6 is of Navajo County.

7 MR. MANDELL: Navajo County can be  
8 competitive district. Right now it is a competitive  
9 district, and it would remain so.

10 COMMISSIONER HUNTWORK: Okay. Thank you.

11 CHAIRMAN LYNN: Other questions for  
12 Mr. Mandell.

13 Thank you, Mr. Mandell, very much.

14 I have no other speaker slips for this  
15 morning's session, however, as I indicated earlier,  
16 there will be other opportunities for the public to be  
17 heard.

18 I would at this point like to begin the  
19 morning session with some reports.

20 I think the first report we'd like to  
21 hear, and I believe these may not be exactly in order as  
22 they appear on the agenda, without objection, we'll try  
23 to take these in what I think will be a logical order of  
24 information.

25 I would first like to hear from Dr. Adams

1 on an update of the review of data bases and hopefully a  
2 certification, if you will, that the data bases in use  
3 at the present time and on an ongoing, forward basis are  
4 complete and correct.

5 Dr. Adams.

6 DR. ADAMS: Chairman Lynn, Members of the  
7 Commission, we have completed the verification of all  
8 the data base elements used by the Commission in the  
9 process. A draft report has been provided to your  
10 attorneys for review.

11 The data that you are working with today  
12 is accurate as can be in light of rereviewed source  
13 data. We repeat, based on source data.

14 Let me summarize the data base.

15 The Census data base is consistent with  
16 source data as reported before.

17 Registration data base, as you know, had  
18 discrepancies. The discrepancies have been addressed.  
19 A new data base consistent with source data is now in  
20 being and is in use.

21 Competitiveness data bases, the two data  
22 bases and elements of those data bases used by  
23 Dr. McDonald were found to be consistent with source  
24 data except for one minor transposition error.

25 Dr. McDonald has been provided the new registration data

1 base which is also part of the data that he works with.

2                   On the many AQD data bases, the new  
3 registration data base has been incorporated into the  
4 AQD data base. Minor discrepancies have been addressed.  
5 And these were discrepancies in vote data. They've been  
6 addressed, and the data base again is as accurate as can  
7 be in light of source data.

8                   Racial block voting data bases, the racial  
9 block voting data bases used by Drs. Handley and  
10 McDonald have been reviewed. Some discrepancies have  
11 been discovered, and we're working with Dr. Handley to  
12 assess the impact of those discrepancies. She has the  
13 information.

14                   Because we have just recently completed  
15 the review of the racial block voting data bases used by  
16 Dr. McDonald, we have yet to forward the information to  
17 him. I will be talking with him today about those  
18 discrepancies so he can assess the impact.

19                   So that is my report on the data bases.  
20 And again, your attorney does have a draft report for  
21 review.

22                   CHAIRMAN LYNN: Dr. Adams, with respect to  
23 racial block voting data bases still in progress, can  
24 you characterize the magnitude or significance of errors  
25 that were found or is it too early to do that?

LISA A. NANCE, RPR, CCR NO. 50349  
Phoenix, Arizona

1 DR. ADAMS: I think I will leave it to the  
2 experts that work with the data bases to make that  
3 assessment.

4 CHAIRMAN LYNN: Mr. Elder.

5 COMMISSIONER ELDER: Yes, Mr. Chairman.

6 When you say "as good as can be," I think  
7 is the term that you used, is that based on -- I can get  
8 a bunch of data, can't find any more data, that's as  
9 good as it's going to get. Still, it's so far out it  
10 doesn't give us any credibility. Or is it based on  
11 something, like a half percent has been accepted  
12 nationally, we're well within that.

13 Can you explain as good as can be?

14 DR. ADAMS: When I say as accurate as can  
15 be in light of source data, source data is sometimes  
16 inconsistent.

17 At the Secretary of State's site, you have  
18 a canvass, overall canvass of all elections in the  
19 state. And also posted to the site are documents that  
20 have come from each county. Those documents are not  
21 always completely consistent. They are close, but they  
22 are not absolutely consistent. What we have determined,  
23 at least to some degree, the inconsistencies have to do  
24 with votes that were set aside that needed to be  
25 verified, may have been added later, were not in the

1 canvass, got posted to the county.

2                   The kind of research that it would require  
3 for us to go to each county and to try to track down  
4 each one of those pieces -- because, remember, we're  
5 talking individual races within individual counties  
6 within individual precincts. We're talking about a  
7 tremendous number of data base elements.

8                   But as accurate as can be, the differences  
9 between those two sources of data are minimal.

10                   COMMISSIONER ELDER: I guess to follow on  
11 that, in other words, you have reviewed the data bases,  
12 consultants have reviewed the data bases, to where, to  
13 me, on a previous data base where I saw five columns  
14 with zeros on them, there cannot possibly be any way  
15 that can happen. Has it been reviewed for reasonable  
16 numbers? Zeros are not reasonable.

17                   DR. ADAMS: Zeros are not reasonable to  
18 us, either. They have been reviewed for that.

19                   COMMISSIONER ELDER: They are in the right  
20 range, is what you are saying?

21                   DR. ADAMS: Absolutely.

22                   CHAIRMAN LYNN: Other questions for  
23 Dr. Adams?

24                   If not, Dr. Adams, thank you.

25                   Do you have -- I know you are working with

1 other consultants in terms of racial block voting. Do  
2 you have a sense of when those will be corrected and  
3 complete or should I ask that question of Dr. McDonald  
4 when he comes up?

5 DR. ADAMS: I need to talk with  
6 Dr. McDonald.

7 The data bases he worked with, I think as  
8 you'll recall, at the end, very end of the process, you  
9 had additional racial block voting analysis done on  
10 propositions. And those data bases were not among the  
11 data bases that we were originally asked to review. We  
12 were asked to review the ones that were provided to  
13 Dr. Handley. So we have only recently reviewed those.  
14 I will be talking with him today, probably during a  
15 break, sharing information with him.

16 Dr. Handley has the information, and I  
17 believe that she will report to you when she reports  
18 before the Commission.

19 CHAIRMAN LYNN: And she's scheduled for  
20 next week. We'll get that information done.

21 DR. ADAMS: Everything --

22 Let me say, Mr. Chairman, all data you are  
23 working with today, we feel very confident about.

24 CHAIRMAN LYNN: Thank you very much.

25 The next report is from Dr. Michael

1 McDonald. And he will talk with us this morning about a  
2 number of issues, the general nature of competitiveness,  
3 and other issues as well.

4 Dr. McDonald.

5 DR. McDONALD: Thank you, Chairman Lynn,  
6 Commissioners.

7 I'll provide a report to you on the  
8 competitiveness of the districts, State Legislative  
9 Districts.

10 I'll first go through a kind of academic  
11 exercise of what competitiveness means and then talk  
12 about more specifically about Arizona, its overall  
13 character of --

14 CHAIRMAN LYNN: Ms. Minkoff.

15 COMMISSIONER MINKOFF: Dr. McDonald will  
16 we be getting written copies? I really like to listen,  
17 concentrate, than take notes. If I can get copy, that's  
18 what I'd rather do.

19 DR. McDONALD: There should be a report.

20 COMMISSIONER MINKOFF: I have --

21 DR. McDONALD: You want the slides  
22 themselves?

23 COMMISSIONER MINKOFF: If there is a copy.

24 CHAIRMAN LYNN: I think Ms. Hauser printed  
25 those out and can provide you with a copy of that.

1                   We'll have to have some run. We do have a  
2 copy of the slides.

3                   DR. McDONALD: Yes. We'll go through the  
4 overall characterization of competitiveness in the state  
5 as a whole and Maricopa County, and then proceed with a  
6 district-by-district analysis, and end with a  
7 recommendation on how to increase competitiveness.

8                   All right. Let's start with an academic  
9 exercise here. I guess I'm the professor, so I have to  
10 do that in my head.

11                   What does a competitiveness clause do in  
12 the State Constitution with respect to redistricting?

13                   If all districts in a state were a mirror  
14 of the state as a whole, then in a competitive state,  
15 all districts could be competitive. In a noncompetitive  
16 state, all districts would be noncompetitive. Now, in a  
17 noncompetitive state, then, a competitiveness clause  
18 provides a second major party, the party, second largest  
19 party in the state, with an opportunity to elect  
20 candidates in the districts other than those that have  
21 been mirrors of the state.

22                   You are basically creating opportunities  
23 for the second largest party to elect candidates in  
24 these competitive districts you may draw where if all  
25 districts were a mirror of the state, you would not have

1 that opportunity.

2 In a big sense, that's what it does.

3 Of course, there are several caveats to  
4 this. And just like an academic exercise, first of all,  
5 distribution matters.

6 In a noncompetitive state, the more mixed  
7 population, the more opportunities to create competitive  
8 districts. This ties very closely in with preserving  
9 communities of interest, because these -- the mix of the  
10 population will have a lot to do with how closely  
11 together, say, Democrats live together, how closely  
12 Republicans live together. And that provides  
13 opportunities to draw districts that either will be  
14 noncompetitive or opportunities of mixing communities,  
15 or communities that are competitive in nature to begin  
16 with. And those can be drawn into districts.

17 I'm sure you are aware of that very much  
18 in the course of your work here as Commissioners.

19 Then finally the Voting Rights Act we've  
20 also be discussing quite a bit today. I think everybody  
21 has an idea what this means to competitiveness. Just in  
22 a practical sense, not an academic sense, the Voting  
23 Rights Act tends to produce uncompetitive Democratic  
24 Districts. To do so, the remainder of the state becomes  
25 more Republican, removing Democrats from districts, and

1 the rest become more Republican.

2 Democrats are the second largest party to  
3 begin with, and you create voting rights districts, and  
4 then you have the remainder of the state, you still have  
5 to draw competitive districts, that will aid the  
6 Democrats in having opportunities to elect candidates in  
7 districts competitive you're going to create out of  
8 those nonvoting rights districts.

9 As an academic exercise, if the Democrats  
10 were the largest party in the state, if the Democrats  
11 maintained the majority status in the remainder of the  
12 districts that were not voting rights districts, then  
13 Republicans would be advantaged in a competitiveness  
14 clause. You'd been drawing competitive districts for  
15 Republicans where otherwise you would not be forced to  
16 do so.

17 And if after you draw the voting rights  
18 districts you then reduce Democrats to be the second  
19 largest party, which is possible, you moved most of them  
20 into these noncompetitive voting rights districts, then  
21 you have Democrats advantaged through competitiveness.  
22 You would be basically drawing some --

23 CHAIRMAN LYNN: Mr. Huntwork has a  
24 question.

25 COMMISSIONER HUNTWORK: Professor

1 McDonald, as long as we're going through an academic  
2 exercise, maybe I can interrupt you just as one of your  
3 students would do.

4 DR. McDONALD: Please.

5 COMMISSIONER HUNTWORK: I go back to your  
6 original premise about competitiveness versus  
7 noncompetitiveness. And I want to pose a hypothetical  
8 to you: One of the issues that I've been very concerned  
9 about when we talk about competitiveness in Arizona is  
10 somewhat of the history of our -- of this provision.  
11 The arguments regarding competitiveness focus, I think,  
12 in the public mind as much on noncompetitive districts,  
13 as much on avoiding noncompetitiveness, perhaps more on  
14 avoiding noncompetitive districts, than than creating  
15 competitive districts. We had a particular poster-boy  
16 for noncompetitiveness, and I won't -- you know, I won't  
17 besmirch his memory any more than has already been done  
18 by naming him.

19 The issue was we have all these districts  
20 so completely noncompetitive, people become entrenched,  
21 they hold to peculiar ideas, have no accountability, and  
22 we as a collective political body in the state can't get  
23 rid of these people. By seniority, they get to be heads  
24 of commissions, and so on and so forth. So  
25 noncompetitiveness was as much a concern as

1 competitiveness in debating this issue in the State of  
2 Arizona.

3                   Now, if you put two districts down next to  
4 each other, both -- put down a district that is  
5 fifty-fifty and a district that is seventy-thirty, if  
6 you are looking at noncompetitiveness, you try to make  
7 them both sixty-forty. If you do what you are saying,  
8 you take districts that are sixty-forty, turn one into a  
9 fifty-fifty and one into seventy-thirty, and that would  
10 violate the desire to eliminate noncompetitive  
11 districts.

12                   Now, where did you -- what is the basis  
13 for your jumping to the idea that that is what we're  
14 supposed to try to do? Because that's what I  
15 interpreted from your very first slide.

16                   DR. McDONALD: Sounding, drawing to  
17 maximize the number of competitive districts. That was  
18 my premise.

19                   COMMISSIONER HUNTWORK: What is the basis  
20 for that premise? Is that based on the State of  
21 Arizona, on history of our provision, public debate  
22 concerning our provision, or is it purely an academic  
23 hypothesis?

24                   DR. McDONALD: Purely academic. In fact,  
25 I heard testimony one plan was more competitive than

1 another because it has more competitive districts.

2 COMMISSIONER HUNTWORK: We've heard that  
3 testimony all the time. But that is testimony from a  
4 partisan point of view.

5 DR. McDONALD: Yes.

6 COMMISSIONER HUNTWORK: Is it in fact the  
7 standard that is in our Constitution?

8 What is the basis for saying that is the  
9 standard that is in our Constitution?

10 DR. McDONALD: That's a very good  
11 question.

12 The Constitution is largely silent on  
13 competitiveness as ending along six items of what you  
14 have to follow in drawing districts. And clearly  
15 it's -- my recommendation for competitiveness, and my  
16 definition, may not jibe with what your decision is on  
17 that.

18 I would defer to your decision on what  
19 competitiveness is. My definition would be maximizing  
20 the number of competitive districts.

21 COMMISSIONER HUNTWORK: When you say  
22 maximizing the number of competitive districts, your  
23 goal is not to create the maximum amount of  
24 competitiveness overall. Your goal is to create the  
25 maximum number of competitive, individual districts that

1 are competitive.

2 DR. McDONALD: Yes.

3 COMMISSIONER HUNTWORK: So using that  
4 goal, you might take people out of -- you might put as  
5 many citizens in a district that is noncompetitive,  
6 where they don't really have a choice, in order to  
7 create another district where more citizens do have a  
8 choice?

9 DR. McDONALD: I think I can see what your  
10 question is.

11 In that situation -- instead of  
12 thirty-seventy and sixty-forty, what if you had a  
13 district that was 45 and you had two districts like  
14 that, and they would be on the cusp, being that, draw  
15 one to be 50, draw one to 40, one more competitive, to  
16 lose competitiveness, is that what you are going at,  
17 want to maximize the overall competitive character of  
18 every sort rather than sacrifice competitiveness for one  
19 district?

20 COMMISSIONER HUNTWORK: As long as talking  
21 academically, I always felt, said what is the  
22 bright-line distinction between a competitive district  
23 and noncompetitive district.

24 DR. McDONALD: Uh-huh.

25 COMMISSIONER HUNTWORK: It's not a given

1 number. It's all in context. The goal is create a  
2 healthy political debate throughout the state.

3 I've never been able to see why it's  
4 appropriate to sacrifice some citizens by putting them  
5 in noncompetitive districts in favor of benefiting  
6 others by putting them in a competitive district.

7 I always thought if other analysis yields  
8 forty-sixty Democrat and sixty-forty right next to each  
9 other, with no communities of interest involved or other  
10 substantial detriment to the other criteria, there's an  
11 opportunity to create two competitive districts without  
12 harming anybody else. But if we have two that were  
13 sixty-forty and both parties could field candidates in  
14 those districts, and depending how good the candidates  
15 were, overall, and so on, healthy political debate, and  
16 either candidate could be elected, I always thought we'd  
17 do substantial harm to competitiveness if we made one of  
18 them completely off the scale so that nobody of the  
19 other party even had a chance of being elected in that  
20 district.

21 DR. McDONALD: I would definitely agree.  
22 Having the opportunity to have debate at a general  
23 election is what you want in a competitive -- is part of  
24 what competitiveness means. So in any competitive  
25 district there would be one in which the other party

1 either fielded very weak candidates or didn't field any  
2 candidates at all. And that does happen in the State of  
3 Arizona.

4                   So what I'm going to present here in  
5 numbers, and talking about percentages, is one bit of  
6 information for you to come to make a decision on  
7 whether or not a district is competitive. And if you  
8 have other knowledge you've gained through this process,  
9 which I undoubtedly believe you do have, that leads you  
10 to believe a particular district, even though it doesn't  
11 fall within my measure of what competitiveness is, would  
12 be competitive in your mind, then I would say that that  
13 information -- you should use my information as one bit  
14 of information in coming to a decision on this,  
15 absolutely.

16                   COMMISSIONER HUNTWORK: I think that's not  
17 exactly the point that I was making.

18                   DR. McDONALD: Okay.

19                   COMMISSIONER HUNTWORK: The point I was  
20 making, or I felt I was making, as you look at moving  
21 people around to make one district more competitive,  
22 don't you also have to look at what you are doing to  
23 other districts in making them less competitive?

24                   DR. McDONALD: Absolutely.

25                   COMMISSIONER HUNTWORK: The goal here is

1 to create as competitive a map overall as we can. That  
2 is look at each district to maximize competitiveness of  
3 that district.

4 DR. McDONALD: Ideally the sorts of  
5 changes we'd be talking about to the plan would be to  
6 take Republicans from a Republican district, exchange  
7 Democrats from a Democratic district, make two of them  
8 more competitive rather than dealing with two Democratic  
9 districts, moving one in a more competitive direction  
10 while sacrificing another in a more uncompetitive  
11 direction. I think when you think about that particular  
12 instance, you may have to deal with that decision, if a  
13 district is already so uncompetitive that it is  
14 uncompetitive, if you take a few Republicans out of a  
15 Democratic district, overwhelmingly Democratic, it does  
16 not change the overall competitive character of that  
17 district; but you could change the character of another  
18 district.

19 I wouldn't exclude, necessarily, those  
20 sorts of trades that you may entertain.

21 But if you are very close with two  
22 districts, then that's a much more difficult trade to  
23 make.

24 COMMISSIONER HUNTWORK: Thank you.

25 CHAIRMAN LYNN: There is, though, one

1 point that I want to revisit, the next-to-last point you  
2 and Mr. Huntwork were discussing. Just to revisit it  
3 for a moment. The assumption in the discussion that  
4 just went on is the measure of competitiveness was  
5 registration, and probably registration alone.

6 DR. McDONALD: Uh-huh.

7 CHAIRMAN LYNN: I want to be sure I heard  
8 you. Not only do we have information gained through  
9 this process, but the fact of the matter is, as I do my  
10 independent reading of definitions of competitiveness,  
11 very few people rely solely on registration as a measure  
12 of competitiveness in any district. Would you concur?

13 DR. McDONALD: If you let me, Commissioner  
14 Lynn, I'll go ahead and skip forward to --

15 CHAIRMAN LYNN: Mr. Elder, you have a  
16 question. If we can deal with that later.

17 Let me -- well, let Mr. Elder get in it.

18 COMMISSIONER ELDER: Starting to flip over  
19 slides. Go back, give the presentation, give us the  
20 context of how all this is going together, and then go  
21 back to the specific response to questions.

22 DR. McDONALD: Okay. Only one slide.

23 Chairman, I will address your concern in  
24 just a minute.

25 First of all, I was asked to assess

1 overall competitiveness of Arizona and the County of  
2 Maricopa. I did this by looking at the percent  
3 registration. I did not use other measures, like the  
4 AQD and my own measure, because I felt uncomfortable  
5 using my own measure here of this so called Judge It  
6 methodology, and that's because the statistics behind it  
7 don't lend itself easily.

8 I can give more detail, if you want it, to  
9 drawing up these sorts of measures at a statewide level  
10 than at the -- especially when I talk about the  
11 deviation of these measures across precincts.

12 So to proceed, then, this just gives you  
13 kind of an idea of the overall competitive character of  
14 the state.

15 You can see that the Democratic  
16 registration is 37.9 percent. Republican registration,  
17 43.2. And other non-Democratic, non-Republican, 18.9  
18 percent.

19 You have roughly a 7.3 percent -- excuse  
20 me, 6.3 percent edge for Republicans in registration in  
21 state.

22 Within Maricopa County, Democratic 33.4  
23 percent. Republican is 48.0. Non-Democratic  
24 Republican, 18.7.

25 Even more of an unbalance toward

1     Republicans in Maricopa County of roughly 14.6 percent.

2                     CHAIRMAN LYNN:  Dr. McDonald, I know  
3     Commissioners want to ask questions.

4                     I'd ask my fellow Commissioners to do two  
5     things.  First, I think it's important to allow  
6     Dr. McDonald to go through his presentation.  It is  
7     designed to be a presentation start to finish.

8                     The second thing I ask, the copies you  
9     just received were made on a version of the presentation  
10    that has since had some minor correction to it.  If you  
11    see discrepancies between any number you have on your  
12    page and a number on the screen, the number on the  
13    screen would dictate.  Make the changes from the screen  
14    to paper.

15                    I ask without objection you let  
16    Dr. McDonald complete -- keep track of your questions  
17    and we'll get back and answer every single one.

18                    Thank you.

19                    DR. McDONALD:  Not only is it important as  
20    I mentioned earlier as an academic exercise, we're now  
21    talking the actual, real world of looking at these, the  
22    mean of the registration percentage within the counties.  
23    But this is also looking across precincts and looking at  
24    the different character of different precincts.

25                    So it's going to be more possible to draw

1 competitive districts if there's more of a mix of the  
2 registration across precincts. And so the standard  
3 deviation is the usual statistical deviation.

4 I could talk about that a little more if  
5 you need to of the spread, measure of the spread of the  
6 percentages in either Democrat, Republican, other.

7 We see the state as whole, 11.1 percent  
8 standard deviation Democrats, 12.2 Republican, and 4.34  
9 other. Which means there is quite a bit of mix out  
10 there.

11 In comparison to Maricopa County, you can  
12 see there is less of a spread of these registration  
13 numbers within precincts, 6.7 percent for Democratic,  
14 Republican 7.1, and non-Democrat, Republican is 1.5  
15 percent.

16 I believe Mr. Johnson will show you actual  
17 maps with registration plotted onto them with levels.  
18 And I think --

19 This is my take at it. I don't have that  
20 mapping technology available to me. I think that will  
21 be much more instructive to look at that and have a  
22 clear picture of distribution of partisans across  
23 precincts and give you a much better idea of where  
24 you'll be able to find locations of where you can draw  
25 competitive districts. This is my overall take of it.

1                   Now, in addressing Chairman Lynn's  
2 question, earlier question, about what sorts of  
3 information is available in order to assess  
4 competitiveness, one are registration numbers I've just  
5 been talking about. The other is the Arizona Quick and  
6 Dirty which is a compilation of elections, four  
7 statewide election results, and an average.

8                   These sorts of measures are used quite  
9 frequently in redistricting across the country. They  
10 are used -- the idea behind this statewide partisan  
11 office, the votes should reveal within a given precinct,  
12 should be very similar to whatever that underlying  
13 partisan strength is within that particular precinct or  
14 particular location that you are looking at. And it's a  
15 technique used quite a bit.

16                   So it's not surprising that it's a  
17 technique that is presented to you here as well. So  
18 that's the Arizona Quick and Dirty. It's not the same  
19 as registration, because we're talking about actual  
20 election outcomes rather than registration.

21                   Registration, as we know, people don't  
22 necessarily vote if they are registered to vote, and not  
23 necessarily if registered for one party will they vote  
24 for that party's member. There is crossover voting that  
25 happens, and also I have another category. People

1 aren't neither Democratic or Republican, they also will  
2 vote some way as well.

3 I've done no personal analysis of this in  
4 Arizona. You can imagine these sorts factors come into  
5 play when you actually start talking about predicting  
6 the election results in State Legislative elections,  
7 because these -- are the partisans going to be partisan,  
8 maybe not be partisan, crossover, and what is the  
9 behavior of these nonpartisans or minor party  
10 registrants, and then do they turn out to vote?

11 All that will factor into the actually  
12 predicting election results.

13 So that's this forecast model which has  
14 been deemed, called Judge It.

15 What that attempts to do, it attempts,  
16 actually, to kind of combine that registration with  
17 election, previous election results, to come up with a  
18 prediction of election outcomes within given districts.

19 I don't use the same elections as the  
20 Arizona Quick and Dirty. I use actual State Legislative  
21 elections that have previously occurred in 2000 and use  
22 those to try to forecast what is going to happen in  
23 2002. When I do that, I do take a step as well of  
24 predicting the advantage incumbents have in their  
25 predicted -- in their election outcomes and previous

1 elections and use that as a basis to take out that  
2 incumbency advantage and look really at the underlying  
3 partisan vote for State Legislative candidates as if a  
4 district was fully contested, meaning both parties would  
5 field candidates, a full slate of candidates for a  
6 particular district, and that there were basically open  
7 seats, that there were no incumbents present of either  
8 party. This gives us at least an idea of what the  
9 underlying partisan outcome of the district will be.

10 Now, as a prediction, nobody is perfect on  
11 a prediction. So there's obviously going to be error in  
12 that prediction.

13 You in statistical analysis -- if I was  
14 perfect on that, I'd be in Yale, somewhere in the  
15 future.

16 These models are not perfect. Uncertainty  
17 of that prediction is what I use as a basis for  
18 determining whether or not a district is competitive.  
19 If my uncertainty is I can't tell from doing modeling,  
20 coming up with an estimate, whether or not a district  
21 will have more than 50 percent Democrat or 50 percent  
22 vote Republican, I say that's a competitive district.

23 This could differ model to model.

24 Have more information, registration,  
25 better information, maybe a worse predictor. For here

1 in Arizona, that spread turns out to be 50 percent plus  
2 or minus 3.5 percent. And this is a very narrow  
3 definition of what competitiveness is. If you look in  
4 literature, academic literature on this, there are  
5 spreads as great as five percent. There are some as low  
6 as two percent, plus or minus two percent. There are  
7 some that take even completely different tacks on it as  
8 well and say it's the probability of electing a  
9 candidate, Democratic or Republican, 75 percent. So  
10 there's a wide range to look at.

11 I've chosen what I believe to be a very  
12 conservative estimate of it. I believe this will give  
13 you the most competitive districts possible.

14 Then, as I said before in response to  
15 Mr. Huntwork's question, I really do believe that this,  
16 all three bits of information here I'll present for  
17 every district, is something that you -- to factor into  
18 making your decision.

19 You know, as I just stated to you, that my  
20 estimates are not going to be perfect, the registration  
21 is not going to be perfect. Arizona Quick and Dirty is  
22 not going to be perfect. None will be perfect of all  
23 parts and character. There will be some leeway, in your  
24 own mind, information gathered through the process you  
25 should consider in determining the overall competitive

1 character of a district. This is just one tool  
2 available to you to come to a decision.

3 I'm going to start going through district  
4 by district.

5 I think now if there were any questions,  
6 it might be a good time.

7 CHAIRMAN LYNN: All right. I know  
8 Mr. Huntwork did and Mr. Elder as well. We'll take them  
9 in that order.

10 COMMISSIONER HUNTWORK: Okay. First one.  
11 I have two. In the slide entitled "overall  
12 competitiveness slide," it showed basically a difference  
13 of 18.7 percent based on registration numbers in  
14 Maricopa County.

15 CHAIRMAN LYNN: 14.6.

16 COMMISSIONER HUNTWORK: I'm sorry, 14.6  
17 percent in Maricopa County.

18 The question is: Do you know what that  
19 goes to, to give us a rough estimate of what that  
20 difference goes to, if you exclude the three  
21 majority-minority districts, 13, 14, and 16?

22 DR. McDONALD: I did not do that. But as  
23 a preview for Mr. Johnson, he did come up with the  
24 numbers. I believe this is the state as a whole. He'll  
25 be able to give you some idea much better than I would.

1 COMMISSIONER HUNTWORK: Okay.

2 COMMISSIONER MINKOFF: Another question?

3 MR. HUNTWORK: Indulge me, another  
4 question.

5 Looking at the difference in the state as  
6 a whole, the same slide, you have it, around seven  
7 percent difference Republican, Democrat, six to seven  
8 percent, we do have success electing Democrats to  
9 statewide office. The Attorney General is a Democrat.  
10 There's a very good chance of a Democrat being elected  
11 Governor. And the question really then relates back to  
12 the number of 3.5 percent.

13 Again, as an academic exercise, it's one  
14 thing. As applied to the State of Arizona, the quirks  
15 of the people of Arizona, and so on, is that -- is there  
16 an empirical basis for that number or is it one that you  
17 picked out -- would apply to all states in all  
18 circumstances?

19 DR. McDONALD: There's empirical  
20 statistical use for use of that number. That's  
21 statistically speaking a 90 percent confidence interval  
22 of the predicted both -- for a candidate, either a  
23 Democrat or Republican candidate. That means 95 percent  
24 of the time we are confident that the interval lies  
25 within somewhere, plus or minus 3.5 percent.

1                   So any district where there's an estimate  
2 within 3.5 percent of 50, that then becomes, for me, a  
3 competitive district; because I can't be sure that the  
4 truest met -- the true value, not the estimate, is  
5 greater or less than 50 percent.

6                   So that's where that comes from.

7                   COMMISSIONER HUNTWORK: But then that does  
8 not negate the probability of electing a candidate?

9                   DR. McDONALD: It has correspondence to  
10 probabilities as well, yes.

11                  I talked about these 95 percent confidence  
12 intervals roughly follow normal curve statistics. You  
13 can come up with probability estimates. Like I said  
14 earlier, many a competitive district has a 75 percent  
15 chance of electing a Democrat or Republican, and that --  
16 you can calculate these as well.

17                  COMMISSIONER HUNTWORK: Can you translate  
18 the three-and-a-half percent number into probability for  
19 an election?

20                  DR. McDONALD: I have not.

21                  COMMISSIONER HUNTWORK: Could you do that?

22                  How hard would it be to do that? To me,  
23 that's more how I would think of this in terms of this  
24 if I had -- ultimately if we have to come up with a  
25 number we think is competitive and I want to be able to

1 make adjustments there, I want to know that.

2 DR. McDONALD: I can do that, if so  
3 directed.

4 COMMISSIONER MINKOFF: Can you do it at  
5 several levels, five percent, seven percent --

6 DR. McDONALD: I could, yes.

7 CHAIRMAN LYNN: I want to be clear about  
8 something. I fear we're having a discussion over two  
9 perspectives. They cannot both be correct.

10 DR. McDONALD: Actually they're very  
11 similar.

12 CHAIRMAN LYNN: What I'm hearing is  
13 discussion around a deviation, I think, Jim, you are  
14 referring to as a deviation in registration.

15 COMMISSIONER HUNTWORK: No.

16 CHAIRMAN LYNN: I want to be clear about  
17 that. The deviation I think we're talking about,  
18 three-and-a half percent plus or minus, is a deviation  
19 from what would be a purely competitive result, not  
20 registration, but a result from running Judge It on a  
21 district with all the variables that go into Judge It.  
22 An ideal, competitive district would be the result,  
23 would be 50 percent. That would be the measure.

24 And then your reliability for saying a  
25 district would be competitive is a plus or minus three

1 percent from that 50 percent result. It doesn't -- it  
2 has something to do with registration, but it is not a  
3 registration number; is that accurate?

4 DR. McDONALD: Yes. I incorporate some  
5 information from registration.

6 CHAIRMAN LYNN: As long as we're clear on  
7 that.

8 COMMISSIONER HUNTWORK: May I explain? I  
9 apologize. I think it will just take me a second.

10 The reason I'm interested in probability  
11 of elections is that Dr. McDonald made a very salient  
12 point a moment ago at some point a district is already  
13 so uncompetitive that it makes -- it probably makes no  
14 difference if you pack it a little bit more. In my  
15 mind, if we are going to have to make that judgment,  
16 even once, I have to know how it's affecting my fellow  
17 citizens in terms of the probability that somebody from  
18 a minority party can get elected in that district. To  
19 me that would be the meaningful way of understanding  
20 whether I'm sacrificing some citizens for the benefit of  
21 others.

22 CHAIRMAN LYNN: Mr. Elder --

23 DR. McDONALD: Can I respond to  
24 Mr. Huntwork's question?

25 CHAIRMAN LYNN: Sure.

1 DR. McDONALD: Direct correspondence to  
2 probabilities and 3.5 percent, if right on the cusp of  
3 3.5 percent, that district is not as competitive as a  
4 district that is close to -- more closer to 50 percent.  
5 So you can, kind of in your -- do off-the-cuff sort of  
6 calculations.

7 If you see a district has, say, a 41  
8 percent estimate, that's probably a noncompetitive  
9 district. Well, it is a noncompetitive district.

10 So you kind of --

11 It's when you get in that close range  
12 of -- and I'll show you one district which is 3.6  
13 percent. And that, by my terminology, does not end up  
14 being a competitive district. Really, in truth, it's so  
15 close, three -- meaning 3.6 versus a district at 3.5  
16 percent, thinking probability.

17 So it's just slightly more uncompetitive  
18 than a district at 3.5 percent. I think it's an  
19 important point to understand. Just because it's that  
20 little bit more out, and it has fallen out of my range  
21 of where a competitive district is, doesn't mean if you  
22 made it 3.5 percent, it would suddenly change from being  
23 a completely uncompetitive district to being a  
24 completely competitive district. You just moved the  
25 gradation a bit, moved into my range for what statistics

1 have told me is a competitive district.

2                   When you are thinking about this 3.5  
3 percent, you need to think about it, it's the further  
4 out you move, that becomes a less and less competitive  
5 district. There's no magic -- I've given you a magic  
6 cut-off point. Take that with a grain of salt and  
7 understand the uncertainties of estimates are such there  
8 really is little difference between 3.5 and 3.6 percent.

9                   COMMISSIONER HUNTWORK: Okay.

10                  CHAIRMAN LYNN: Mr. Elder.

11                  COMMISSIONER ELDER: Yes, Mr. Chairman,  
12 Dr. McDonald.

13                   A cursory rate on demographics, 300  
14 people, we may have surety, or a level of confidence,  
15 plus or minus 20 percent, go in their survey 2,500 and  
16 get down to the two percent or three percent range. Do  
17 the number of races and the data bases that you have  
18 used give you the level of confidence to be down at that  
19 three percent plus or minus range?

20                  DR. McDONALD: That's factored,  
21 absolutely, in what I'm doing here. You are absolutely  
22 correct stating the number of races does play an  
23 important role in determining this 3.5 percent number.

24                   If I had more elections to draw from, but  
25 we don't, I may have tighter estimates. With less, I

1 may have more. In fact, I mean this is a very good  
2 point to make about the Congressional analysis is here  
3 we only had five districts -- six districts, to look at.  
4 And those districts, then trying to estimate from  
5 those -- it's very difficult. And you really -- I had  
6 to do some additional analysis there on the  
7 Congressional and really pull in all the elections in  
8 the 1990s to come up with a viable estimate for  
9 predicting outcomes in Congressional elections.  
10 Fortunately, in the state legislative level, I didn't  
11 need to go into as much -- drawing in many more  
12 elections into 1992.

13 COMMISSIONER ELDER: In other words, you  
14 have data to support 3.5.

15 Seemed to me going around what is  
16 competitive, what isn't, you started with a different  
17 number, arrive at 3.5.

18 I don't know if it's from NDC, you, or  
19 maybe a national, oh, yeah, 3.5 is competitive.  
20 Somewhere we came up with a bottom line answer to the  
21 question is yes, we have the number of races statewide  
22 to be able to support 3.5 --

23 DR. McDONALD: Correct.

24 COMMISSIONER ELDER: -- in that area  
25 Mr. Huntwork was talking about or you were talking with

1 Mr. Huntwork about.

2 CHAIRMAN LYNN: Mr. Hall.

3 COMMISSIONER HALL: Just so I understand,  
4 the 3.5 percent you are saying is 95 percent?

5 DR. McDONALD: 95 percent confidence rate.

6 COMMISSIONER HALL: What I heard you say  
7 is that is a continuum of a scale, if you will. The  
8 five percent is --

9 DR. McDONALD: Is like 98?

10 95 percent confidence rule, 95 percent  
11 sure it's a true, guiding light. If we go out to 95,  
12 you have to increase this plus or minus 3.5, talking  
13 probably a '98, '99 percent confidence symbol, somewhere  
14 around there, which means that by increasing the  
15 confidence, you are basically saying I have less  
16 confidence of what my true value is, so I'm increasing  
17 the range of what could be. That increases my  
18 confidence I indeed have captured the true value.

19 It's kind of inversely related. It's an  
20 odd concept.

21 COMMISSIONER HALL: As the spread goes  
22 wider, confidence increases?

23 DR. McDONALD: Spread increases, plus or  
24 minus a hundred percent, capture everything.

25 COMMISSIONER HALL: What is zero be zero?

1 DR. McDONALD: 15 percent --

2 COMMISSIONER ELDER: Whereas we have 100  
3 percent variation, his confidence level is zero, if we  
4 had seventy-thirty, his confidence level might be 99.5.

5 COMMISSIONER HALL: What is it, zero?  
6 Zero deviation?

7 DR. McDONALD: You can have confidence  
8 intervals that come down -- zero, to give a range, is  
9 nonsensical when talking points. Say plus or minus one  
10 standard deviation, roughly 68 percent; and that would  
11 be about 1.7, plus or minus 1.7 gives a 68 percent  
12 confidence interval.

13 COMMISSIONER HALL: Explain to me again  
14 this number on the chart, standard deviation number, how  
15 it has to do with the measure of spread or mix?

16 DR. McDONALD: This is on, typically, mean  
17 of distribution. What I've provided here, would be  
18 37.9, the spread, how wide apart those are, measures  
19 standard deviation, measures deviation from the means  
20 and aggregates them together.

21 There is averaging over them, some  
22 squaring going on. You want to make sure the pluses and  
23 minuses all are captured. That's what standard  
24 deviation does.

25 COMMISSIONER HALL: Did I hear you say

1 this Judge It analysis does include the incumbency  
2 factor or does not?

3 DR. McDONALD: Does not.

4 COMMISSIONER HALL: Is it possible to  
5 include a separate analysis that does include the  
6 incumbency factor?

7 DR. McDONALD: In some court cases around  
8 the country, it is a factor. You can pull off a  
9 partisan gerrymander group, other parties' incumbents  
10 together, and nullify incumbency advantage to a certain  
11 extent. This has been used to look at what  
12 hypothetically would happen with no incumbents and  
13 hypothetically what would happen if incumbents living  
14 within given districts were reliable for particular  
15 districts, what will happen when they run in their  
16 districts. It is appropriate to use that in certain of  
17 those cases.

18 COMMISSIONER HALL: Let me see if I  
19 understand, in general terms.

20 If you took specifically District 24,  
21 which is in Southwest Arizona, Yuma, and you look at the  
22 AQD table, it shows me a difference of .1 percent.

23 DR. McDONALD: Uh-huh.

24 COMMISSIONER HALL: On the Judge It table  
25 it jumps to 7.2.

1                   Is it a gross overgeneralization to say  
2 the difference in those numbers is solely impacted by  
3 voter behavior?

4                   COMMISSIONER MINKOFF: Say the last one  
5 there?

6                   CHAIRMAN LYNN: It's what?

7                   COMMISSIONER HALL: Voter behavior.

8                   COMMISSIONER MINKOFF: Are these our  
9 districts?

10                  CHAIRMAN LYNN: Interim maps.

11                  COMMISSIONER MINKOFF: Okay.

12                  COMMISSIONER HALL: It may be better,  
13 Dr. McDonald, if you explain intuitively, granted I  
14 understand, I'm trying -- the registration is 9.4. If  
15 it goes to .1 AQD and goes back to 7.6 -- I understand  
16 there are more variables depending on the sophistication  
17 of the analysis -- but according to the AQD, 24 is  
18 competitive. According to your analysis, it isn't.

19                  DR. McDONALD: Yes.

20                  COMMISSIONER HALL: Am I asking for a  
21 tough, an unfair question?

22                  DR. McDONALD: What can happen?

23                  COMMISSIONER ELDER: Numbers referring to  
24 in your basic question, if you look at them, it is a  
25 direct scale from one to 30, and goes -- right in

1 sequence, no variation. It's a linear --

2 COMMISSIONER HALL: Looking at the wrong  
3 column, Dan. McDonald difference.

4 COMMISSIONER ELDER: Difference --

5 DR. McDONALD: Put off to the side and  
6 shows the level -- increasing or decreasing  
7 competitiveness for each district. Don't correspond  
8 necessarily to the district in which row.

9 COMMISSIONER HALL: So back to the  
10 question, can you answer that for me?

11 DR. McDONALD: Yes, Mr. Hall.

12 You've four statewide offices to come up  
13 with the AQD. There's no guarantee those statewide  
14 offices are actually picking up true underlying  
15 partisanship. You hope that's what happens, but it  
16 could be -- I really don't know anything about where  
17 these candidates live, or anything like that. Suppose  
18 hypothetically all four candidates for some reason had  
19 state wide races, one party had homes, or friends, or  
20 organizations in the area of 2.4, and that affected the  
21 estimate, the AQD. So that -- that is maybe one  
22 explanation of what is happening here. You could spin  
23 out several sorts of hypotheticals like that.

24 COMMISSIONER HALL: Bottom line is the  
25 difference between AQD and Judge It is analysis of past

1 elections. That's the difference between the numbers.

2 DR. McDONALD: AQD is statewide, Judge It,  
3 State Legislative elections also incorporating  
4 registration data into the model as well. That's why,  
5 seeing in this instance, Judge It and registration being  
6 in the same direction away from AQD.

7 COMMISSIONER HALL: Thank you.

8 One final question: With respect to the  
9 other category here, does your analysis take into  
10 account their mediator, too, in those past elections?

11 DR. McDONALD: What I've done, estimating  
12 percentage vote of two-party vote for Democratic  
13 candidates. And I'm not looking at any third-party  
14 candidates. And in -- so I'm only calculating, as a  
15 prediction, judge the votes of Democrats as the share of  
16 Democrats, but Democrats plus Republican vote share.  
17 For registration, I'm only looking at the share,  
18 Democratic share of the registration, same sort of  
19 method of Democratic plus Republican registration.

20 So I'm not directly incorporating  
21 independents into this analysis. In fact, the  
22 statistics on this are so difficult that I think it  
23 would be impossible to do in this situation. So I've  
24 used the next best thing. This is what people use when  
25 they do this sort of analysis, use two-party vote, major

1 party vote, or whatever.

2                   You imagine, then, that that vote for  
3 those two candidates -- another factor in there is the  
4 past performance of candidates, 2000 election, and  
5 then -- within a given district. Votes for  
6 independents, if they broke systematically one way or  
7 the other, may factor themselves into the equation that  
8 way as being translated through that devotion to vote  
9 through candidates.

10                   In a given district, say Independents tend  
11 to break more Republican, Democrat in a particular  
12 district, the share for candidates in that state  
13 Legislative election would be higher for the Republican  
14 candidates. That would be how it would factor through  
15 the analysis.

16                   CHAIRMAN LYNN: Ms. Minkoff then  
17 Mr. Huntwork.

18                   COMMISSIONER MINKOFF: A few questions,  
19 Dr. McDonald.

20                   First of all, in doing your analysis in  
21 Legislative elections, did you factor in what I would  
22 call aberrative results? For instance, two years ago we  
23 had a situation where a Democrat was elected to a  
24 Legislature in an absolutely rock-solid Republican  
25 district. I think everybody would agree it was not a

1 competitive district. It was because the Republican  
2 running in the the District, the Republican, was  
3 singularly responsible for an alternative fuel measure  
4 scandle that cost the state hundreds of thousands of  
5 dollars. That Democratic is so sure it's not a  
6 competitive district, he's running for statewide office  
7 rather than reelection.

8 Does that factor into election?

9 DR. McDONALD: I believe there was the one  
10 election I removed from the analysis, that one I did,  
11 and used other analysis.

12 MS. HAUSER: He did.

13 DR. McDONALD: I either used state Senate  
14 results in that district or state house results. I'd  
15 have to go back.

16 COMMISSIONER MINKOFF: You would eliminate  
17 that kind of race where --

18 DR. McDONALD: Obvious aberrant races.

19 When is it possible for a Democrat to win  
20 in an uncompetitive Republican district? Elections are  
21 variable. Undoubtedly there are going to be cases  
22 within my own analysis where we're going to see  
23 Democrats or Republicans win out of districts where  
24 registration, AQD, Judge It analysis would say that's  
25 not a competitive district.

1                   So candidates matter, issues matter, all  
2 these sorts of things matter to elections that can't be  
3 factored into these models, just looking at the  
4 underlying partisan district.

5                   COMMISSIONER MINKOFF: A couple more  
6 questions.

7                   In terms of that particular slide, looking  
8 at the state as a whole, I can go through an exercise,  
9 throw out independent, third-party voters, and it just  
10 looks at the difference between Democrat and Republican  
11 voters.

12                   Now, I know independent voters may or may  
13 not mirror the distribution of the two major parties,  
14 but just using Democrats and Republicans and saying they  
15 are the only registered voters in the state, their  
16 registration is within your three-and-a-half percent  
17 deviation.

18                   If they are the only registrants in state,  
19 actually amount to 81.1 percent of voters in the state,  
20 if you take that number and figure out what percentage  
21 of that number are Democrats and Republicans, it's  
22 within three-and-a-half percent.

23                   Based on that, can we say that Arizona is  
24 a relatively competitive state?

25                   Jim is talking statewide elections. The

1 fact there's a Democratic Attorney General, and several  
2 Democrats as well as Republicans running this year for  
3 statewide races, I don't think the result could be  
4 predicted ahead of time.

5                   Would it be correct then to characterize  
6 us state-wise as a competitive state?

7                   DR. McDONALD: Well, this registration  
8 does not necessarily have direct correspondence to my  
9 3.5 percent is one response to that.

10                   The other response is that I'm looking at  
11 the percentage of Democrats as a percentage of Democrats  
12 plus Republicans, and these numbers here with -- the  
13 range would increase if we took out the other  
14 percentages. So there would be a larger spread between  
15 Democrats and Republicans.

16                   I haven't done that, but that is what  
17 would actually happen when you remove the nonmeasured  
18 party registrants from this.

19                   I can't tell you with a hundred percent  
20 certainty whether it would still be within the 3.5  
21 percent range when you just look at two-party  
22 registration. It seems to me it's -- as we go through  
23 this analysis, you can see that Republicans tend to have  
24 more of an advantage over Democrats in terms of  
25 registration and election outcomes. That probably has

1 to do with lower turnout rates of Democratic  
2 registrants. I haven't done that analysis, but that's  
3 an educated guess.

4 My guess is the 6.3 percent difference  
5 statewide does not necessarily -- I mean it would be  
6 close to being competitive, it does seem to be a  
7 Republican leaning state, at the very least, and may be  
8 a Republican uncompetitive state. I don't have that  
9 analysis for you. Sorry.

10 COMMISSIONER MINKOFF: My final question  
11 goes back to standard deviation, trying to get a handle  
12 on that, and it's just not sinking in.

13 Across the state, does a higher standard  
14 deviation mean that Democrat and Republican voters are  
15 more evenly disbursed or less evenly disbursed?

16 DR. McDONALD: Less evenly disbursed.

17 COMMISSIONER MINKOFF: Basically more  
18 packed throughout the state than in Maricopa County?

19 DR. McDONALD: If I may restate that, no.  
20 Not evenly -- evenly distributed would mean every  
21 district, every precinct, matched 47.9, 43.2.

22 COMMISSIONER MINKOFF: Standard deviation  
23 zero?

24 DR. McDONALD: Zero. More mixed up,  
25 higher rate.

1                   COMMISSIONER MINKOFF: Higher standard  
2 deviation, more precincts across the state with very  
3 high, very low percentage of Republicans compared to  
4 registration in Maricopa County since standard deviation  
5 is lower.

6                   DR. McDONALD: Fewer.

7                   COMMISSIONER MINKOFF: Then the precincts  
8 would be closer to 33 percent, 48 percent registration.

9                   DR. McDONALD: Absolutely.

10                  I think when you see Mr. Johnson's report  
11 which plots out this it will become much more clear to  
12 you what is going on.

13                  MR. RIVERA: Mr. Chairman, Commissioner,  
14 Mr. Johnson, I believe his presentation has the  
15 thematic, shows concentration of registration. He'll be  
16 able to reasonably have pictures to better explain  
17 Dr. McDonald's answers.

18                  COMMISSIONER MINKOFF: I understand  
19 pictures better than numbers.

20                  CHAIRMAN LYNN: We do need to take a  
21 break.

22                  I think what I'd do is ask Mr. Huntwork to  
23 ask his questions. Before we go into  
24 district-by-district analysis, we'll take a brief break  
25 for Ms. Nance.

LISA A. NANCE, RPR, CCR NO. 50349  
Phoenix, Arizona

1 Mr. Huntwork.

2 COMMISSIONER HUNTWORK: I want to be  
3 clear. I really would like a translation of this  
4 methodology into something I call probability of  
5 election, and -- just to see if it's a straight line. I  
6 mean is there a simple linear extrapolation?

7 DR. McDONALD: Close. Follows a bell  
8 curve, but close.

9 COMMISSIONER HUNTWORK: It would be  
10 helpful to see that. Sounds like it's a simple thing  
11 for to you produce for us. Can I ask that be produced?

12 CHAIRMAN LYNN: Let's verify how hard or  
13 easy it is to do that.

14 Is that something you can fairly easily  
15 do, Dr. McDonald?

16 DR. McDONALD: Yes. You'd have to  
17 understand I would be producing probabilities instead  
18 of -- what I've used as my certainty of estimate is  
19 being plus/minus 3.5 percent of 50. Okay. Start  
20 forecasting, coming up with probabilities, we'll get a  
21 larger spread on them. I want to make sure you  
22 understand.

23 In forecasting and bringing in a  
24 forecasting error into the model -- I'm just looking at  
25 prediction. There's a subtle statistical difference

1 between the two. Bringing in a forecasting error, I'll  
2 have a larger spread than 3.5 percent and those will be  
3 reflected in probabilities.

4 CHAIRMAN LYNN: I get the sense,  
5 Mr. Huntwork, we'll be looking at relative values, not  
6 absolute values.

7 COMMISSIONER HUNTWORK: That is correct.  
8 And I also want to understand it in the other terms. We  
9 can talk about how it translates back and forth when we  
10 see it.

11 COMMISSIONER ELDER: Does the number  
12 you'll come up with track parallel to your prediction?

13 DR. McDONALD: Yes. Absolutely.

14 COMMISSIONER ELDER: Why see it?

15 COMMISSIONER HUNTWORK: I think the other  
16 one would be easier to understand and work with. This  
17 one tends to be a bright-line distinction. Picked a  
18 number for competitiveness. As Dr. McDonald explained  
19 out at the beginning, it's not a bright line. There are  
20 subtle differences on either side. When I'm thinking  
21 about it, I want to see the spread.

22 DR. McDONALD: I would say as well,  
23 Mr. Huntwork, when you look at probabilities, you'll  
24 still have to come up with a bright line, what will be  
25 competitive or not competitive. It just moves it into

1 another arena of statistics.

2 COMMISSIONER HUNTWORK: I disagree with  
3 you, Dr. McDonald, and I'll have that discussion with  
4 you when the time comes.

5 I want to see it so I'm equipped to have  
6 the information.

7 COMMISSIONER HALL: Make a motion.

8 COMMISSIONER HUNTWORK: Rather than a  
9 motion, I'd prefer it be without objection.

10 CHAIRMAN LYNN: Not to be contentious,  
11 Dr. McDonald indicated it would not be difficult to do.  
12 Then we'd have the information and all at our disposal  
13 when we move forward.

14 Without objection.

15 COMMISSIONER ELDER: I object.

16 CHAIRMAN LYNN: All right. Then we'll  
17 take a motion.

18 COMMISSIONER HUNTWORK: I so move.

19 CHAIRMAN LYNN: Second?

20 COMMISSIONER MINKOFF: Second.

21 CHAIRMAN LYNN: Discussion on the motion?  
22 Mr. Hall?

23 COMMISSIONER HALL: I think we've  
24 micro-analyzed this to death. And with how many charts  
25 in front of us, how many have we seen before, how many

1 more do we need to see? At some point we have to decide  
2 what is what.

3                   So I'm not sure more information is what  
4 we need. I think we need to look at it and have  
5 discussion on the merits based on the Constitution and  
6 move forward.

7                   CHAIRMAN LYNN: Ms. Minkoff?

8                   COMMISSIONER MINKOFF: Mr. Chairman, I'm  
9 not sure that the information will help me understand  
10 it, but apparently it will help Mr. Huntwork. And if  
11 it's easy enough to do, I don't see any problem in  
12 getting the additional information. If I choose not to  
13 use it in making my decisions, that's my choice. I have  
14 no objection to giving Mr. Huntwork information he needs  
15 to help him get the information, if not difficult.

16                   CHAIRMAN LYNN: Mr. Elder?

17                   COMMISSIONER ELDER: Mr. Chairman,  
18 Mr. Huntwork, I guess I look at the micromanaging with  
19 one comment. The other is if there are other numbers  
20 that fuzz out the data base, why do it? We can all make  
21 our own choice whether 3.5, 3.6, 3.4 is competitive, you  
22 know, on some other subjective rationale, whatever  
23 reason we have. But to come up with another arbitrary  
24 number, these being arbitrary, also, I don't see the  
25 advantage. It just makes it more difficult to

1 substantiate. I use this number, you use that number,  
2 and it doesn't make sense.

3 CHAIRMAN LYNN: Mr. Huntwork.

4 COMMISSIONER HUNTWORK: Mr. Chairman, I  
5 think the whole discussion, at risk of being bored to  
6 death, as a starting basis, in order to talk about  
7 competitiveness in a meaningful way, we really have to  
8 see how the actions we take in one district affect other  
9 districts and what they really do to competitiveness of  
10 other districts.

11 If we arbitrarily say a competitive  
12 district is 3.5, and another district is seven, and  
13 therefore it's uncompetitive and it doesn't matter if we  
14 change it to 10 in order to get the other district to  
15 3.5, then I think we -- I think that's an illegitimate  
16 discussion. We need to have information we can  
17 understand, we can talk about together in order to  
18 compare the fact.

19 It's not a simple straight line. It is --  
20 I'm sure it's a bell curve shape of some sort.

21 We need to know where -- we really need to  
22 know where, in truth, a district has become  
23 noncompetitive so packing it further will do no harm.

24 CHAIRMAN LYNN: Mr. Hall.

25 COMMISSIONER HALL: Can I make maybe a

1 suggestion as a -- to this point?

2                   Could I request that Dr. McDonald finish  
3 his presentation and Doug finish his presentation, and  
4 after both of that, both of those presentations, if  
5 Mr. Huntwork is still desirous for additional  
6 information, then I would -- I would be more than happy  
7 to support that.

8                   My belief is, folks, is that it's -- I  
9 think that we're going to see that there's only so many  
10 areas that there are that there may be potential for a  
11 significant issue. I'm not so sure -- my thinking is  
12 that after that analysis, it may be clear that the  
13 information may not be necessary.

14                   CHAIRMAN LYNN: Mr. Hall, there's a motion  
15 on the table.

16                   COMMISSIONER HUNTWORK: Mr. Chairman,  
17 comparing this -- I won't need it for all districts. I  
18 will, I believe, firmly need it for the limited area  
19 we're talking about of changes so we can perhaps confine  
20 it to that, if waiting until later in the day.

21                   CHAIRMAN LYNN: As a matter of clearing  
22 the decks for that discussion, if you have no objection  
23 to Mr. Hall's suggestion, let's hear out the remainder  
24 of the presentation. You may then wish to make a  
25 different motion on the floor.

1                   COMMISSIONER HUNTWORK: I'll limit it  
2 until later. That's fine.

3                   I'll withdraw the motion.

4                   CHAIRMAN LYNN: And second?

5                   COMMISSIONER MINKOFF: Yes.

6                   CHAIRMAN LYNN: I appreciate that.

7                   Other specific questions at this moment  
8 for Dr. -- you'll have more opportunity. Dr. McDonald  
9 will still go through each of the districts.

10                   At this point, without objection, let's  
11 take a 15-minute break. As is our custom, I'd like it  
12 not to be more than a 15-minute break. That will relate  
13 to everyone's ability to be back here in 15 minutes.  
14 I'd really like to press ahead. We really only have  
15 today and tomorrow to get these things sorted out and  
16 instructions given.

17                   If we could keep it to a minute 15-minute  
18 break, I'd appreciate it.

19                   (Recess taken.)

20                   CHAIRMAN LYNN: For the record, all five  
21 members are present along with legal counsel,  
22 consultants.

23                   Dr. McDonald.

24                   DR. McDONALD: Yes.

25                   CHAIRMAN LYNN: If you'd go ahead and

1 proceed. I know you have a slide of each district. I  
2 want to make sure we have the best use of our time this  
3 morning.

4 Is the material contained on the slide in  
5 handouts we have or additional material on the slides we  
6 do not yet have?

7 DR. McDONALD: Same as.

8 CHAIRMAN LYNN: Same as print-outs we  
9 have?

10 DR. McDONALD: It might be instructive to  
11 go through the districts, see the difference in  
12 registration numbers, AQD, and Judge It analysis.

13 CHAIRMAN LYNN: Are particular districts  
14 illustrative more than others you'd like to highlight?

15 DR. McDONALD: Yes.

16 CHAIRMAN LYNN: Is there a sense on the  
17 Commission, a need to go through all 30 districts, or  
18 for purposes of understanding how these particular  
19 numbers work and how they impact our analysis, have  
20 Dr. McDonald highlight a few districts for me in an  
21 illustrative fashion and then perhaps we can move at  
22 some point either before or after lunch to Mr. Johnson's  
23 presentation and then have a clearer picture of how each  
24 of these fit together?

25 Without objection?

1 Ms. Minkoff.

2 COMMISSIONER MINKOFF: Mr. Chairman, just  
3 to aid in our own analysis, I haven't looked at these,  
4 it would be helpful if Dr. McDonald could take a sample  
5 district, walk through it, show how to analyze numbers.  
6 Then we can do it on our own.

7 CHAIRMAN LYNN: Dr. McDonald, if you'd  
8 like to start wherever it's a good analysis, complete  
9 analysis of other districts, something instructive for  
10 us to gain, point out things most instructive.

11 DR. McDONALD: Well, there are four  
12 districts I identify as having the potential of being  
13 competitive, currently are just on the cusp of being  
14 competitive under my definition, using the Judge It  
15 analysis.

16 I think it would be instructive to go  
17 through those four districts. And hopefully that would  
18 be illustrative as well. If I could proceed through  
19 those four, we'll get you what you want.

20 First one would be District 3. And that  
21 is, on my analysis, a Republican district which has  
22 46.2. Now, if it was at 46.5, then it would be  
23 competitive under my analysis. You can see that it has  
24 a sizable Republican registration, 46.5, to Democratic  
25 registration of 32.5. And AQD is outside the range of

1 being competitive as well, 43.7 percent. So this  
2 particular district, you can see a difference -- what  
3 must be happening here in order for the Judge It  
4 analysis to make this closer to being competitive than  
5 registration or AQD is State Legislative election  
6 outcomes must have a pattern of history within that  
7 district of being closer to being more parity than the  
8 AQD or registration show.

9                   McD, that's Judge It, I changed that to  
10 save space in the presentation, incorporates  
11 registration and Legislative election returns.

12                   Since registration is relatively far,  
13 further, than the -- my analysis of being competitive,  
14 it must be then that is the case of what is going on  
15 here.

16                   CHAIRMAN LYNN: In terms of everybody  
17 understanding the numbers on the board, if you would  
18 just walk through each one time, what each section  
19 represents.

20                   DR. McDONALD: Okay. First we have  
21 registration, and we have Democratic, Republican, and  
22 non-Democratic, Republican registration.

23                   Then the AQD, Arizona Quick and Dirty,  
24 putting up here Democratic registration percentage.

25                   The AQD, like the Judge It analysis, just

1 has the Democratic percentage, is for the Republican,  
2 mirror 100 percent minus whatever this percentage number  
3 here. Putting the Republican percent here doesn't  
4 provide other information and takes up space. For the  
5 sake of convenience, I did not list the Republican  
6 percentage for AQD or Judge It analysis. But that is on  
7 this that I gave, the handout I gave you. Those  
8 percentages are available there.

9                   CHAIRMAN LYNN: Would it be fair, then,  
10 just for our own analysis, to make the statement based  
11 on numbers represented, first of all, so everybody can  
12 be clear, the numbers on the right-hand column, AQD, and  
13 what is listed McD, McDonald, or Judge It, that we are  
14 using Democratic percentage, but it's a complimentary  
15 number? That is to say whatever the percentage is shown  
16 for Democrat, minus a hundred, gives you the Republican  
17 percentage.

18                   So in this instance, registration suggests  
19 that this is a Republican district by registration but  
20 that on performance, based on either the criteria in AQD  
21 or Judge It, it acts more Democratic than registration  
22 would suggest and could be made competitive within the  
23 statistical variations that you are comfortable, the  
24 3.5, with some minor adjustment.

25                   DR. McDONALD: Correct. Very well said,

LISA A. NANCE, RPR, CCR NO. 50349  
Phoenix, Arizona

1 yes.

2 So this is a Republican district.

3 Let me scroll quite a bit to a Democratic  
4 District, 24.

5 I point this one out because it's adjacent  
6 to District 3. And here we have a district where there  
7 is a Democratic registration edge, you see -- again,  
8 it's a sizable registration edge, but the AQD has it  
9 nearly equal. That's at 50.0 percent. And the Judge It  
10 analysis has it slightly above that range. For Judge  
11 It, it would be 53.5 percent, 53.6. This one is 53.55.

12 If just a small amount of Republicans  
13 moved into this district, it would make this, according  
14 to the Judge It analysis, a competitive district. And  
15 here we have an adjoining District 3 where we have a  
16 Republican district. So this may be a good opportunity  
17 here for trades that would increase competitiveness in  
18 these two districts.

19 I'll scroll back to 15. 15 is another  
20 district which is right on the cusp of being  
21 competitive. Here we have Democratic registration. AQD  
22 has it actually falling outside, 56.4 Democratic  
23 registration. And Democratic, under AQD, would have a  
24 healthy Democratic district. The Judge It analysis has  
25 it just right outside of what would be competitive.

1 Adding in a small number of Republicans to this district  
2 would put it in that 3.5 percentage range.

3 Then District 26, kind of a UFO district.  
4 District 26 is a Republican district that registration  
5 favors Republicans, AQD also has favoring Republicans,  
6 and Judge It has it just outside the range of being a  
7 competitive district. So adding just a few Democrats  
8 into this district would increase the overall  
9 competitiveness of the district.

10 I guess it should also be useful, these  
11 are four cases being right outside the range, with the  
12 Judge It analysis, of being defined as a competitive  
13 district.

14 It might be useful to go through districts  
15 not competitive, see there are some noncompetitive,  
16 there are competitive districts.

17 Having some successes, District 5. Even  
18 though Democratic registration is very healthy, it's  
19 tilted toward Democrats. AQD and Judge It analysis have  
20 ranges that would be considered by any standard, by AQD  
21 and Judge It as well, 52.5 percent.

22 I guess, it's an illustration here,  
23 looking at registration does not necessarily equate to  
24 the AQD or the Judge It analysis. So there can be  
25 sizable differences here.

1                   We probably would not have come to the  
2 conclusion this were a competitive district if just  
3 looking at registration alone.

4                   This additional information here about,  
5 from the AQD and Judge It, do provide information that  
6 well -- maybe there are other things going on in the  
7 district which registration wouldn't show us otherwise.

8                   CHAIRMAN LYNN: Ms. Minkoff has a  
9 question.

10                  COMMISSIONER MINKOFF: Dr. McDonald, I  
11 want to go back to District 26 that you showed us.

12                  You feel that it was close enough with  
13 some small modification it might make it competitive.

14                  Would you move down to District 28 which  
15 shares a common border? That's further off. Is it too  
16 far off the mark to do some adjustments between these  
17 two districts and create two competitive districts? Do  
18 you believe that would be a possibility?

19                  DR. McDONALD: 26 and 28?

20                  That I would say has potential, trades  
21 between districts.

22                  COMMISSIONER MINKOFF: Possible shifts,  
23 one district Republican, one Democrat, one slightly so,  
24 create two competitive districts by some adjusting of  
25 population?

1 DR. McDONALD: There would have to be  
2 considerable dislocation of Democrats out of the  
3 district to do that. It could be possible.

4 COMMISSIONER MINKOFF: Putting Republicans  
5 from 26 into 28?

6 DR. McDONALD: There are potential areas  
7 we can do this. Of course, there are caveats to this as  
8 well. I'm sure you are aware of, communities of  
9 interest need to be preserved. Communities may be ripe  
10 for switches among districts but may not be contiguous  
11 along borders with districts. You may have to go deep  
12 into districts in order to make changes between two of  
13 them on trades. So Mr. Johnson would -- I'd definitely  
14 defer to his experience of doing this to talk about the  
15 possibility of making these trades.

16 I would say from my lay knowledge of that,  
17 that would be my response to you, it has potential.

18 COMMISSIONER MINKOFF: As neither of the  
19 districts were identified by the Justice Department as  
20 majority-minority districts, that would not factor into  
21 it, I presume, in terms of moving minority population,  
22 should they exist.

23 DR. McDONALD: Yes. If just two  
24 districts. Of course, there's always potential for  
25 ripple effects.

1                   CHAIRMAN LYNN: We'll continue with  
2 competitiveness.

3                   DR. McDONALD: District 5, now 10, a  
4 competitive Republican district. You see Republican  
5 registration is healthy with Republicans, AQD. At least  
6 3.5 point percentage puts it within being competitive,  
7 and so does the Judge It analysis.

8                   So this is yet another case where  
9 registration alone does not jibe completely with the AQD  
10 and Judge It analysis.

11                  District 12, and this particular district  
12 is a Republican district, you see -- it's more of a  
13 balance than the current -- the previous district I just  
14 showed you. I --

15                  Registration shows you, again,  
16 registration is -- I'll say it again and again, I guess,  
17 registration will show different balances than the AQD  
18 and registration and AQD and Judge It.

19                  AQD has it slightly out of range, 46.1.  
20 And Judge It has it within that range.

21                  Finally, District 17, see, this looks like  
22 a competitive district, probably the most competitive in  
23 the state by these numbers. Judge It is showing that's  
24 the most competitive analysis by Judge It. AQD, I  
25 believe it's the most competitive, 50.0, 50.4. Both

1 jibe well. Registrations, all three measures are  
2 consistent in showing a competitive district. I would  
3 say 49.3 and 50.4. Though I labeled this a competitive  
4 Republican district, this one is so close, it could go  
5 really either way. This would be a truly competitive  
6 district.

7 Are there any more districts you would  
8 want to look at?

9 Let me just summarize, then. What I  
10 mentioned earlier, Districts 15, 24, Democratic  
11 uncompetitive, on the cusp of being competitive, could  
12 be made to fall within the 3.5 percent range with  
13 minimal changes; the same with Republican Districts 3  
14 and 26.

15 As I mentioned before, you still have to  
16 worry about all the other concerns of drawing these  
17 districts. So that changes to any particular district  
18 may not be neutral in changing other districts. We  
19 still have to preserve communities of interest, preserve  
20 respect for Voting Rights Act. So all of these things  
21 must, of course, be taken into account.

22 I'm really saying this to say any change  
23 I've proposed, suggested here, may not be a change  
24 viable, may be one potentially viable.

25 CHAIRMAN LYNN: Questions for

LISA A. NANCE, RPR, CCR NO. 50349  
Phoenix, Arizona

1 Dr. McDonald?

2 Your schedule, Dr. McDonald, is such  
3 you'll be with us today and tomorrow?

4 DR. McDONALD: Correct.

5 CHAIRMAN LYNN: If we have questions that  
6 occur throughout the day and rest of the week, you can  
7 answer them?

8 DR. McDONALD: Correct.

9 CHAIRMAN LYNN: If no other questions for  
10 Dr. McDonald, I'll ask my fellow Commissioners on  
11 scheduling, if you want a lunch break now, there's time  
12 to do it, probably. A, do you want to; how long to  
13 take, if you do want to; or press on and hear  
14 Mr. Johnson before we break?

15 Mr. Elder?

16 COMMISSIONER ELDER: Mr. Johnson, how long  
17 is your presentation?

18 CHAIRMAN LYNN: Somebody sent questions.

19 Mr. Johnson, just for the sake of  
20 scheduling.

21 MR. JOHNSON: Probably 20 or 30 minutes,  
22 but I guess there will be questions all through it.

23 CHAIRMAN LYNN: So at least an hour.

24 What is your pleasure?

25 COMMISSIONER MINKOFF: Mr. Johnson, I'd

1 like to ask, following Mr. Johnson's presentation, what  
2 you see as the rest of the agenda for the rest of the  
3 day.

4                   CHAIRMAN LYNN: Near as I can tell, once  
5 we have all the information in from consultants, we have  
6 two other obligations. First, I think we do have to at  
7 some point consult with attorneys with respect to legal  
8 issues concerning the procedure we're in now. Secondly,  
9 I'd like to, without objection, hear more from the  
10 public based on input we and they have now received from  
11 consultants relative to things they'd like to ask us to  
12 consider during this portion of the process. Once those  
13 two things are completed, I think it's then appropriate  
14 for us to consult with the consultants, to look at  
15 certain things, to develop certain scenarios, test  
16 certain premises, and have them return to us -- that  
17 would be the time we'd break for the day, return  
18 tomorrow with a report from consultants, what they've  
19 looked at, what the implications are, what things are  
20 created or damaged by certain moves, and then begin  
21 analysis of which of those we might want to consider.

22                   COMMISSIONER MINKOFF: Public comment  
23 following Executive Session?

24                   CHAIRMAN LYNN: Most likely. Although  
25 there's no reason we couldn't proceed with it. In other

1 words, if there's a timing sense from the standpoint of  
2 the public, they aren't going go to gain anything by our  
3 being in Executive Session. Their input could be taken  
4 before we break for that.

5 COMMISSIONER MINKOFF: My only concern is  
6 for those people sitting here and watching us. If we're  
7 going to have Executive Session immediately following  
8 Mr. Johnson's presentation, do the presentation, break  
9 for lunch, go into Executive Session, that allows people  
10 watching the proceedings not to have to take two breaks.

11 In other words, if we can hear his  
12 presentation, then have lunch break, if they want to  
13 come back, see if there's a motion to go into Executive  
14 Session, they can. The reality is it gives them a  
15 longer break. Break now, rather than break after for  
16 Executive Session. For us it makes no difference, but  
17 the public.

18 CHAIRMAN LYNN: Fine. The only issue is  
19 they would not know actually when to come back. A lunch  
20 break coupled with Executive Session, and it would take  
21 some amount of time, and they could guess what that  
22 would be.

23 I have no problem with that. We could do  
24 it it that way.

25 Are you disposed to hear Mr. Johnson now

1 and then break?

2 Mr. Huntwork?

3 COMMISSIONER HUNTWORK: One thing I would  
4 like to have, I don't have my interactive maps in front  
5 of me at the moment, I'd like to have a map that shows  
6 our current plan to look at as we talk about these  
7 things. I don't know how long it will take to get one  
8 of those.

9 CHAIRMAN LYNN: If you have your computer,  
10 Mr. Johnson can load one.

11 Absent that, if you want a printout -- I  
12 don't know if you have printing capability where you are  
13 at the moment.

14 MR. JOHNSON: No, I don't.

15 COMMISSIONER MINKOFF: Mr. Huntwork, I  
16 have one on my computer, if you --

17 COMMISSIONER HUNTWORK: If Mr. Hall will  
18 let me use his computer a while, that would be fine.

19 CHAIRMAN LYNN: If you guys share your  
20 toys, that's inspiration for all of us.

21 We're still addressing the question  
22 whether we'd like to hear from Mr. Johnson before  
23 breaking for lunch. I'm getting the sense we want to  
24 hear from Mr. Johnson, then break for lunch. I don't  
25 hear anything other than that.

1                   COMMISSIONER HUNTWORK: Mr. Chairman, I  
2 would like -- want to listen to Mr. Johnson, want to ask  
3 him questions, too. I'm thinking that the longer period  
4 is what will apply. I can't believe I'm the only one  
5 that will want to ask a question.

6                   I think it will be a more meaningful,  
7 successful presentation if we do feel we have time to do  
8 that and are not under time pressure. So for that  
9 reason, I think we ought to try to take a break.

10                  CHAIRMAN LYNN: I wonder if we might not  
11 reverse the process and --

12                  Let me ask the attorneys kind of a  
13 technical question. To Ms. Minkoff's point of trying to  
14 accommodate the public, not have them go through two  
15 lengthy breaks, if necessary, or if possible, is it  
16 possible, then, to move the Executive Session up, have  
17 that now, break for lunch, and then have Mr. Johnson  
18 after the lunch? Or does the Executive Session in part  
19 depend on Mr. Johnson's session, in your mind?

20                  COMMISSIONER ELDER: Mr. Chairman, while  
21 concurring, I prefer not to rush through Mr. Johnson's  
22 presentation, ask questions, I'd almost prefer to have  
23 that after lunch.

24                  CHAIRMAN LYNN: I'm trying to get to a  
25 solution that works for both.

1                   Executive Session now, break for lunch,  
2 keep those together. Then Mr. Johnson has as much of  
3 the afternoon as he needs and we need to ask him  
4 questions. If the attorneys feel it preferable to have  
5 the exec after Mr. Johnson's presentation, we'll be back  
6 in the same dilemma.

7                   MR. RIVERA: Mr. Chairman, I think we'd  
8 rather stay with the schedule, have the executive after  
9 Mr. Johnson makes his presentation.

10                  CHAIRMAN LYNN: Given the Executive  
11 Session is preferable after Mr. Johnson's presentation,  
12 am I hearing from the Commission, rather than break for  
13 lunch now, hear Mr. Johnson, then do the Executive  
14 Session?

15                               I mean it was worth a try.

16                               Without objection, how much time would you  
17 like for lunch?

18                   MR. RIVERA: Two hours.

19                   CHAIRMAN LYNN: Think we can do it in 45  
20 minutes?

21                               Make it an hour.

22                   COMMISSIONER MINKOFF: Possible.

23                   CHAIRMAN LYNN: Half hour? They're all  
24 suggestions.

25                               It's been suggested we return, basically,

1 at 1:45 and begin our afternoon session.

2 Is there any objection to that time frame?

3 Hearing none, the Commission will stand in  
4 recess until 1:45 this afternoon.

5 (Recess taken.)

6 CHAIRMAN LYNN: The Commission will come  
7 to order.

8 For the record, all five Commissioners are  
9 present along with legal staff and consultants.

10 The agenda for this afternoon begins with  
11 a presentation from Mr. Johnson.

12 Mr. Johnson.

13 MR. JOHNSON: Mr. Chairman, Commissioners,  
14 it's a pleasure to be back before you.

15 I have two presentations. The main one is  
16 the competitiveness presentation and a very, very brief  
17 one on deviations we can address after we go through  
18 this.

19 To start out, this presentation is crafted  
20 as a follow-up to Dr. McDonald's presentation. As part  
21 of a typical competitiveness review we do in a general  
22 redistricting context, you would do more or less exactly  
23 what the Commission is engaged in right now, start out  
24 figuring what the approach is to defining  
25 competitiveness, looking at competitiveness you want to

1 follow, and Dr. McDonald addressed that this morning and  
2 got basic issues with the Commission this morning, then  
3 go through different districts based on measurements or  
4 approaches in step one.

5 Dr. McDonald laid those out for us fairly  
6 well, too. The next step, and as instructed at the last  
7 meeting, NDC is prepared to discuss and is now analyzing  
8 the map from where you might be able to improve the  
9 competitiveness based on definitions or approaches you  
10 could find in step one and measurements you could find  
11 in step two. And the last step, obviously, review the  
12 impact of any of those options. That would be the  
13 Commission's role once NDC completes step three and  
14 you've issued your instructions in step three.

15 The competitiveness approaches  
16 Dr. McDonald laid out this morning we generally followed  
17 in this process. The Commission, NDC, everyone, Judge  
18 It measurements, AQD measurement, registration with  
19 various looks at registration, and as has also been  
20 mentioned as Dr. McDonald touched on, many other  
21 measurements.

22 People talked about understandings of  
23 different areas being competitive. People also  
24 suggested other measurements at different points in the  
25 process. These are things that face the Commission as

1 it undertakes its review.

2                   Once you focus on which approaches you  
3 want to use, you have to look at which ranges. I put  
4 these up as a summary of what has been mentioned through  
5 the process so far. I'm not defining these as  
6 measurements you should use. I'm summarizing,  
7 attempting to focus a bit.

8                   Five percent is often mentioned through  
9 the process, particularly looking at registration. As  
10 Dr. McDonald mentioned, some districts have larger than  
11 five percent, still appear quite competitive.

12                   The seven percent range Dr. McDonald used  
13 with Judge It, 3.5 each way.

14                   10 percent, the most frequently mentioned  
15 source of that number is Dr. Lublin in some of the court  
16 filings, expert reports there. He also came up with  
17 other points where people look at 10 percent changes,  
18 certain elections for registration.

19                   Included 15 percent in somewhat avoiding  
20 bulletproof districts.

21                   Commissioner Huntwork, I believe this  
22 relates to the point you made earlier, looking to say:  
23 Okay, this district may lean, perhaps lean strongly to  
24 one party, but is still not bulletproof. Perhaps 15  
25 percent is the range you want to look at there.

1                   Just to clarify that, the 15 percent range  
2 would indicate a standard election, end up with a  
3 57-and-a half, 42-and-a-half percent race. It is a  
4 fairly strong win for one side. Again, it doesn't rule  
5 out a future win by the other party.

6                   In addition to ranges, other measurements  
7 mentioned through the process, the most common, looking  
8 at third-party registration. And some speakers have  
9 mentioned, I believe Mark Fleisher is one that comes to  
10 my mind, I'm sure there were others, that any districts  
11 where third-party registration is greater than the  
12 difference between the other two parties could be  
13 considered competitive. That's one approach the  
14 Commission could choose to take.

15                   So once I go through the different areas  
16 where we can look at competitiveness, if the Commission  
17 does choose to give instructions to NDC to analyze that  
18 or test various configurations, what we need from the  
19 Commission is to tell us which approach you want us to  
20 look at, to do tests, and what ranges you want us to  
21 look at.

22                   This presentation, hopefully, will help  
23 you in making that decision.

24                   So to analyze the options, we need, as  
25 somewhat laid out in instructions from us at the last

1 meeting, a statewide picture Dr. McDonald somewhat  
2 mentioned, and I'll fill in more information, a  
3 district-by district review, which you have now in front  
4 of you from Dr. McDonald's presentation, and then a  
5 regional review.

6                   The next step is look at districts such as  
7 Dr. McDonald did close to what we're looking for for a  
8 competitive approach, competitive range, and look at  
9 what is nearby, how those might be changed. That's a  
10 regional view. And I'll walk through that now.

11                   But as I go through, there are two typical  
12 ways in line drawing you can make a competitive  
13 district. The general and most common approach in a  
14 theoretical redistricting world is trade between a  
15 heavily Republican district and heavily Democratic  
16 district and make both competitive. We've done a little  
17 of that in the IRC, particularly Districts 26, 28 in the  
18 Tucson area. They were somewhat an attempt to do that.  
19 But this Commission has not had a lot of opportunity do  
20 that in the process.

21                   District 28 in the adopted plan was the  
22 only non voting rights sensitive district heavily  
23 Democrat. There were not a lot of tradeoff options.

24                   As you'll see as I go through this,  
25 because of changes made in the interim plan, we now have

1 a couple other opportunities to look at that. There are  
2 some trade-offs for the Commission to think of. But  
3 this is really the first time that the Commission has  
4 had a number of options to consider in that traditional  
5 tradeoff approach, which is traditionally the way it's  
6 done, doesn't leave one competitive, one bulletproof,  
7 two competitive districts. I wanted to highlight that.

8                   Most of our analysis in the past has been  
9 point five, where you have to take pieces heavily  
10 Democratic or pieces of a heavily Republican district,  
11 carve out of all districts one competitive district.

12                   The Commission had NDC test a number of  
13 regions on this approach and ended up adopting one of  
14 the districts, District 10, done through this approach;  
15 took pieces out of different districts to make one  
16 competitive. As discussed at length, it leaves other  
17 surrounding districts less competitive.

18                   So I'll talk about options to do that  
19 through this process.

20                   Obviously, once we've drawn these tests  
21 you instruct us to draw, we need to report to you on the  
22 voting rights impact and other criteria. You can decide  
23 which way to go.

24                   That's the general process. Statewide, as  
25 Dr. McDonald mentioned before, the registration spread

1 is 43.2 to 37.9, which is a 5.7 Republican advantage.

2                   You asked before excluding Voting Rights  
3 Act districts, I should note. Sorry. I will get you  
4 copies of this presentation, changing at the last  
5 minute, just don't have copies yet. I'll get it.  
6 Excluding nine key Voting Right Act districts, the ones  
7 key in the litigation, plus 25, once you take those out,  
8 the interim plan, AQD, 14.4 Republican advantage;  
9 registration, 16.0 Republican advantage.

10                   This gives you a bit of understanding of  
11 the challenge facing the Commission.

12                   District by district, Dr. McDonald  
13 covered, primarily, in his presentation, wanted to cover  
14 in a slide what is on the handout, each page: Judge It,  
15 registration, AQD. The far right side is a scale, and  
16 you'll see it copied here.

17                   What this says, giving an illustration  
18 from the least competitive, by that measurement, to the  
19 most competitive. So in Judge It, Judge It's  
20 measurement, one district has 32.0 percent one-party  
21 advantage. That's the least competitive district by  
22 that measurement. The most competitive is a 1.4 percent  
23 spread.

24                   What the scale allows you to do is look at  
25 it for yourself based on your own ranges.

1                   You can look at this, say by the seven  
2 percent measurement of Judge It, four competitive. If  
3 you go 10 percent, five more, so nine. If you want to  
4 look at it on a 15- or 16-point spread, you actually get  
5 26 out of 30.

6                   So rather than NDC defining a range and  
7 giving you numbers, we wanted to give you the whole  
8 range as you consider different ranges to use in your  
9 instructions. This will give you a sense of where we're  
10 at now.

11                   Numbers also for below seven percent,  
12 below 10 percent rates, I haven't broken out whether  
13 Republican or Democrat. A, it's more information and  
14 somewhat hard to follow already; B, looking at making  
15 competitive. Doesn't make any difference which way they  
16 lean. Should not lean either way.

17                   This also indicates, cutting off at seven  
18 percent, the four districts Dr. McDonald mentioned in  
19 his presentation, .2, .4, .6 over. There's a similar  
20 situation with other points and other measurements.

21                   You have those sheets in front of you with  
22 the scale.

23                   COMMISSIONER MINKOFF: AQD, is that where  
24 you have 31 districts? I think .1 percent at the end,  
25 it's not a district, what he's put down as total for the

1 entire state?

2 MR. JOHNSON: .1 is actually -- I think  
3 you are right. The total statewide is in here  
4 somewhere.

5 Yeah. This 5.6 here is the statewide  
6 total figure.

7 On your printout, the page you have in the  
8 scale, that would be at the bottom.

9 So this is just intended as somewhat of a  
10 summary, district by district, that Dr. McDonald did.

11 Now you get into more regional, new  
12 information for you.

13 I'm going to go through region by region,  
14 both information on the Power Point and flip to  
15 Maptitude, as well, to show areas we're discussing.

16 One thing I want to highlight is when  
17 we're looking at competitiveness trade-offs, you have to  
18 look at districts side by side. That's how you look at  
19 what changes to make.

20 Regional groupings, went through, looked  
21 at what options are. Grouped into regions to make sense  
22 of options.

23 You'll see a north -- I'll start with  
24 north and east, go on to west and south.

25 You can certainly look cross regional as

1 well. If you have questions or wish to look at analysis  
2 afterwards, I'm not ruling out mergers across the  
3 region. Just seemed to make sense in this approach.

4                   So by north and east, I grouped districts  
5 1, 2, 4, and 5 into this little picture, summary,  
6 discussion. District four, the northeast group and into  
7 the Maricopa group, there's no clear -- it overlaps both  
8 areas.

9                   So as some of the public speakers and  
10 Dr. McDonald mentioned, District 5 is competitive by the  
11 general ranges discussed on the record of a seven  
12 percent range for Judge It and five percent for AQD. 1  
13 and 4 are heavily Republican, the Prescott Valley area  
14 and the south Yavapai districts. And 2 is heavily  
15 Democratic. You also should note that 2 is, as was  
16 discussed at length, heavily Native American.

17                   This is a thematic. The thin lines are  
18 individual precincts and the thick black lines, a little  
19 hard to make out with colors, are the interim plan  
20 lines: Goes south around the reservation, Flagstaff  
21 along, and Yavapai, the border of 1 and 4.

22                   This thematic shows Democratic  
23 registration advantage. This is Democratic percentage  
24 of registration of that precinct minus Republican  
25 advantage of that precinct.

1                   Bright green, the entire Navajo  
2 reservation, a Democratic reservation, is 20 percent or  
3 more higher than Republican.

4                   Lighter greens, those being reduced, until  
5 you get down into the yellows. You can see a few  
6 scattered about.

7                   Yellows are fairly well-balanced. Five  
8 percent Democratic advantage to five percent Republican  
9 advantage. Other side, orange, leaning Republican 20  
10 percent, and dark, dark red, are a 20 percent Republican  
11 advantage or more.

12                   This is a sense of the area we're looking  
13 at, how 1 and 4 came out districtwise. To be  
14 Republican, you see by the thematic, that works.  
15 District 2 you can see clearly by the thematic it's  
16 heavily Democratic.

17                   The trick, though you don't want to change  
18 District 2 Voting Act concerns, if that is the choice of  
19 concerns, there aren't any other Democratic districts in  
20 the region to trade off with Republican and make it  
21 competitive. It is possible taking pieces, for example,  
22 all yellows, lighter greens, and oranges, use a hunt and  
23 pick approach to precincts, how we created District 10.

24                   Probably work it -- lines across from east  
25 to west, maybe come down to South Yavapai, although some

1 precincts are very low in population.

2                   The trick to this area, though, as one of  
3 the area speakers noted, you can make District 1  
4 competitive. It has been made competitive in a number  
5 of maps submitted to the courts and which the Commission  
6 reviewed during its process. However, in more recent  
7 plans done, including all those submitted to the courts  
8 and this morning, one competitive, District 5, is not  
9 competitive.

10                   So that's the challenge NDC has  
11 encountered. We'd welcome any number of thoughts.  
12 We've gotten very innovative thoughts from the public.

13                   That's the problem in this area. District  
14 1 as drawn does incorporate not heavily Republican, not  
15 heavily Republican areas, and still ended up a heavily  
16 Republican district.

17                   This is a sense of what we're looking for  
18 when evaluating options to test for the Commission. In  
19 some other areas, there will be clearer options.

20                   CHAIRMAN LYNN: Mr. Johnson, is it easier  
21 or better, I ask the Commissioners as well, want to take  
22 questions region by region or go through the whole thing  
23 and come back?

24                   MR. JOHNSON: Just because we go through  
25 whole regions, I don't want to have it be focused on an

1 NDC region.

2 CHAIRMAN LYNN: Go through with the  
3 Commission as a whole.

4 MR. JOHNSON: I'll go through, familiarize  
5 you with the thematics.

6 MR. JOHNSON: That gives you a sense of  
7 the maps. West and south, this area looking at  
8 districts 3, 24 in the west, Mohave and Gila Bend  
9 districts, and 23 and 5 in the south. 3 on the map  
10 clearly overlaps in the north. The reason I put it in  
11 is because Dr. McDonald discussed potential trade-offs  
12 of 3 and 24. It makes sense to present this matter.

13 As Dr. McDonald mentioned, 3 is  
14 Republican, just outside the seven percent range on  
15 Judge It he used. 23 and 25, as you well know, are  
16 heavily Democratic districts. 23 is the Pinal County  
17 District, just changed significantly in the interim  
18 plan. And 25 is the border district, also has Voter  
19 Rights Act concerns. And 24 is mixed. It's just  
20 outside of Dr. McDonald's competitiveness range on Judge  
21 It. It is almost perfectly balanced by AQD, and 9.4  
22 advantage by registration, one party.

23 That's a good example of different  
24 measurements to give different answers, and the  
25 Commission faces the decision what to do.

LISA A. NANCE, RPR, CCR NO. 50349  
Phoenix, Arizona

1                   Keep in mind Voting Rights Act concerns,  
2 these districts were key districts in the review,  
3 particularly District 23.

4                   You you also have in the spread sheet  
5 before you the thematic for the area, and state.

6                   See District 3, Mohave County, coming down  
7 into La Paz. District 4 is Yuma going up into La Paz.  
8 And District 23, now that's been the Pinal County  
9 District, and 25 is the border county district.

10                  Looking, Dr. McDonald said it might be  
11 possible, 23, 24 I haven't looked at in detail and drawn  
12 lines. If you look at the map, the border area is  
13 fairly balanced. What that means -- as shown by yellow  
14 shading. What that means, take a fairly large  
15 population shift, enact one, two percent registration,  
16 or another shift.

17                  If I'm moving a hundred percent  
18 Republican, every person I'm moving, Republican, if the  
19 area is 52 percent Republican, speaking hypothetically,  
20 52 percent Republican, 48 percent Democrat, move 10  
21 people, change the parties' balance by one or two.

22                  The fact it is fairly balanced along that  
23 border. It does mean we'd have to move more than a few  
24 people in order to shift the parties' balance between  
25 Districts 23 and 24.

1                   We do have relative population centers,  
2 Quartzsite on the border, Wendon, Salome on the border.

3                   It's possible to do if that's an  
4 instruction of the Commission to look at what would  
5 happen if we moved those areas.

6                   Focusing on the Tucson area, Districts 26,  
7 27, 28, 30 in the area, this is the area the Commission  
8 reviewed in quite a bit of detail back in October. I'll  
9 go through it quickly.

10                  26 and 30 are Republican. And 26 is one  
11 of the ones Dr. McDonald mentioned just outside of the  
12 range on Judge It, 7.6 percent.

13                  30 is more heavily Republican, 10.2 by  
14 Judge It. 27, 28, 29, those are key Voting Rights Act.  
15 28 is not. 28 is not Voting Rights Act. It's a heavily  
16 Democratic district in the area and could look at  
17 trades.

18                  Looking at the thematic, it shows up  
19 fairly well.

20                  I should mention the white areas,  
21 precincts don't have population in them.

22                  So you can see how 30 is red through  
23 virtually all the heavily populated area. The only  
24 non-Republican areas are no population. 28 you see very  
25 green, very Democratic.

1                   Through the process we looked at, part  
2 because of NDC tests and part because of a number of  
3 discussions with the public, tried a tradeoff of 28, 26  
4 in various areas along the river in an attempt to make  
5 26 more competitive.

6                   One thing the Commission may also want to  
7 review, you haven't looked at nearly as many tests on,  
8 is if you choose revisiting some of those options, also  
9 looking at concentrating 28 and 30.

10                   This map, 28 potentially down the Tanque  
11 Verde area, and 30 going into the central Tucson area.  
12 Now, I'm just speaking in terms of competitiveness  
13 measures, competitiveness impacts. It is possible the  
14 tradeoff could make 28 competitive and 30 competitive,  
15 if that is something the Commission wished to look into.  
16 Obviously it would be a big shift.

17                   Looking at it just from a numbers  
18 perspective, you'd probably be talking about moving all  
19 of Tanque Verde and the Catalina Foothills portion into  
20 28 and coming halfway across 28 with District 30.  
21 Essentially, 30, south Tanque Verde across south of  
22 Tucson and go over roughly probably into the Swan Road  
23 area. That's something for looking at for purely  
24 competitiveness measures.

25                   The East Valley, this is one of the areas.

1 By East Valley, looking at District 17, 18, 21, 22,  
2 Ahwatukee, Mesa, Chandler area, and Tempe.

3 As Dr. McDonald mentioned, 17 is  
4 competitive by both Judge It and AQD ranges, a good  
5 example of a district that more or less meets the  
6 definition of competitive. Looking at it from public  
7 comment, it is larger than five percent by registration,  
8 5.8. This may be indication five percent is too  
9 restrictive on the ranges we were looking at before.

10 18 through 22 are all overwhelmingly  
11 Republican, 11.6 percent and up by Judge It. You see  
12 other numbers there on the spread sheet. And none of  
13 the districts were topics of the Department of Justice  
14 letter. District 18, 31 percent Hispanic and 36 total  
15 minority VAP.

16 The thematic illustrates what I was just  
17 describing. You see the overwhelming Republican nature,  
18 especially of the central eastern Mesa and Gilbert area  
19 and Ahwatukee area.

20 This is a good example of looking at  
21 hunting and pecking to try to draw a competitive  
22 district.

23 Looking at this map, theoretically it  
24 might be possible to start in Apache Junction, pick up  
25 yellow, orange precincts, come all the way across Mesa

1 from Apache Junction, pick up Western Mesa, jog down,  
2 take Central Chandler, hunting and pecking for pieces.  
3 Might work, might not. In trying to create a  
4 competitive district, you would have split Apache  
5 Junction, Mesa, Chandler. As a result of -- as we know,  
6 everything spins around, probably splitting Gilbert,  
7 Mesa again east as trying to balance out.

8 Part of what are limiting options, two  
9 districts, three districts, 16 and 23, which surround  
10 this area, which are both Voting Rights Act sensitive  
11 districts, and 17, which we discussed is highly  
12 competitive. And we don't want to ruin that in an  
13 attempt to make another one.

14 If you don't have Democrat and Republican  
15 next to each other, that's what you have to do is try to  
16 hunt and peck, and there's impacts of that.

17 It worked better, in Phoenix we created  
18 10. It's a very large city, and hunting and pecking  
19 within one city.

20 Looking at Western Central Maricopa, not  
21 significantly, and then District 6, 7, 8, and 9 through  
22 16 I included in this area.

23 This obviously is the main focus of the  
24 Department of Justice review that the Commission did.

25 This is a lot of information, all of which

1 is on your spread sheet. At least 10 now result in  
2 interim map changes, District 12 is now in our  
3 competitive range by Judge It, and they are 6.8 and 7.9  
4 percent Republican by AQD, so fairly competitive, and  
5 fairly competitive by registration by 9.1 percent and  
6 9.5 percent registration.

7                   District 12 is a much more Democratic  
8 district, as a result of taking -- as a result of  
9 changes made in the interim plan, it is now entered into  
10 the Judge It competitive range.

11                   I should note there were number proposals  
12 submitted to the Commission and courts which included a  
13 very different District 12, El Mirage, and came over to  
14 Glendale, included as competitiveness in the proposals,  
15 that that district no longer possible, one Democratic  
16 area is competitive now incorporated into District 13.  
17 That's the Hispanic community of Glendale. Those plans  
18 we can no longer draw without getting ourselves back in  
19 Department of Justice issues.

20                   LDs 4, 6, now heavily Democrat districts.

21                   On the voting rights front, Districts 13,  
22 14, 16, I'm sure you remember, were drawn to be  
23 responsive to Department of Justice objections. And  
24 Districts 12 and 15 were not a key focus of the response  
25 to DOJ, more the impact of those changes. They are now

1 what could be considered the area of influence  
2 districts.

3 For this report I've just looked at  
4 districts with 30 percent Hispanic or 40 percent total  
5 minority. You have the whole spread sheet in front of  
6 you. Go through and look at it, if you like. These  
7 fall into that category.

8 12, as I mentioned, even in the influence  
9 category, tends to indicate strong Democrat, competitive  
10 in the plan.

11 District 15, noting, as you can see from  
12 the map, is heavily Democratic.

13 District 11, however, right next to it, is  
14 heavily Republican.

15 It could be we could use trade-offs there,  
16 make one or two competitive districts.

17 The concern, obviously, the Commission  
18 would have to look at in trade-offs, the communities and  
19 other criteria and also the voting rights impact.

20 At 50.4 percent total minority VAP, 15 is  
21 just over total majority VAP. Department of Justice in  
22 its review focused in its review on Hispanic  
23 measurements, not total minority measurements. So  
24 that's something for the Commission to consider.

25 So similar to Dr. McDonald when I did

1 regional review, I was looking for options for trading a  
2 heavily Democratic district, heavily Republican  
3 district, or two almost competitive districts next to  
4 each in an attempt to make one competitive, and came up  
5 with three areas. And Districts 3 and 24, Dr. McDonald  
6 also discussed, Districts 26, 28, and 30.

7 Dr. McDonald mentioned 26 because it is  
8 close to competitive. 28 and 30 he didn't mention,  
9 neither are close to competitive. I bring them up  
10 because they're bordering. We could do trade-offs, if  
11 that's the will of the Commission, if the Commission  
12 felt trade-offs did not overly affect the other  
13 criteria.

14 And Districts 11 and 15, Maricopa, have a  
15 Democratic and Republican district that could be traded  
16 off.

17 There are voting rights concerns.

18 I wanted to put up the summary in NDC's  
19 mind of potential tests. The Commission may decide on  
20 any instruction in doing a test what approach or  
21 approaches they want us to keep in mind when doing a  
22 test, what ranges or measurements do we want to hit in a  
23 test, look at creating Republican and Democratic  
24 districts or hunt and pick where to build pieces of  
25 districts and whether or not to protect or include in

1 our view the influence districts, primarily District 15  
2 and 24.

3 And the time limit, the last slide,  
4 obviously from instructions, we'd test and draw maps  
5 based on those and report back to you. I believe the  
6 schedule is to report back to you on Monday or the 18th.

7 That's my presentation.

8 Questions?

9 COMMISSIONER MINKOFF: Mr. Chairman, maybe  
10 we could go back area by area, put it back, see if any  
11 of us have questions specific to areas.

12 CHAIRMAN LYNN: Without objection, start  
13 with northeast districts, 1, 2, 4, 5.

14 Is that -- this is useful, but returning  
15 to our discussion, it may be better to have the district  
16 maps up?

17 COMMISSIONER MINKOFF: Except I think if  
18 we're discussing competitiveness, it's helpful to see  
19 where there are concentrations of Democrats and  
20 Republicans.

21 CHAIRMAN LYNN: We can go back and forth.

22 MR. JOHNSON: Yes.

23 CHAIRMAN LYNN: Questions for Mr. Johnson  
24 on the northeast region.

25 COMMISSIONER MINKOFF: I have a question.

1 If you can go back to that, where you highlighted the  
2 registration concentrations.

3 Looking at that, quite honestly, District  
4 5 is already competitive. So I don't think we want to  
5 do anything that is going to change that. And it is so  
6 close, anything we do is probably going to ruin that  
7 district.

8 And District 2 is a voting rights  
9 district.

10 I don't see any other Democrats.

11 Is there any way between District 1 and  
12 District 4 to move some things around and get one really  
13 bulletproof District 1 to be a competitive district?  
14 I'm not sure there is. I'm not sure there's anything to  
15 do in that part of the map.

16 MR. JOHNSON: The only thing to make one  
17 competitive without affecting five, the early tests we  
18 did, 1 comes down, takes Democrats from the West Valley  
19 portion of District 4, end up with a district that goes  
20 from Grand Canyon Village down to Sun City and Goodyear  
21 areas. Early tests did that. There was considerable  
22 concern about those tests through the process, but --

23 COMMISSIONER MINKOFF: I'm not sure I  
24 understand.

25 MR. JOHNSON: District 4 continuing to

1 come down into Maricopa and District 4 joining it along  
2 the east side of 4 and also stretching down to Maricopa  
3 attempting to pull Democrats way down there. As you see  
4 from the map, they really aren't Democrat areas.

5 COMMISSIONER MINKOFF: There are no  
6 Democrats there. That's all red.

7 MR. JOHNSON: Two yellow areas in District  
8 4, the far northwest corner of Yavapai County.

9 COMMISSIONER MINKOFF: Nobody lives there.

10 MR. JOHNSON: Maybe 50 people live there,  
11 max.

12 CHAIRMAN LYNN: Mr. Huntwork.

13 COMMISSIONER HUNTWORK: I think we have to  
14 note between 1 and 5 we have a net difference of  
15 basically 5.8 percent. You could make two districts  
16 that fell within seven percent range out of those two.  
17 I don't even know what you would have to do in order to  
18 do that in terms of where we draw the line, but that  
19 would be --

20 And, of course, the problem is we have  
21 some extremely well-defined communities of interest  
22 there.

23 I still believe Prop 106 as saying we're  
24 not to do significant harm to other other criteria.

25 So, I really don't know anything about

1 that. We identified the need to keep the Tri-Cities  
2 area intact. I think that's where most of the  
3 Republicans in 1 are located.

4 COMMISSIONER MINKOFF: I don't know how  
5 you work with that and still make 1 competitive.

6 Also, I think your analysis works if you  
7 look at Dr. McDonald's figures. But if you look at the  
8 AQD figures, it doesn't.

9 COMMISSIONER HUNTWORK: Well, that's true.  
10 That's true. At some some point we have to decide what  
11 figures we're going to look at, determinations.

12 At least with the McDonald figures, that  
13 possibility is there.

14 CHAIRMAN LYNN: Mr. Elder.

15 COMMISSIONER ELDER: Just drawing,  
16 Mr. Chairman, with my finger, let me ask the question.  
17 This is not a question on competitiveness as much as one  
18 of the earlier people came in and requested we look at  
19 the Hopi issue there. Looking at green parts, I'm  
20 wondering if you took the Hopi into 1, and down there in  
21 right at the border between 1 and 5 there's green,  
22 Democrats, put them back in the other portion, could we  
23 find a balance there to keep both Voting Rights Act  
24 issues in District 2 and the competitiveness in District  
25 5 but rotate those three districts?

1                   MR. JOHNSON: This is, as you may -- I'm  
2 sure you recall was a topic of numerous tests throughout  
3 the process. We actually looked at a number of  
4 approaches, taking Hopi out; 1 taking Hopi for the area  
5 tested, northern area of District 5; also taking,  
6 trading for Page, Page up north. And there was a third  
7 test, I forget what it was. All three of them led to, I  
8 believe, two to four percent drops in the Native  
9 American voting age of District 2.

10                   So really, as was mentioned this morning,  
11 you can take out and put them in Apache Reservations,  
12 and the percent will go up. Otherwise, the Commission  
13 has drawn a map that keeps that percentage up there.  
14 And anything we try to do short of putting the Apache in  
15 will reduce that percentage.

16                   COMMISSIONER ELDER: Okay. Thank you.

17                   CHAIRMAN LYNN: I wonder, in keeping with  
18 our schedule, I want to make sure we try to do this in  
19 the most logical order possible. The discussion we're  
20 beginning to get into with Mr. Johnson is sort of  
21 leading us toward a place where we could issue  
22 instructions and ask for things to be done. I think it  
23 might be appropriate for us to have our Executive  
24 Session so we understand those issues that may fall into  
25 any instructions we may give along with the other

1 factors that we have thought out today and have been  
2 thinking about through the process.

3 If there is no objection, I'd like to ask  
4 for a motion for Executive Session at this time.

5 COMMISSIONER MINKOFF: Mr. Chairman,  
6 before we do that, I have a question. Because of the  
7 legal issues part of the map, normally Mr. Johnson is  
8 not part of executive sessions. We might want to look  
9 at things on the map, get advice on what is possible.  
10 Can we have access to him and the map during Executive  
11 Session?

12 MR. JOHNSON: If I may, Mr. Chairman,  
13 through the process we have, if questions come up, I'll  
14 come in and answer for you.

15 COMMISSIONER MINKOFF: Rather than --  
16 access to the map, so we can look at certain things and  
17 ask our attorneys questions relative to legal  
18 considerations.

19 MR. JOHNSON: I can leave it up on the  
20 screen.

21 CHAIRMAN LYNN: We should be able to have  
22 access to that.

23 The purpose of the access, we want to get  
24 advice from counsel on any pending litigation that bears  
25 on our work at this point.

1                   Without objection, the Chair would  
2 entertain a motion pursuant to A.R.S. 38-431.03(A)(3)  
3 and/or A.R.S. 38-431.03(A)(4) for Executive Session.

4                   COMMISSIONER ELDER: So moved.

5                   COMMISSIONER MINKOFF: Second.

6                   CHAIRMAN LYNN: All in favor of the  
7 motion, say "aye."

8                   COMMISSIONER MINKOFF: "Aye."

9                   COMMISSIONER ELDER: "Aye."

10                  COMMISSIONER HALL: "Aye."

11                  COMMISSIONER HUNTWORK: "Aye."

12                  CHAIRMAN LYNN: Motion carries and is so  
13 ordered.

14                  Ladies and gentlemen, I have no way to  
15 estimate how long it will last. There's no way to  
16 estimate. I suggest you stay close and do whatever you  
17 have to do.

18                  (Whereupon, the Commission recessed Open  
19 Public Session at 2:50 p.m. to convene in Executive  
20 Session until 3:56 p.m. at which time Open Public  
21 Session resumed at 4:05 p.m.)

22                  CHAIRMAN LYNN: The Commission will come  
23 to order.

24                  All five Commissioners are present along  
25 with legal counsel, along with consultants from NDC, and

1 NDC legal staff.

2 Mr. Johnson, it would be useful and move  
3 us forward if we would district by district take a look  
4 at the current configuration of the district. I'm sure  
5 the Commissioners will have questions, comments with  
6 respect to possibilities that exist and potential for  
7 increasing competitiveness.

8 I think it's easier, more orderly, if we  
9 went through them one at a time.

10 Let's begin with District 1 and move in  
11 that direction.

12 MR. JOHNSON: I can bring up the precinct  
13 schematic live, if that makes sense to you.

14 Let me know which makes sense for you.

15 CHAIRMAN LYNN: What is your pleasure,  
16 ladies and gentlemen, with respect to District 1?

17 Mr. Elder.

18 COMMISSIONER ELDER: In looking at the  
19 numbers we received, 27, 48, Democratic, Republican.

20 COMMISSIONER MINKOFF: No. Oh, yeah.  
21 Okay.

22 COMMISSIONER ELDER: Based on AQD and the  
23 Judge It, McDonald numbers, it's about 41, 44, in that  
24 respective division.

25 In looking at the map we've got there, the

1 range around the edge of the district and detriment that  
2 might be done from trying to bring in enough Democrats  
3 into that totally red area there which represents the  
4 Republican districts, it doesn't seem to be reasonable.

5                   If we look at the in-held piece of  
6 Flagstaff and the Tri-City areas, trying to do both,  
7 keep them whole, keep the Tri-Cities' area whole,  
8 connecting either one doesn't make sense in dividing  
9 that district.

10                   I think based on the community of interest  
11 and based on what potential we have, and the extreme  
12 range we have there, competitive, the district just  
13 doesn't look like it should be changed or modified.

14                   CHAIRMAN LYNN: Ms. Minkoff.

15                   COMMISSIONER MINKOFF: Mr. Chairman, for  
16 the most part, I agree.

17                   We also have an issue with District 2,  
18 which is one of the districts with Voting Rights Act  
19 implications. It is a heavily Democratic district. I  
20 was trying to see if there was any way of making one  
21 more competitive, possibly putting some Republicans in  
22 District 2 without violating voting rights implications.  
23 It looks to me like one pocket of Democrats could move  
24 out of District 2, are those in Flagstaff, and that's a  
25 large population base.

1                   Is the population of Flagstaff close  
2 enough to the population of the Tri-City area, which is  
3 heavily Republican, that we might be able to shift  
4 those -- pull Flagstaff into District 1, which would  
5 then have to be renamed? We wanted Prescott District 1.  
6 Put the Tri-City area in District 2, keep the Native  
7 American percentage of District 2 relatively constant,  
8 make more competitive districts; is that doable?

9                   MR. JOHNSON: Commissioner, I can't recall  
10 the numbers off the top of my head. Flagstaff is  
11 basically 53,000 people. Prescott is 34,000; Prescott  
12 Valley, 24,300, and Chino Valley about 7,800.

13                   COMMISSIONER MINKOFF: Too many people?

14                   MR. JOHNSON: Considerably more people in  
15 the Tri-City area we'd be putting into 2 rather than out  
16 of 2. And that doesn't count whatever people are in the  
17 connector we'd use.

18                   COMMISSIONER MINKOFF: All right. Thought  
19 I'd ask.

20                   CHAIRMAN LYNN: Mr. Huntwork?

21                   COMMISSIONER HUNTWORK: Mr. Chairman,  
22 there are a number of reasons why we configured this  
23 district the way we did. One important one, in my mind,  
24 one, keep the Tri-Cities area together, united the Verde  
25 Valley, which many people in the Tri-Cities area want to

1 have us do. We also created a district with relative  
2 impact here in this area.

3                   The one possibility that is suggested by  
4 the numbers, without going into a voting rights  
5 district, and really without jeopardizing any other  
6 criteria besides the compactness and communities of  
7 interest, would be to think about switching some folks  
8 around between 1 and 5.

9                   It's very hard to, in the abstract, think  
10 about how one would go about doing that without making  
11 both 1 and 5, which are currently compact districts,  
12 much less so, in both cases. Furthermore, if we did it,  
13 we would run the risk of breaking up communities of  
14 interest that are protected in 1 and breaking up this  
15 very strong community of interest which we have  
16 recognized in 5.

17                   The only -- for all of those reasons, it  
18 seems to me, intuitively, that would be a completely  
19 pointless exercise.

20                   The only question, concern I have, is  
21 without doing it, I don't -- I don't know. I can't  
22 imagine how it would be done in a way that didn't do  
23 damage to one of those criteria.

24                   Doug, have you played around with this  
25 possibility at all? Have you given any broad outline to

1 what would happen if you tried to do that?

2 MR. JOHNSON: Yes. I haven't drawn any  
3 lines, or anything, since the interim map was developed,  
4 but just looking at all the submissions from the public  
5 and past tests done, we do have a number of examples of  
6 moving population in that manner. And in many cases  
7 they do make District 1 competitive by various measures  
8 we've been looking at at those times. However, in every  
9 example where District 1 became competitive, with one  
10 exception, District 5 no longer became competitive.  
11 That one exception was one of the Coalition maps  
12 submitted to the court. And the way it did it taking  
13 the Hopi into District 1 and some other changes. It  
14 ended up bringing both 1 and 5 into generally what we've  
15 looked at as competitive ranges but reduced the Native  
16 American percentage of District 2, I don't remember off  
17 the top of head, I think significantly below 60 percent  
18 voting age.

19 Each of the tests had impact. Make 1  
20 competitive at the cost of 5, or both competitive at the  
21 cost of -- or potential cost of voting strength of  
22 Native Americans. And the Commission has seen  
23 throughout the process F to H refer to those.

24 CHAIRMAN LYNN: Mr. Huntwork.

25 COMMISSIONER HUNTWORK: Do you recall what

1 it did with compactness of 1 and 5? I understand  
2 bringing the Hopis to 1 all by itself substantially  
3 detracts from the compactness of 1. What happens to the  
4 borderline between 1 and 5?

5 MR. JOHNSON: Varied depending on the  
6 test. But generally the compactness of 1 was fairly  
7 consistent and not a huge difference. Compactness of 5  
8 and 2 was -- both of them got much less compact. I  
9 don't remember the specifics of the numbers of various  
10 tests.

11 CHAIRMAN LYNN: Further discussion with  
12 respect to District 1?

13 Mr. Huntwork?

14 COMMISSIONER HUNTWORK: Well, I would also  
15 like to ask, if we were to go back to the concept that  
16 the Hopis have talked about, the Navajos and Flagstaff,  
17 that is we put the Apache Reservation in and try to do  
18 something with what is left of -- presumably put Hopis  
19 out of 1, do something with what is left of 5, moving  
20 population in and out of those districts, what do we  
21 get? 5 lopped off, completely separated off in the  
22 south part of the state, as I recall.

23 There's no way -- that does not create  
24 competitive districts out of 1 and what is left of 5,  
25 right?

1                   MR. JOHNSON: Off the top of my head, the  
2 only one I've seen that did was -- no. It didn't put  
3 Apache with Navajo. I don't think we should do that. I  
4 don't remember any examples off the top of my head that  
5 did create competitive districts.

6                   I think in almost every case, if not every  
7 case, 1 did not become competitive and 5 became  
8 noncompetitive.

9                   COMMISSIONER HUNTWORK: Let me finish  
10 that. Those other questions, as I think about those  
11 questions and answers, it seems very clear to me, at  
12 least, that all of those approaches, as hypothetical as  
13 they were, involved significant detriment to the  
14 communities of interest that we earlier have recognized  
15 and as well as to the compactness of the districts.

16                   CHAIRMAN LYNN: Thank you.

17                   COMMISSIONER HALL: I concur with that.

18                   We'll be moving to District 2 anyway.  
19 It's almost difficult to consider 1 without considering  
20 2, 5, and possibly 4.

21                   To get clarification, to make sure I'm  
22 thinking correctly, our first consideration in the area  
23 of the state are voting rights related issues which take  
24 precedence over all other issues. And we have a  
25 precleared district with respect to voting rights in

1 respect to District 2.

2                   The only other way to raise percentages or  
3 maintain or increase percentages of the Native American  
4 population in District 2 is to bring the Apaches north,  
5 as was suggested this morning, again, by the Hopi Tribe.  
6 Just as they desire feel a need not to be placed with  
7 the Navajos, so does the White Mountain Apache Tribe  
8 desire not to be placed with the Navajos, which seems to  
9 be a continuing conflicting interest throughout the  
10 state.

11                   But with that, then, I think that as we  
12 look at numerous iterations of these three districts, as  
13 we now look at it, say a favoring of a competitive  
14 district, that does not constitute significant detriment  
15 to the other goals in this area that we have, out of  
16 three, one competitive district. And any iteration that  
17 maintains the voting rights related issue in District 2  
18 eliminates competitiveness in the other two districts.

19                   So in an effort to alter the configuration  
20 of District 2 and still be in compliance with the voting  
21 rights issues, we disassemble competitiveness,  
22 disassemble District 5. 1 and 5 are not competitive.

23                   I think it's clear, Mr. Chairman, as you  
24 consider those three, I skipped a lot over, but  
25 certainly considering 1 and 2, that it is impossible to

1 make 1 more competitive and maintain the voting rights  
2 nature, percentages required by the Voting Rights Act in  
3 District 2, with one possible exception, and that is  
4 that we take 4 and run a gerrymander down somewhere in  
5 Maricopa and hopefully pick up enough appropriate voters  
6 to tweak those percentages. And as I recall,  
7 Mr. Johnson, we attempted that, which, in my opinion,  
8 not even -- not even analyzing that particular option in  
9 detail, has significant detriment to 1, not only because  
10 of compactness, communities of interest, also because as  
11 we heard this morning there is, certainly I concur,  
12 sometimes not adequate representation in rural Arizona,  
13 that would not only minimize but probably completely  
14 dilute the rural nature of District 1.

15                   So in my mind it seems like we're somewhat  
16 reliving the past. It's very clear in my mind that we  
17 cannot favor competitiveness without causing significant  
18 detriment.

19                   CHAIRMAN LYNN: During our deliberations,  
20 it would be helpful, on the record, if when identifying  
21 a community of interest either imperiled or being  
22 supported we identify which community of interest that  
23 is. That will make a more clear record of our  
24 deliberations. I don't know whether --

25                   Mr. Huntwork, you referred to them

1 earlier.

2 Mr. Hall, you just referred to them.

3 If you'd refer to communities of interest  
4 you're concerned about.

5 COMMISSIONER HALL: Specifically District  
6 1, in an effort to make it more competitive, if you, in  
7 light of voting rights restrictions of District 2, you  
8 need to come into Maricopa County, my recollection is  
9 any attempt to do that was some split of the Tri-Cities,  
10 which, as we heard vehemently in Prescott, that is  
11 certainly a very strong community of interest, not only  
12 the Tri-Cities but also Verde Valley. Obviously any  
13 change to that effect would cause more than significant  
14 detriment to that important criteria. Of course, it  
15 would also with respect to compactness and contiguity.

16 CHAIRMAN LYNN: Mr. Huntwork?

17 COMMISSIONER HUNTWORK: I agree.

18 I thought I did say I was talking about  
19 the Tri-Cities area and important water rights issues  
20 that united them with the Verde Valley. And also as far  
21 as District 5 is concerned, we heard page after page and  
22 hour after hour of testimony District 5 is a community  
23 of interest.

24 The counties, we've assembled three whole  
25 counties in the southern half, non-Navajo portions of

1 both Apache, Navajo Counties united in a compact  
2 district and people that clearly identify themselves as  
3 a community of interest with page after page of  
4 testimony.

5                   Particularly what I was thinking about,  
6 one thing you could do here with the Judge It numbers,  
7 might create more competitiveness without going into  
8 District 2 at all, a straight swap between 1 and 5. But  
9 you would -- there does not appear to be any way to do  
10 that without jeopardizing those communities of interest  
11 as well as compactness of the districts.

12                   CHAIRMAN LYNN: Mr. Elder.

13                   COMMISSIONER ELDER: Mr. Chairman, a  
14 couple other -- really, one of the things I started off  
15 with was not breaking up jurisdictions. And the only  
16 way we had looked at it previously was either by  
17 dividing Flagstaff, dividing the Tri-Cities area, doing  
18 that. That seemed to do more harm than good.

19                   CHAIRMAN LYNN: Ms. Minkoff.

20                   COMMISSIONER MINKOFF: Mr. Chairman, it  
21 seems to me what we're looking at, the only way to  
22 create a competitive district in District 1 is either  
23 violate the voting act with District 2 or destroy a  
24 competitive district, District 5.

25                   I really think we should move on.

1                   CHAIRMAN LYNN: Is there an affirmative  
2 motion with respect to not touching or asking for a test  
3 regarding District 1?

4                   COMMISSIONER MINKOFF: Do we need it?

5                   CHAIRMAN LYNN: I think we need a clear  
6 and concise record in terms of what districts we intend  
7 to test and which we don't.

8                   COMMISSIONER MINKOFF: I make an  
9 affirmative motion we do not order a test on District 1.

10                  CHAIRMAN LYNN: Second?

11                  COMMISSIONER ELDER: Second.

12                  CHAIRMAN LYNN: Discussion on the motion?  
13 Mr. Huntwork.

14                  COMMISSIONER HUNTWORK: Should we  
15 incorporate in the motion reasons why we're making the  
16 decision or is the discussion on the -- leading up to  
17 the motion sufficient?

18                  CHAIRMAN LYNN: I think it's sufficient.

19                  On the record, in the normal course of  
20 events, there's a motion first, then we'd discuss it.  
21 In this instance, rather than put a motion on the table  
22 and then have to undue it based on discussion, let's go  
23 through the record, district by district, and come up  
24 with a summary motion that summarizes the discussion,  
25 unless legal counsel has problem with that.

1 I think that will make same record.

2 Ms. Minkoff.

3 COMMISSIONER MINKOFF: I have one  
4 question, even though I'm the maker of the motion. For  
5 the reasons for tests in number 1, can we determine we  
6 can't make 1 competitive without sacrificing important  
7 communities of interest or violating the Voting Rights  
8 Act; however, if this motion passes, I imagine that it  
9 will and we move on, and we look at other districts that  
10 may abut District 1, I hope we're not precluding any  
11 adjustments to District 1 if they may be needed not for  
12 the benefit of District 1 but to change another  
13 district. Otherwise, by the time get down to District  
14 30, we won't need a motion. We'll have done everything  
15 to 29.

16 CHAIRMAN LYNN: More specifically, I think  
17 the motion should refer to whether or not there's an  
18 attempt to test or make District 1 more competitive.  
19 That leaves the possibility with District 1 to make  
20 other districts more competitive, if appropriate.

21 COMMISSIONER MINKOFF: Let that be the  
22 motion, please.

23 MS. HAUSER: Mr. Chairman, to avoid  
24 belaboring the discussion, if starting the discussion,  
25 go through the various factors, when you've stated

1 those, the person making the motions could say "for the  
2 reasons already given" rather than trying to summarize  
3 them. That way you don't have to worry about missing  
4 something somebody already said.

5 CHAIRMAN LYNN: Thank you, in that  
6 instance.

7 COMMISSIONER MINKOFF: Shall I restate my  
8 motion?

9 CHAIRMAN LYNN: Please do.

10 COMMISSIONER MINKOFF: I move we order no  
11 further tests to make District 1 more competitive for  
12 the reasons already stated.

13 CHAIRMAN LYNN: Is there a second?

14 COMMISSIONER ELDER: Second.

15 CHAIRMAN LYNN: Any further discussion on  
16 the motion?

17 If not, all those in favor signify "aye."

18 COMMISSIONER MINKOFF: "Aye."

19 COMMISSIONER ELDER: "Aye."

20 COMMISSIONER HALL: "Aye."

21 COMMISSIONER HUNTWORK: "Aye."

22 CHAIRMAN LYNN: Chair votes "aye."

23 Motion carries and it is so ordered.

24 District 2.

25 COMMISSIONER MINKOFF: Since we discussed

1 District 2 in relation to District 1, I'd move we order  
2 no further tests to make District 2 competitive for the  
3 reasons already given including compliance with the  
4 Voting Rights Act.

5 CHAIRMAN LYNN: Is there a second?

6 COMMISSIONER HUNTWORK: Second.

7 CHAIRMAN LYNN: Thank you.

8 Any further discussion?

9 Mr. Elder?

10 COMMISSIONER ELDER: Mr. Chairman, one  
11 quick one for Doug.

12 Is there any population, or enough  
13 population, or maybe too much population, there's the  
14 Grand Canyon, and any populations there not to cause a  
15 shift to violate the Voting Rights Act in District 2,  
16 allow us to remove the Hopi, 6,700, 8,000, and include  
17 the reverse area to the north?

18 CHAIRMAN LYNN: Mr. Johnson.

19 MR. JOHNSON: Mr. Chairman, Mr. Elder, in  
20 tests we did, Page, Page alone there was noticeable  
21 impact on the voting strength. Adding more of it,  
22 there's more significant motion.

23 CHAIRMAN LYNN: Further discussion on the  
24 motion?

25 If not, all in favor signify by saying

1 "aye."

2 COMMISSIONER MINKOFF: "Aye."

3 COMMISSIONER ELDER: "Aye."

4 COMMISSIONER HALL: "Aye."

5 COMMISSIONER HUNTWORK: "Aye."

6 CHAIRMAN LYNN: Chair votes "aye."

7 Motion carries unanimously and it is so  
8 ordered.

9 District 3.

10 Mr. Hall.

11 COMMISSIONER HALL: Mr. Chairman, I think  
12 some interesting points were raised by both Dr. McDonald  
13 and Mr. Johnson with District 3 and it's correlation in  
14 relation to District 24 immediately to the south. It  
15 would be my preference to see tests of how to increase  
16 competitiveness between both 3 and 24 and allow us to  
17 assess and analyze the impact to the other criteria of  
18 tests or increasing competitiveness of 3 and 24. I'd  
19 make a motion to that effect.

20 CHAIRMAN LYNN: Is there a second?

21 COMMISSIONER MINKOFF: I'll second the  
22 motion.

23 CHAIRMAN LYNN: Thank you.

24 Discussion?

25 Ms. Minkoff.

1                   COMMISSIONER MINKOFF: Yes. District 24  
2 was one of the districts cited by Department of Justice  
3 as being a district where minorities have an opportunity  
4 to elect candidates of their choosing. So I would like  
5 to add the caveat, maybe it should be incorporated in  
6 the motion, in doing this test, which I'd very much like  
7 to see, that you keep the voting rights considerations  
8 in mind and as you switch population between the two  
9 districts, make sure that it does not imperil the  
10 integrity of district 24 vis-a-vis voting acts  
11 requirements.

12                   MR. JOHNSON: Mr. Chairman, Commissioner  
13 Minkoff, certainly as I do the tests, that will be a  
14 factor as I'm drawing the lines. The process we've  
15 generally followed is that I'll certainly try to draw it  
16 so it achieves the goal without changes in percentages.  
17 If not possible, I'll draw it so it achieves the goal,  
18 report what the impact on voting rights are, and let you  
19 make the call.

20                   CHAIRMAN LYNN: Mr. Huntwork.

21                   COMMISSIONER HUNTWORK: On the motion,  
22 it's very tempting to think we can achieve something  
23 with these districts. I'm skeptical for voting rights  
24 reasons and community of interest reasons. We worked  
25 very hard drawing the line between the two districts,

1 where it was in the first place. It had several  
2 iterations. As it is, I think we've received quite a  
3 bit of criticism from residents in the area that we  
4 didn't divide political subdivisions, political units of  
5 the state, divided people that sometimes thought they  
6 had community of interest with other people directly on  
7 the other side of the line, particularly -- so it is for  
8 both of those reasons I think we're going through a  
9 pointless exercise. I'm not saying we shouldn't do it,  
10 because they are close enough and we can't turn our eyes  
11 from that fact. I also don't want to send our  
12 consultant out on a fool's errand, either. I'm  
13 wondering -- for example, just the fact of putting more  
14 Republicans into that district, the political reality,  
15 just plain form I'm talking about, it's going to have an  
16 impact on the ability of voters to elect candidates of  
17 their choice. I just want to bring that up.

18 CHAIRMAN LYNN: Clearly that is an issue.  
19 Mr. Johnson advised us of that.

20 Mr. Elder then Ms. Minkoff.

21 COMMISSIONER ELDER: Seems to me I  
22 received a letter three, four weeks ago, something like  
23 that, was it from Quartzsite, one of the real  
24 considerations was where they were, et cetera. I was  
25 wondering, did NDC get copies of the letters?

LISA A. NANCE, RPR, CCR NO. 50349  
Phoenix, Arizona

1                   CHAIRMAN LYNN: Was Mr. Johnson apprised  
2 of that request?

3                   MR. JOHNSON: Yes.

4                   COMMISSIONER ELDER: The other thing about  
5 the public hearing in Yuma, representatives there and  
6 people that spoke were very community, pro area, where  
7 they felt it was the quality of the candidate that  
8 really drove the county. Republican-Democrat mix didn't  
9 have much. For that, I wouldn't worry to a great extent  
10 about more Republicans in one district. To create a  
11 from 48 to 39, separation of Democrats, Republicans to  
12 get the District 3 number up to where it would be in a  
13 competitive range, putting Democrats out and Republicans  
14 in, if there's a way that line between 3 and 24, it's  
15 pretty much neutral in color, doesn't mention --  
16 Mr. Johnson mentioned early on, it takes a big shift to  
17 get enough numbers to get percentages changed.

18                   CHAIRMAN LYNN: Again, we'll take a look,  
19 see what the results turn out to be.

20                   Ms. Minkoff.

21                   COMMISSIONER MINKOFF: Seems to me if  
22 population shifted, it won't be in Yuma County at all,  
23 it will be in La Paz County, which is already divided.  
24 District 24, because of all the reasons Mr. Elder  
25 stated, it is and probably will remain a competitive

1 district. The idea is in view of this kind of switch,  
2 maybe make District 3 a competitive district, population  
3 adjustment. I guess that would not affect Yuma County  
4 at all.

5 CHAIRMAN LYNN: Mr. Huntwork.

6 COMMISSIONER HUNTWORK: I was going to say  
7 I think both 3 and 24, I think they are competitive. I  
8 think they -- it's possible we might be able to make  
9 them more competitive and still take that into  
10 consideration.

11 CHAIRMAN LYNN: Mr. Hall.

12 COMMISSIONER HALL: Mr. Chairman, new and  
13 improved data, I think we ought to revisit it, run the  
14 tests in detail, then make a determination of what  
15 impact, if any, to what extent there is violation of the  
16 criteria.

17 CHAIRMAN LYNN: Other discussion?

18 COMMISSIONER ELDER: Running the test, the  
19 primary, absolute, number one area, community of  
20 interest, are the river communities, issues they're  
21 having with water along the Colorado, sewage, everything  
22 like that. Let's make sure we keep the communities  
23 whole.

24 CHAIRMAN LYNN: Clearly the river  
25 communities are split between two districts, by and

1 large. That concern notwithstanding, they will continue  
2 to be split regardless of how we configure this.

3 Obviously you are familiar with the AUR,  
4 river AUR.

5 MR. JOHNSON: Certainly.

6 CHAIRMAN LYNN: How the community impact,  
7 community of interest, has been discussed through the  
8 record.

9 MR. JOHNSON: Before you vote,  
10 Mr. Huntwork made a comment that reminded me one of the  
11 things that would help NDC in instructions, there are  
12 different measurements, Judge It, AQD, registration.  
13 The Judge It range said 3, 24 were just outside the  
14 seven percent spread he gave. Mr. Mandell stood up this  
15 morning and disagreed, 24 is competitive. So it would  
16 be helpful in instructions if you describe what I should  
17 be looking at in a definition of competitiveness. If  
18 the goal is to get the Judge It within the seven percent  
19 range or, obviously, bring registration and AQD closer,  
20 what is the goal for a target for competitiveness?

21 MS. HAUSER: Can we have a break?

22 CHAIRMAN LYNN: One second.

23 MR. JOHNSON: While discussing, just to  
24 clarify, as we've seen throughout this process, and was  
25 brought home this morning in a lot of detail, there are

1 many, many differences in the definition of  
2 competitiveness. I want to make sure I'm following the  
3 orders for this test. It can be different in test to  
4 test.

5 CHAIRMAN LYNN: We'll answer your question  
6 in a second.

7 Mr. Huntwork.

8 COMMISSIONER HUNTWORK: The point I want  
9 to make is I think it is competitive. I think the most  
10 recent sophisticated analysis shows the -- we did a good  
11 job drawing the lines the first time we drew them, drew  
12 them for good and sound reasons; but the issue here,  
13 Power Point, is do -- whether we can make things more  
14 competitive. And that is what I want to see, whether we  
15 can make this more competitive without doing significant  
16 detriment to any of our other criteria.

17 CHAIRMAN LYNN: The issue, Mr. Johnson, is  
18 one of degrees. Our clear aim here is to move in a  
19 direction of competitiveness as much as possible without  
20 doing significant detriment to other criteria already  
21 established. So the goals obviously are those connected  
22 with each of the methodologies in play. The issue is  
23 how close to those goals can you get, what damage is  
24 done by going in that direction.

25 Mr. Elder.

1 COMMISSIONER ELDER: Yes, Mr. Chairman.

2 You say one of the things you look at  
3 here, we have the new, revised data, and this reconfirms  
4 where we were before. I tend to agree, based  
5 specifically on what I heard in Bullhead City and down  
6 in Yuma, it indeed is competitive. I hear if we push a  
7 little bit, one-tenth, one-tenth, it gets close to what  
8 Dr. McDonald was looking at earlier. But because of the  
9 active input in Yuma, I don't know that we need to get  
10 there to still make it competitive. I think it's  
11 competitive still, also.

12 I don't know that we're looking at a  
13 specific number.

14 In that area, with the political  
15 activities, and the political things going on, I feel  
16 confident. Again, it will depend on that candidate and  
17 any issues involved in that area. And I would not do  
18 wholesale changes to the plan we have in place based on  
19 both previous and revised numbers.

20 CHAIRMAN LYNN: Further discussion on the  
21 motion?

22 If not, all in favor of the motion signify  
23 "aye."

24 COMMISSIONER MINKOFF: "Aye."

25 COMMISSIONER ELDER: "Aye."

1 COMMISSIONER HALL: "Aye."

2 COMMISSIONER HUNTWORK: "Aye."

3 CHAIRMAN LYNN: Chair votes "aye."

4 Both Districts 3 and 24 will be looked at.  
5 District 4.

6 COMMISSIONER HALL: Mr. Chair.

7 CHAIRMAN LYNN: Mr. Hall.

8 COMMISSIONER HALL: I think District 4  
9 represents an area that is a significant community of  
10 interest, a lot of the north valley, northwest valley.  
11 As we look at the configuration of registered voters in  
12 North Maricopa Valley, it appears to me that there are  
13 relatively few opportunities without voting rights  
14 related issues to increase or favor the competitiveness  
15 issue. I guess my question is with respect to District  
16 4, potential considerations in the heart of the city, if  
17 you will, may impact this district. But I'm not sure  
18 that there would be benefit, as you can see, it is  
19 pretty red, meaning highly concentrated Republicans,  
20 that there would be any benefit for us at this time to  
21 consider a test on 4, myself.

22 CHAIRMAN LYNN: Is there a motion?

23 Ms. Minkoff.

24 COMMISSIONER MINKOFF: I move we instruct  
25 NDC to create no further tests for competitiveness for

1 District 4 at this time for the reasons indicated.

2 CHAIRMAN LYNN: Second?

3 COMMISSIONER MINKOFF: Second.

4 CHAIRMAN LYNN: Discussion on the motion?

5 Mr. Huntwork.

6 COMMISSIONER HUNTWORK: Mr. Chairman, I've  
7 never liked District 4, for a number of reasons. One is  
8 I don't think it does a very good job of catching  
9 communities of interest. It goes all the way down the  
10 southwest valley across the north part of Phoenix, north  
11 and east of Scottsdale, goes up and picks up growth  
12 areas just immediately south of the Tri-City areas which  
13 had there been any way to do it, I would have wanted in  
14 the Tri-City areas in the first place. But in terms of  
15 competitiveness, specifically, there doesn't seem to be  
16 very much we can do with District 4. The only thing  
17 that I can see that we could do would be to bring it  
18 down into the valley and redefine the lines of 9, 10,  
19 and 12, in particular, which are -- 12 -- 10 and 12 are  
20 both competitive districts. And 9 is a Republican  
21 district but less extremely so than 4. And what we  
22 would be doing is blending all those districts so that  
23 some were less competitive and others were more  
24 competitive.

25 I think there is a possibility of

1 creating, you know, some districts there that are not  
2 bulletproof, but there is definite tradeoff between  
3 doing that and creating districts that are less  
4 competitive than they are right now.

5 In essence, we eliminate a bulletproof  
6 district and create four districts that are -- three  
7 that are less competitive, one much more competitive,  
8 but the total number of people that live in districts  
9 that have a chance of electing candidates for both  
10 parties might be increased because we've eliminated one  
11 bulletproof district, depending on how you define  
12 bulletproof, one district over 15 percent in Phoenix,  
13 end up with four districts, while not all in 15 percent,  
14 probably all would be in the 10 percent range.

15 CHAIRMAN LYNN: Ms. Minkoff.

16 COMMISSIONER MINKOFF: Doing that, I  
17 think, would change the character of District 4. Sun  
18 City West, Peoria, Sun City Grand is in this district.  
19 Other than that, it does have a substantial rural  
20 character to it. Any further areas of Maricopa County  
21 we pull into this district will destroy many parts of  
22 the rural part of this district.

23 CHAIRMAN LYNN: Mr. Huntwork.

24 COMMISSIONER HUNTWORK: As I recall, this  
25 district is already rural.

1 COMMISSIONER MINKOFF: What?

2 COMMISSIONER HUNTWORK: Urban, excuse me.  
3 Population is spread across the West Valley to Northwest  
4 Valley.

5 Doug, do you have any statistics on that?  
6 How much is --

7 MR. JOHNSON: The district definitely  
8 alone, it has Maricopa population, a lot, as mentioned  
9 by Commissioner Minkoff. An argument can be made  
10 whether urban, rural, whether you consider Buckeye, non  
11 Sun City parts of Surprise, rural or urban. It's  
12 definitely heavily Maricopa, depending on the viewpoint  
13 of those areas, rural, urban.

14 CHAIRMAN LYNN: Characterization of  
15 Tri-City area, growth areas as Tri-City areas, more  
16 urbanized, less rural in characteristic.

17 MR. JOHNSON: Those considered rural now,  
18 in six years, not.

19 CHAIRMAN LYNN: Further discussion?

20 COMMISSIONER HALL: I concur it has more  
21 community of interest with Buckeye and southern  
22 portions, even Tri-City, than it does with Central  
23 Phoenix. A lot of the West Valley and those growth  
24 areas, I think, are more related than it would be down  
25 into the heart of the city.

1                   CHAIRMAN LYNN: Further discussion on the  
2 motion?

3                   If not, all in favor of the motion signify  
4 by saying "aye."

5                   COMMISSIONER MINKOFF: "Aye."

6                   COMMISSIONER HALL: "Aye."

7                   COMMISSIONER ELDER: "Aye."

8                   CHAIRMAN LYNN: Chair votes "aye."

9                   Opposed, "no"?

10                  COMMISSIONER HUNTWORK: "No."

11                  CHAIRMAN LYNN: Motion carries and it is  
12 so ordered.

13                  District 5. There's been significant  
14 discussion around District 5.

15                  Ms. Minkoff.

16                  COMMISSIONER MINKOFF: District 5 is  
17 already competitive. Therefore, I ask we ask NDC to  
18 conduct no further tests to make it competitive.

19                  CHAIRMAN LYNN: Second?

20                  COMMISSIONER HALL: Second.

21                  CHAIRMAN LYNN: Discussion on the motion.

22                  Mr. Huntwork?

23                  COMMISSIONER HUNTWORK: Well, I think it's  
24 very appropriate to focus on the fact it is already very  
25 competitive. Also, though, I would like to add, really,

1 that it represents one of our primary communities of  
2 interest, one that was clearly and strongly advocated  
3 and clearly recognized through our process. Also, it's  
4 very difficult to imagine how we would change it.

5           We've already talked about District 1 up  
6 in the north, but down in the south we also have some  
7 constraints with this District 23. It is a very  
8 sensitive district in terms of voting rights issues, is  
9 one of the ones that at least in the court-approved  
10 interim plan, it is considered to be a minority  
11 influence district where minority candidates -- minority  
12 population has an opportunity to elect candidates of  
13 their choice. And then you get down to Southern Arizona  
14 and the communities of interest that we have clearly  
15 defined down there.

16           It is -- can you move the --

17           We're sharing computers here.

18           COMMISSIONER HUNTWORK: So we have -- in  
19 the south we have Cochise County clearly separated,  
20 which the county is not whole. It's as whole as we can  
21 make it, if you recall. Still create districts in  
22 around Tucson. Graham and Greenlee Counties are whole.  
23 And those are important, explicit criteria of the  
24 Arizona Constitution.

25           So -- and it is, as it stands, compact.

1 District 1, you could imagine extruding very unusual  
2 arms down into Southern Arizona, but they would  
3 certainly not be compact, because it would get full  
4 circle back to the original point that it is a  
5 competitive district to begin with.

6 CHAIRMAN LYNN: Mr. Elder.

7 COMMISSIONER ELDER: Yes, Mr. Chairman.

8 My recollection is that by the previous  
9 data base it is competitive. By the new updated or  
10 correct data base it is still competitive, or two-tenths  
11 more competitive than it was before. I want to make  
12 sure that's on the record.

13 We had a pretty good consideration when we  
14 considered competitiveness before and still have  
15 recommendations to follow the data base.

16 CHAIRMAN LYNN: Further discussion on the  
17 motion?

18 If not, all those in favor signify by  
19 saying "aye."

20 COMMISSIONER MINKOFF: "Aye."

21 COMMISSIONER ELDER: "Aye."

22 COMMISSIONER HALL: "Aye."

23 COMMISSIONER HUNTWORK: "Aye."

24 CHAIRMAN LYNN: Chair votes "Aye."

25 Motion carries unanimously and is so

1 ordered.

2 District 6.

3 COMMISSIONER HALL: Mr. Chairman, I had a  
4 citizen who lives in this area of the valley ask me the  
5 question as to why we didn't run 6, 7, 8 horizontal  
6 versus vertical. We discussed some reasons.

7 I guess my question is would that make any  
8 impact, Doug, from a competitive nature, if those were  
9 reconfigured in a similar fashion?

10 MR. JOHNSON: When we did the  
11 configurations, or made those changes, it was both those  
12 three districts, 6, 7, 8 and also included 10 and 11 in  
13 that area under discussion, generally called North  
14 Phoenix. As you can see, 6 through 8 and 11 are about  
15 as solidly one color on the thematic as you can get.  
16 District 10, obviously, is a competitive district.

17 It would be a minimal impact to rotate  
18 that.

19 CHAIRMAN LYNN: Ms. Minkoff.

20 COMMISSIONER MINKOFF: Looking at these,  
21 all three are not very competitive. The most  
22 competitive of the three is District Six.

23 Is there any way of looking at District 6  
24 and 7 together, leaving District 8 out of the mix? To  
25 change District 8 requires an additional split of the

1 City of Scottsdale. But looking at District 6 and 7, if  
2 we had just those, there is green stuff at the southern  
3 end of both districts. I wondered if that might make a  
4 difference, might have one more competitive district.

5 MR. JOHNSON: The area at the bottom of y  
6 you see, there's a couple areas in the plus, minus five  
7 percent area range of registration, and then there's  
8 some orange in there which is a five to ten percent  
9 Republican advantage.

10 COMMISSIONER MINKOFF: Those are densely  
11 populated areas.

12 MR. JOHNSON: Certainly relative to the  
13 northern parts of the district, yes.

14 We could certainly add those into 6, drop  
15 off, I guess, New River and probably the far North  
16 Phoenix area. That would reduce the partisan spread in  
17 6. You'd been taking areas out that were a 20 to 25  
18 percent advantage and putting areas in with a five, ten  
19 percent Republican advantage, still remain a Republican  
20 District by all of our measures. Judge It, for now, 11,  
21 might get down, best case, might come down to, say,  
22 nine. Of course, that offsets the increase in 6 or 7.  
23 Essentially every point you go up --

24 COMMISSIONER MINKOFF: I'm not really  
25 optimistic this is going to work, but I think it's

1 probably something worth taking a look at. Some of the  
2 others, 3 to 24 -- I think there's maybe something we  
3 can do there. I'm not sure about this. But I would  
4 like to see it, just to see if it makes more of a  
5 difference.

6                   7 is already, by Dr. McDonald's district,  
7 is a bulletproof district. Bulletproof is bulletproof.  
8 If it goes from 15 to 18, would it make that much  
9 difference, if we can create a more competitive district  
10 in District Number 6.

11                   I'd like to move we ask NDC to look at  
12 adjustments between the two districts to increase the  
13 competitiveness of one of them.

14                   CHAIRMAN LYNN: Is that a motion?

15                   COMMISSIONER MINKOFF: That is a motion.

16                   CHAIRMAN LYNN: Second?

17                   COMMISSIONER HALL: I'll second it.

18                   CHAIRMAN LYNN: Thank you.

19                   Discussion on the motion?

20                   Mr. Huntwork?

21                   COMMISSIONER HUNTWORK: I think this is a  
22 very good example of something I personally don't think  
23 we should do. We've got two heavily Republican  
24 districts right next to each other, and we're going to  
25 try to make one of them competitive by making the other

1 one extremely noncompetitive. I do not think that that  
2 is appropriate.

3 CHAIRMAN LYNN: Speaking against the  
4 motion.

5 Ms. Minkoff.

6 COMMISSIONER MINKOFF: Mr. Chairman, only  
7 according to Mr. McDonald's analysis, seven districts in  
8 the state are less competitive than District Number 7.  
9 I'm not sure that it's really going to impact the voters  
10 of that district, because it is already a bulletproof  
11 district. I'd like to see no bulletproof districts. I  
12 certainly don't want to see any more than we have. This  
13 one already is a bulletproof district.

14 I don't see any impact to voters in the  
15 district if bulletproof at 16 percent or bulletproof at  
16 17, 18 percent. It's still a bulletproof district and  
17 members of the minority party will have very little  
18 chance without some kind of scandle to elect candidates  
19 of their party. However, I think that you can give  
20 voters in one more district, District 6, a greater say  
21 in who their candidates are.

22 I'm not -- as I said before, I'm not sure  
23 it's going to work. I think it's worth looking at. I  
24 don't see what the harm is other than a little less  
25 sleep for Mr. Johnson.

1 I would very much like to see the test  
2 then let's discuss whether it makes sense or not.

3 CHAIRMAN LYNN: Mr. Hall, Mr. Huntwork.

4 COMMISSIONER HUNTWORK: I concur,  
5 Mr. Chairman. Why not look at it? One more test. It  
6 may well do significant detriment, may well not. I  
7 don't think we can make that determination until we have  
8 a chance to look at what the test results are.

9 CHAIRMAN LYNN: Mr. Huntwork.

10 COMMISSIONER HUNTWORK: Mr. Chairman, I  
11 think that the more appropriate movement, in this case,  
12 would be to see if we can make seven less bulletproof.  
13 I think that making it more bulletproof is exactly the  
14 opposite of what we should be trying to accomplish here.

15 If the motion were to blend the two so  
16 they were both 13, or for that matter if the motion were  
17 to take into consideration District 10 so that the  
18 overall ratio in all three districts could be brought  
19 down, then I can understand the approach. But I cannot  
20 disagree more vehemently with the idea of packing more  
21 Republicans into an already heavily Republican district.  
22 I think that is just a plain violation of what the  
23 voters in Arizona thought they were doing when they  
24 created Proposition 106.

25 COMMISSIONER MINKOFF: Mr. Chairman.

1                   CHAIRMAN LYNN: Ms. Minkoff.

2                   COMMISSIONER MINKOFF: I'd point out 10 is  
3 one of the very few competitive districts. I'd  
4 vehemently oppose anything that changed the  
5 competitiveness of District 10, which is why I left it  
6 out of the mix.

7                   CHAIRMAN LYNN: I, just speaking on the  
8 motion, I think there are other considerations here.  
9 I'm not disposed to test. The result will be a  
10 nonresult. We have the other considerations here, such  
11 as city boundaries. We have other considerations in  
12 play in the drawing of these districts that to me -- if  
13 we're going to run this kind of a test, there may be 40,  
14 50, a hundred tests that would fall in the same category  
15 of being of equal value in terms of potential outcome.  
16 I see outcome as payoff, to go back to Mr. Johnson's  
17 analysis. After voting rights districts are formed, the  
18 spread in the state is no longer a five percent spread.  
19 It's a 16 percent spread in terms of registration. This  
20 is one of the reasons why. This district and districts  
21 around it are all very heavily Republican. That's what  
22 they are going to remain.

23                   I think the districts were drawn for good  
24 and proper reasons other than this. I don't think it's  
25 good use of Mr. Johnson's time.

1 Further discussion on the motion?

2 COMMISSIONER ELDER: Call the question.

3 CHAIRMAN LYNN: Mr. Hall.

4 COMMISSIONER HALL: I guess my question,  
5 Mr. Chairman, don't know how solid the line is between  
6 the two, but the question that I think we did address is  
7 that competitive districts should be favored where it  
8 would create no significant detriment to the other  
9 goals. And if we can make District 6 more competitive,  
10 the question I have is should we favor that action. And  
11 I think we're mandated to do so. And in so doing -- I  
12 guess my question is can we determine it does  
13 significant detriment to other goals unless we run the  
14 test.

15 CHAIRMAN LYNN: I'd only argue the point  
16 it doesn't say "more competitive districts should be  
17 favored," it says "competitive." This one will not be  
18 competitive no matter what you do.

19 COMMISSIONER HALL: Again, as discussed  
20 earlier, competitiveness on a continuum. We won't know  
21 if it will or won't unless we run the test.

22 CHAIRMAN LYNN: Vote, see if running the  
23 test.

24 COMMISSIONER MINKOFF: Mr. Chairman.

25 CHAIRMAN LYNN: Ms. Minkoff.

1                   COMMISSIONER MINKOFF: I don't think there  
2 are city split issues. That's why I left District 8 out  
3 of it. It causes a split in City of Scottsdale.  
4 Mr. Johnson can look to city boundaries, Cave Creek, New  
5 River, et cetera, which are pretty carefully defined at  
6 the northern portion of that district, wherever  
7 possible, to try to respect those city boundaries.  
8 Phoenix is obviously already split in a zillion  
9 different districts. Peoria is already split. I don't  
10 think that becomes a factor between these two districts  
11 as long as you leave District 8 out of the mix.

12                   CHAIRMAN LYNN: On the motion, further  
13 discussion?

14                   If not, all in favor of the motion signify  
15 by saying "aye."

16                   COMMISSIONER MINKOFF: "Aye."

17                   COMMISSIONER HUNTWORK: "Aye."

18                   COMMISSIONER ELDER: "No."

19                   COMMISSIONER HUNTWORK: "No."

20                   CHAIRMAN LYNN: Chair votes "no."

21                   Motion is defeated two to three.

22                   Is there another motion on District Six?

23 A reciprocal motion would be further testing.

24                   COMMISSIONER ELDER: Mr. Chairman, I move  
25 we make no further tests based on the discussion we've

1 had and reasons stated that the potential, when we look  
2 at the area available for possible changes in plus five,  
3 minus five percent, to gain the percentages we're  
4 looking for in District 6, there just isn't population  
5 to do it. Therefore, there should be no further  
6 studies.

7 CHAIRMAN LYNN: That was a motion?

8 COMMISSIONER ELDER: Yes.

9 CHAIRMAN LYNN: Is there a second?

10 CHAIRMAN LYNN: Mr. Huntwork?

11 COMMISSIONER HUNTWORK: Well, I want to  
12 discuss 7.

13 COMMISSIONER MINKOFF: We're talking about  
14 6.

15 CHAIRMAN LYNN: We're still on 6.

16 COMMISSIONER HUNTWORK: Yes.

17 CHAIRMAN LYNN: The motion not been  
18 seconded yet.

19 COMMISSIONER HUNTWORK: I'm sorry. I must  
20 not have been paying attention.

21 CHAIRMAN LYNN: Mr. Elder, would you  
22 restate the motion.

23 COMMISSIONER HUNTWORK: Sorry.

24 COMMISSIONER ELDER: The motion is not  
25 consider any further studies in District 6 based on

1 considerations that it appears as though there is not  
2 density of population outside of the yellow areas on the  
3 graph that is minus five, plus five percentages. To be  
4 able to get the percentage we have to have to be  
5 competitive is just not available.

6                   Therefore, I don't believe any further  
7 studies should be run.

8                   CHAIRMAN LYNN: Is there a second to the  
9 motion?

10                   Mr. Huntwork?

11                   COMMISSIONER HUNTWORK: I second the  
12 motion.

13                   It might be a good idea to do that. I  
14 essentially was voting on a negative way in response to  
15 the previous motion. But I think perhaps to reflect  
16 what we're actually doing it's more appropriate to adopt  
17 that motion in an affirmative way.

18                   I second.

19                   CHAIRMAN LYNN: Discussion on the motion?

20                   If not, all those in favor of the motion,  
21 signify by saying "aye."

22                   COMMISSIONER HUNTWORK: "Aye."

23                   COMMISSIONER ELDER: "Aye."

24                   CHAIRMAN LYNN: Chair votes "aye."

25                   Opposed, say "No."

1 COMMISSIONER MINKOFF: "No."

2 COMMISSIONER HALL: "No."

3 CHAIRMAN LYNN: Motion passes three to  
4 two.

5 District 7.

6 Mr. Huntwork.

7 COMMISSIONER HUNTWORK: Mr. Chairman, here  
8 we have the other side of the coin. District 7, there  
9 is a possibility of making District 7 more competitive.  
10 This is the problem with the previous motion, and  
11 previous discussion, and discussions like it, which  
12 were -- undoubtedly occur with respect to other areas.

13 Part of our mandate is to try to make each  
14 district as competitive as possible. District 7 has as  
15 much right to be competitive as does District 6, or  
16 District 10, or any other district in the state.

17 I don't really see a way, based on the  
18 map, to make District 7 significantly more competitive  
19 without going down and affecting District 10. District  
20 10 is a very competitive district, only a 3.6 percent  
21 difference, according to the Judge It scale. It is a  
22 3.6 percent favoring Republicans. So even a clean split  
23 between those districts would leave District 10, would  
24 leave both districts somewhere in the range of point --  
25 15 and four, which is around nine.

1 COMMISSIONER ELDER: Nine.

2 COMMISSIONER HUNTWORK: So clearly we  
3 couldn't just split them.

4 The question would be whether we could  
5 increase the difference in 10 by a couple points and  
6 reduce the difference in seven by a couple points.

7 It appears to me it would cause some  
8 damage in terms of the compactness of the districts to  
9 do that. Obviously 7 is not very compact, but we were  
10 at the point in the map where population was becoming  
11 less dense. 10 is very compact, 9 is compact, 11 is  
12 compact. And those districts, as they appear now, at  
13 least, have a great deal of integrity because of that.  
14 So it's hard for me to see how we could make those  
15 changes without having significant impact on the  
16 compactness of the other districts. And, therefore, I  
17 think I'm -- do not favor making an attempt to do so.  
18 Do not favor.

19 CHAIRMAN LYNN: Ms. Minkoff.

20 COMMISSIONER MINKOFF: Mr. Chairman, while  
21 discussing the previous motion, Mr. Huntwork made the  
22 point from Proposition 106, competitive districts should  
23 be favored when not to the significant detriment, not  
24 making a district more competitive, but not really  
25 competitive should be favored. I don't think there's

1 any way to make 7 competitive. 10 is already  
2 competitive. I vigorously oppose any change that  
3 destroys the competitiveness of District 10.

4 I, therefore, move we instruct NDC conduct  
5 no further tests regarding District 7 for reasons  
6 stated.

7 CHAIRMAN LYNN: Is there a second?

8 COMMISSIONER ELDER: Second.

9 CHAIRMAN LYNN: Discussion?

10 COMMISSIONER HUNTWORK: I wanted to vote  
11 in favor of the motion but not necessarily for the  
12 reasons stated.

13 I do firmly believe that Proposition 106  
14 requires us to consider competitiveness of each  
15 district. And I do believe that is inconsistent with  
16 what Ms. Minkoff said in her remarks. Nevertheless, I  
17 do not agree it is appropriate to make a change in  
18 District 7, so I'll vote in favor of the motion.

19 CHAIRMAN LYNN: Further discussion?

20 All those in favor of the motion, signify  
21 by saying "aye."

22 COMMISSIONER MINKOFF: "Aye."

23 COMMISSIONER ELDER: "Aye."

24 COMMISSIONER HALL: "Aye."

25 COMMISSIONER HUNTWORK: "Aye."

1 CHAIRMAN LYNN: Chair votes "Aye."

2 Motion carries unanimously and is so  
3 ordered.

4 CHAIRMAN LYNN: District 8.

5 COMMISSIONER MINKOFF: I'd like to move we  
6 instruct NDC to conduct no further tests to make  
7 District 8 more competitive, unless you are good at  
8 pulling rabbits out of hats.

9 CHAIRMAN LYNN: Is there a second?

10 COMMISSIONER ELDER: Second for the  
11 purpose of discussion.

12 CHAIRMAN LYNN: Discussion on the motion.  
13 Mr. Elder.

14 COMMISSIONER ELDER: I said since  
15 Mr. Hartdegen is not here tonight, 8, the yellow part  
16 wraps around Casa Grande, probably would make more --

17 (Laughter.)

18 CHAIRMAN LYNN: Further discussion on the  
19 motion.

20 COMMISSIONER HUNTWORK: Mr. Chairman?

21 CHAIRMAN LYNN: Mr. Huntwork.

22 COMMISSIONER HUNTWORK: I think it would  
23 be appropriate just to state for the record there do not  
24 appear to be any significance population areas within  
25 reach of District 8 which can be used to make the

1 district more competitive without going into District 23  
2 which would impact the minority strength in that  
3 district and would probably also, in order to provide  
4 significant difference in the competitiveness of  
5 District 8, require very substantial violation of  
6 compactness. Therefore, I don't believe there's any  
7 possibility without doing significant detriment.

8 CHAIRMAN LYNN: Mr. Hall?

9 COMMISSIONER HALL: Just to dovetail on  
10 that, Mr. Chairman, there are areas south of 8, it was  
11 at the request of the urban tribes to combine the urban  
12 tribes in District 23, which we've done. That's a  
13 significant community of interest and allows the Native  
14 American tribes to have a sovereign voice in District 23  
15 and is in compliance their request. Therefore,  
16 utilizing those registration numbers in an effort to  
17 tweak competitiveness in District 8 I think would not be  
18 beneficial. I concur with comments made.

19 I think it's also important for us to  
20 remind ourselves why we configured 6, 7, 8, not only a  
21 community of interest and how they are compact, also  
22 spread the growth area of the northern metropolitan area  
23 in these -- not only, but among these three districts in  
24 an effort to allow a compliance with the constitution in  
25 the future, to the extent possible. And there is

1 certainly, in retrospect, some wisdom in the way the  
2 districts were configured.

3 I speak in support of motion.

4 CHAIRMAN LYNN: Thank you.

5 Comments?

6 Mr. Elder.

7 COMMISSIONER ELDER: Another factor fought  
8 over, discussed considerably, was jurisdictions, the  
9 contiguous parts of the cities involved. And we have  
10 honored, for the most part, city boundaries, urban  
11 tribal boundaries, to a great extent. This is another  
12 factor in the decision, going through this decision for  
13 8.

14 CHAIRMAN LYNN: Thank you.

15 Further discussion on the motion?

16 All in favor of the motion, signify "aye."

17 COMMISSIONER ELDER: "Aye."

18 COMMISSIONER HALL: "Aye."

19 COMMISSIONER MINKOFF: "Aye."

20 COMMISSIONER HUNTWORK: "Aye."

21 CHAIRMAN LYNN: Chair votes "Aye."

22 Motion carries unanimously and is so  
23 ordered.

24 District 9.

25 MR. JOHNSON: One thing I wanted to point

1 out, the yellow area down in the southern part of  
2 District 9 along Grand Avenue is not very heavily  
3 populated.

4                   One thing we're looking at, District 12,  
5 which is competitive, meaning Republican, I believe,  
6 perhaps more competitive, adding an area into it, as I  
7 looked at options, trading off, what that would take, 9  
8 to move to the west, would violate the request of El  
9 Mirage and Old Surprise not to be in a district with any  
10 of the Sun Cities.

11                   So only going through district by  
12 district, I want to clarify that point and make sure the  
13 Commissioners are aware of what that yellow competitive  
14 area is and what trade-offs would be.

15                   COMMISSIONER MINKOFF: Can I ask --

16                   Doug, I wondered, rather than doing a  
17 straight district swap, try do something like that, if  
18 you then pull some urban parts of District 4 into 9 to  
19 compensate? Do a swap between 4, 9, and 12 and not  
20 require moving El Mirage and Old Surprise?

21                   MR. JOHNSON: Could, populations, how you  
22 spread through area District 9 would end up wrapping  
23 over the top, similar to some of the tests we looked at  
24 during the process that eventually led to the creation  
25 of 10, old 10.

1                   COMMISSIONER MINKOFF: Probably require  
2 Sun City West and Sun City Grand in District 9, be after  
3 us.

4                   MR. JOHNSON: Probably involve splitting  
5 one or both of the areas.

6                   COMMISSIONER HALL: Would that change or  
7 strengthen the minority populations in District 12?

8                   MR. JOHNSON: I haven't drawn the specific  
9 lines to see that. It might strengthen it by a point or  
10 two, but it wouldn't bring it anywhere near majority  
11 status, or anything like that.

12                  CHAIRMAN LYNN: Is there a motion?

13                  COMMISSIONER MINKOFF: Doug, I'm looking  
14 again at District 4. Rather than going into Sun City  
15 West and Surprise, if you move some of the southern  
16 portion of District 9 into District 12, can you just  
17 move due north to that part of Peoria, you know, on the  
18 western edge, put that into 9, and then move some of the  
19 northern part of 12 to 4 to compensate? Does that work  
20 or cause other problems?

21                  MR. JOHNSON: It would work. We could put  
22 a portion of this.

23                  COMMISSIONER MINKOFF: Into 12.

24                  MR. JOHNSON: The problem is the densely  
25 populated area of Peoria in 9. Parts of Peoria in 4 get

1 very sparsely populated very quickly. We'd not be  
2 talking about a lot of people available for pickup up  
3 there.

4 COMMISSIONER MINKOFF: Between Bell and  
5 Pinnacle Peak, that's a reasonably populated area.  
6 North of Pinnacle Peak, you are right. Bell to  
7 Beardsley to Pinnacle Peak, three miles north, it's  
8 still pretty heavily populated.

9 MR. JOHNSON: There definitely are some  
10 areas here that could be picked up. I don't think they  
11 are large enough to trade off for the whole area. There  
12 are some areas that could be traded, yes.

13 CHAIRMAN LYNN: Mr. Huntwork.

14 COMMISSIONER HUNTWORK: Looking at 9, I  
15 see it nestled in there between 10 and 12, both of which  
16 are very competitive. 9, in my view, is not as  
17 competitive as I would like to see it, certainly not  
18 bulletproof, but 9 could be improved. I don't think  
19 that increasing the noncompetitiveness of 9 by moving  
20 out Democrats is the appropriate response to District 9.  
21 I think if we were going to do anything with it, it  
22 would be to, in some way, to blend it with 10 and 12 in  
23 order to make 9 more competitive without taking those  
24 out of the competitive range.

25 It's really going to depend on what one

1 considers competitive, and so on. But we're looking at  
2 a seven-and-a-half percent standard, which I think is  
3 probably just an arbitrary number. You could probably  
4 get, let's see, three districts with 3.6, 12, 15, 18.8,  
5 19 -- you could get three districts, all of which were  
6 less than a seven percent spread, out of 9, 10, and 12.

7                   So there is a possibility of doing that  
8 with 9. I'm not sure what it would do with issues being  
9 discussed, how hard it is to move population around in  
10 this particular area, which are very germane to that  
11 exercise; but to me, if we're going to do an exercise in  
12 this area, it would be to try to create a more  
13 competitive district here rather than a less competitive  
14 district.

15                   CHAIRMAN LYNN: Ms. Minkoff.

16                   COMMISSIONER MINKOFF: I think there might  
17 be voter rights implications in doing that kind of  
18 switch, a very strong influence district in District 12.  
19 If you were to make a significant change in it, I think  
20 that that would negatively impact that community of  
21 interest.

22                   10 is a competitive district without any  
23 voting rights issues to add to it. I'd be very, very  
24 concerned about moving any population out of District 12  
25 that was a strong minority population, because I think

1 it would dramatically change the character of that  
2 district. And if you just work with two districts, I  
3 think what you do is once again take 10, a good, strong,  
4 competitive district and sacrifice it to make 9 a little  
5 bit less noncompetitive. And I don't think that that  
6 makes sense for the same reason I didn't think it made  
7 sense pairing 10 with 7.

8                   CHAIRMAN LYNN: It might be appropriate  
9 for the purposes of discussion, as we move through this,  
10 think through each of these options, in the instance  
11 where we have a very clear understanding of what the  
12 problem might be, no sense in pursuing it. In those  
13 instances where we have possibilities that we're not  
14 sure of, it is probably preferable to err on the side of  
15 testing than not. You might want to -- might want to do  
16 that, if there's an unsure aspect to some of the things  
17 we're talking about.

18                   Mr. Huntwork?

19                   COMMISSIONER HUNTWORK: Mr. Chairman, I  
20 think that's a very good point. I would like to ask,  
21 Commissioner Minkoff makes a very important point about  
22 the minority influence in District 12. I'd like to ask  
23 counsel if that -- or our consultant if that is an  
24 accurate characterization, the current status of 12  
25 after the changes that were made to respond to the

1 Justice Department.

2 CHAIRMAN LYNN: Mr. Rivera.

3 MR. RIVERA: Mr. Chairman, Commissioner  
4 Huntwork, they did not look influence districts,  
5 Hispanic voting, total minority. They did not address  
6 influence districts.

7 Again, I think the question, you are  
8 asking the question in a vacuum. It would be better  
9 asked, in fact, once you have moved to make a motion to  
10 make this test, then comes back with figures, see what  
11 the detrimental effect is at that time. That's one of  
12 the considerations to be made in accepting a change or  
13 not to change. Right now we're speaking to the  
14 theoretical aspect of it.

15 CHAIRMAN LYNN: Mr. Elder.

16 COMMISSIONER ELDER: Mr. Chairman, one of  
17 the other things we should look at, one of the reasons  
18 why District 12 is the way it is is we had to infuse, or  
19 bring in, four, five thousand people to take it out of  
20 the deviation of 171,177 population. So it's  
21 overpopulated.

22 If we take a look at those transitional  
23 variants and pull out some of that population, bring it  
24 closer to 171, go back to 9, make it more competitive by  
25 that measure --

1                   MR. JOHNSON: Just to be sure I understand  
2 your question right, talking about 12 being  
3 overpopulated, maybe take some of that population into 9  
4 to bring it closer?

5                   COMMISSIONER ELDER: Take population,  
6 giving us better competition than we've got in that  
7 number 9, District 9.

8                   COMMISSIONER MINKOFF: Doug, if I remember  
9 correctly, isn't the reason you put additional  
10 population in there to create a competitive district and  
11 minority influence district? Isn't the reason,  
12 overpopulated a competitive district and minority  
13 influence district. And if you moved population out,  
14 certainly population to move in to improve District 9,  
15 you will take away from those two goals in District 12?

16                   MR. JOHNSON: 12 is overpopulated as a  
17 result of the interim map changes. But I think the  
18 primary goals of the test that eventually were adopted  
19 is increasing the strength of 13. So 13, you'll  
20 probably note, is underpopulated, as is 14. And a lot  
21 of that population ended up in 12.

22                   So it -- the question I'm struggling with  
23 is how exactly to move the population. The reason for  
24 that, 12 to 9, the reason being 12 has this extension  
25 that comes across 13 and 14. A small part of 12 comes

1 south, 9, 10, north 13, 14. If you try to put  
2 population into 9, it's difficult to do without cutting  
3 off that finger. The finger is probably too large to  
4 move it all into 9.

5                   There could be an area you'd look at  
6 trading off deviations. And -- from the percentages  
7 shown on the schematic, I don't think that kind of  
8 balancing would have much impact on competitiveness of  
9 either one.

10                   CHAIRMAN LYNN: Mr. Hall.

11                   COMMISSIONER HALL: Mr. Chairman, I think  
12 it's appropriate for us to discuss Districts 9 through  
13 16 or 17 as a body. And if anybody disagrees, thinks  
14 I'm wrong, correct me.

15                   I think -- well, we know that 13, 14, and  
16 16 were -- especially 13 and 14, were the subject of  
17 corrections made with respect to response to Department  
18 of Justice.

19                   16 also is a minority influence district.

20                   12 have influence, 13 have influence with  
21 respect to voting rights interests.

22                   I wonder if it might be appropriate to  
23 make a motion to ask Mr. Johnson to run a test with  
24 respect to 9 and 12 relative to the discussion that has  
25 already occurred and a test between 11 and 15 and 17 in

1 an effort to see what impact can be made on  
2 competitiveness there without affecting 13, 14, 16, and  
3 10, 13, 14, 16 being voting rights issues, and 10 being  
4 a competitive district.

5 More specifically, on the issue of 11, 15,  
6 and 17 is an effort to see if that 15 can be made more  
7 competitive utilizing populations from 11 and 17 without  
8 making 17 uncompetitive and without having a detrimental  
9 effect on the voting rights issues of 15.

10 I realize that was a very long motion.

11 COMMISSIONER ELDER: Would it be  
12 appropriate to make a motion? Didn't make it.

13 COMMISSIONER HALL: I make it.

14 CHAIRMAN LYNN: Before you make it, hang  
15 on. I think you may have two motions, two sets of  
16 districts. Let's take them one at a time.

17 COMMISSIONER HALL: Probably had five.

18 I'd make a motion to run the test between  
19 9 and 12 pursuant to the discussion that occurred.

20 CHAIRMAN LYNN: Is there a second to the  
21 motion?

22 COMMISSIONER ELDER: Second.

23 CHAIRMAN LYNN: Thank you.

24 Discussion on the motion.

25 Ms. Minkoff.

1                   COMMISSIONER MINKOFF: Mr. Chairman, I'd  
2 like to reiterate my one concern about this which is the  
3 notion of a minority influence in District 12. I wonder  
4 if there's a way to run those tests to see if there are  
5 nonminority Democratic areas that you could use for that  
6 test.

7                   COMMISSIONER HALL: I think, Ms. Minkoff,  
8 it's a given Mr. Johnson is going to be extra sensitive  
9 to voting rights issues. I think that's inferred on the  
10 basis of any motion. We can add that, but it's not  
11 necessary.

12                   CHAIRMAN LYNN: I'm not sure he can  
13 identify what are nonminority Democrats with respect to  
14 the data base.

15                   The results will show the data base in the  
16 district once the test is run.

17                   COMMISSIONER MINKOFF: Mr. Chairman, my  
18 other concern for the motion is I think it imperils a  
19 competitive district. And I'm very, very concerned  
20 about that. There were other tests we decided not to  
21 run that we didn't want to spend time, didn't think  
22 would work. If those misgivings were valid in that  
23 particular area, I have the same misgivings in this  
24 area.

25                   I'd vote against any change that reduced

1 the competitiveness of District 12. And I don't know  
2 how you can improve 9, take away from 12, without  
3 reducing the competitiveness of 12.

4 I'll vote against the motion.

5 CHAIRMAN LYNN: Mr. Huntwork.

6 COMMISSIONER HUNTWORK: Mr. Chairman, I  
7 think we're on the right track. What we're going to try  
8 doing here is worth the effort. But I want --  
9 personally, I think 10 should be included in this  
10 discussion. The reason I'm saying that is because 10  
11 has 3.6, 12 has 3.8. They are virtually identical, the  
12 Judge It evaluation, in any event, and 10 may have  
13 opportunities for switching around populations that may  
14 avoid some of the voting rights concerns that  
15 Commissioner Minkoff is referring to.

16 Also, I feel that the blend of the three,  
17 as has been pointed out before, can result in three  
18 districts still solidly competitive. Blending two is a  
19 little bit dicier because the balance in 9 is as high as  
20 it is. The imbalance in 9 is as high as it is. So I'd  
21 prefer to have all three districts in play in this test.

22 CHAIRMAN LYNN: Mr. Hall, let me first  
23 ask, are you supposed to modify the motion at this  
24 point?

25 COMMISSIONER HALL: At some point,

1 Mr. Chairman, we're going to have to give Mr. Johnson  
2 clear direction. In other words, at some point we need  
3 to identify the target or a range of targets, if you  
4 will.

5                   So to Mr. Huntwork's point, I simply --  
6 the intent of the motion, there seemed to be significant  
7 discussion regarding the area. If there is discussion,  
8 versus discussing a hypothetical scenario, I'm  
9 suggesting we just run the test. I have little  
10 confidence a test between 9 and 12 will somehow increase  
11 the competitiveness of 9 without causing significant  
12 detriment to the competitiveness of 10 and 12 if we  
13 utilized all three.

14                   I'm saying rather than discuss  
15 hypothetical scenarios, make a motion to run the test or  
16 don't run a test and pick one or other. I'm happy to  
17 reverse the motion not to run the test.

18                   I'm suggesting we do one or the other.

19                   CHAIRMAN LYNN: Ms. Minkoff.

20                   COMMISSIONER MINKOFF: I'd like to point  
21 out according to that map the areas in District 10 that  
22 would enhance competitiveness of District 9 are not  
23 contiguous to District 9. They are at the southeastern  
24 end of District 10. I don't know how you get them into  
25 District 9. Areas of 10 that abut District 9 tend to be

1 more strong Republican areas than District 10. I don't  
2 see how it's in play.

3 COMMISSIONER HALL: Mr. Chairman, maybe I  
4 can withdraw my motion.

5 CHAIRMAN LYNN: Mr. Elder?

6 COMMISSIONER ELDER: Sure.

7 COMMISSIONER HALL: Mr. Chairman, I make a  
8 motion we don't run the test, don't run the test with  
9 respect to District 9, and leave it as is.

10 CHAIRMAN LYNN: Second?

11 COMMISSIONER MINKOFF: I'll second it.

12 CHAIRMAN LYNN: Discussion on the motion.  
13 Mr. Huntwork.

14 COMMISSIONER HUNTWORK: I'll oppose the  
15 motion with the intent to make a motion next if this  
16 fails that we run a test on 9 and 12, 9 and 10, and 9,  
17 10, and 12, see if that combination can give something  
18 positive in this area so that -- in that respect, I'll  
19 vote against motion.

20 CHAIRMAN LYNN: Further discussion on the  
21 motion, a motion to order no further testing on District  
22 9.

23 Mr. Elder.

24 COMMISSIONER ELDER: Mr. Chairman,  
25 clarification from Mr. Huntwork. The options you were

1 just discussing, was that we're looking at not running  
2 tests on 9, 12 right now. If it fails, a subsequent  
3 motion would be run tests on 9, 10, 12.

4 COMMISSIONER HUNTWORK: The motion is to  
5 not run any test on 9.

6 CHAIRMAN LYNN: Right. The motion is to  
7 exempt 9 from further testing. That's what is on the  
8 floor.

9 COMMISSIONER ELDER: Based on the previous  
10 discussion Ms. Minkoff had, by virtue of saying no, like  
11 not going to do further with it, if it comes up in  
12 further discussions, we can add 9 back in; is that the  
13 case?

14 CHAIRMAN LYNN: Of course. Any subsequent  
15 motion that would impact a district next to another  
16 district, obviously, you have to be able to order both.

17 COMMISSIONER HALL: Well, if we can  
18 remember, we're simply running tests. I'm more than  
19 happy to support, as previously indicated, looking at  
20 the results of any tests. I simply would like us to run  
21 one or not.

22 I'm happy to support a motion that would  
23 run a test on 9, 10, and 12, while I have little  
24 confidence of the results. I think it's appropriate  
25 have results of the tests.

1                   So, Ms. Minkoff, I can withdraw, keep  
2 making them, whatever your preference is.

3                   CHAIRMAN LYNN: There is a motion on the  
4 floor. And it is to order no further tests on District  
5 9.

6                   Is there further discussion on the motion?

7                   COMMISSIONER ELDER: Call the question.

8                   CHAIRMAN LYNN: The question has been  
9 called for.

10                  All in favor of the motion, signify by  
11 saying "Aye."

12                  COMMISSIONER ELDER: "Aye."

13                  COMMISSIONER MINKOFF: "Aye."

14                  CHAIRMAN LYNN: Opposed say "No."

15                  COMMISSIONER HUNTWORK: "No."

16                  CHAIRMAN LYNN: Chair votes "No."

17                  COMMISSIONER HALL: Sorry. Distracted.

18                  Your motion is to exempt District 9 from  
19 further testing, motion to?

20                  COMMISSIONER HALL: I vote "Aye."

21                  CHAIRMAN LYNN: The motion carries three  
22 to two, and it is so ordered.

23                  District 10.

24                  CHAIRMAN LYNN: Mr. Huntwork.

25                  COMMISSIONER HUNTWORK: District 10 has

1 many fine advantages. It is competitive, it is compact,  
2 and the only problem I have with District 10 is I firmly  
3 believe we should look at what would happen if we try to  
4 blend it with Districts 9 and 12.

5 Now, I'm not sure what this does with  
6 protocol.

7 I'd like to make a motion that we run --  
8 we free up Mr. Johnson to do whatever he has to do to  
9 determine if there's a way to create three competitive  
10 Districts out of 9, 10, and 12. That's my motion.

11 CHAIRMAN LYNN: Is there a second?

12 COMMISSIONER ELDER: I'll second for  
13 purposes of discussion.

14 CHAIRMAN LYNN: Thank you, Mr. Elder.

15 Discussion on the motion.

16 COMMISSIONER HALL: Mr. Chairman, I'd like  
17 to amend the motion. The reason I feel like --

18 COMMISSIONER ELDER: First of all --

19 COMMISSIONER HALL: First of all, with  
20 respect to districts --

21 COMMISSIONER HALL: Did you call on me?

22 CHAIRMAN LYNN: No.

23 COMMISSIONER HALL: Sorry. Thought you  
24 did.

25 I thought had till someone started to

1 interrupt.

2 CHAIRMAN LYNN: Go ahead.

3 COMMISSIONER ELDER: Just spit it out.

4 COMMISSIONER HALL: Apologize,  
5 Mr. Chairman.

6 We now have competitive districts with  
7 respect to Districts 10 and 12. Contrary sometimes to  
8 the logic I hear from some of my fellow Commissioners, I  
9 don't think we can make two less competitive and make 9  
10 anywhere close to competitive pursuant to the same logic  
11 stated up above with respect to 6, 7, 8. District 4,  
12 the other neighboring district, is a bulletproof  
13 Republican district. Districts 10, 12 are competitive.  
14 A test on 9, you'd have to include District 4, 12, 10 or  
15 13 or 14. And actually, just 12 and not 13. 10, 12 are  
16 competitive. I think we'd cause significant detriment  
17 favoring two districts, pursuant to the Constitution,  
18 and District 4 is bulletproof. That's why I felt  
19 confident in the motion for not testing District 9 and  
20 oppose the motion Mr. Huntwork put fourth.

21 CHAIRMAN LYNN: Mr. Elder, then  
22 Ms. Minkoff.

23 COMMISSIONER ELDER: Mr. Chairman, part of  
24 it turns on what your definition of competitiveness is,  
25 and part turns on communities of interest, and

1 contiguousness. I think where I see the most discussion  
2 going, we have almost a three-corner twist between 9,  
3 10, and 12 that looks like it could be reconfigured,  
4 potentially, to achieve some of those goals. But I  
5 don't know, I agree with Mr. Hall, don't know how a 9  
6 percent spread, three eight, three six, something like  
7 that, to come out with three competitive districts.

8 I wouldn't mind running the test to see if  
9 there's some way of doing it, but my goal out of the  
10 test would be see if we get it more compact, more  
11 contiguous, more so than getting to where it's  
12 competitive.

13 CHAIRMAN LYNN: Ms. Minkoff.

14 COMMISSIONER MINKOFF: Mr. Chairman, I'm  
15 very, very troubled and disturbed by this motion,  
16 especially because of defeat of the earlier motion  
17 regarding Districts 6 and 7. People voted against that  
18 motion. The discussion was why do we want to make  
19 District 6 more competitive while we are making District  
20 7 more bulletproof?

21 This is a situation where we were creating  
22 one more district in which it would be more competitive,  
23 and there might be a chance for a Democrat to be elected  
24 from that district where there currently is not. On the  
25 other hand, now I'm hearing support for a motion that

1 takes two very competitive districts, that are really  
2 tossup districts, where Republicans or Democrats can be  
3 elected, which was clearly the wish of the people who  
4 voted for Prop 106 based on all the information that was  
5 circulated prior to the election, in order to create  
6 three districts where it is more likely that Republicans  
7 will be elected because it falls just under the line of  
8 competitiveness between six and seven percent rather  
9 than a very competitive district as we have now.

10                   If this test is worth running, then I  
11 believe the other test was worth running as well. If  
12 the other test was not worth running, I believe this  
13 test is not worth running.

14                   Unless District 6 and 7 are added to this  
15 motion, I vigorously oppose it.

16                   CHAIRMAN LYNN: Mr. Huntwork.

17                   COMMISSIONER HUNTWORK: Well, I think that  
18 Commissioner Minkoff makes a good point. I want to try  
19 to respond logically and consistently, and maybe change  
20 my own view of a couple things in the process.

21                   One point I want to make is that the  
22 average competitiveness of these three districts  
23 together is less than seven percent. I make no other  
24 statement about whether it's possible to get from here  
25 to there or what damage we'd do to compactness or

1 communities of interest. I only point out that if you  
2 define competitive districts as being a number, and if  
3 you defined it at seven percent, you could get three  
4 competitive districts out of this mix. That's not a  
5 partisan statement, has nothing to do with partisanship.  
6 It is simply arithmetic.

7                   However, I'm very skeptical, as I think  
8 everyone else is, about whether you can do it or not.  
9 I'm looking at the color coding on the map, and I don't  
10 really see how you can do it without destroying the  
11 compactness of both Districts 9 and 10 and without  
12 taking -- dismantling the community of interest that  
13 consists of the portion of Sun City that is in District  
14 9, which is the -- the darkest red area in District 9.

15                   So for the many reasons we talked about  
16 earlier, I almost feel that the test is not worth  
17 running. The trouble is there's that mathematical point  
18 out there that creates a theoretical possibility, at  
19 least, of coming up with an extra competitive district,  
20 at least under one of the definitions of competitiveness  
21 floating around out there. Not that it's a definition I  
22 personally, necessarily agree with. I'm only trying to  
23 do my duty here. But -- you know, I don't wish to make  
24 it seem like partisan interest. If that's how  
25 Commissioner Minkoff interprets it, perhaps it would be

1 better to withdraw the motion than to leave with the  
2 impression floating over these proceedings, because  
3 that's not what any of us wants.

4 CHAIRMAN LYNN: Is that your --

5 COMMISSIONER HALL: Before he does that.

6 CHAIRMAN LYNN: Let me see whether he  
7 wants to.

8 COMMISSIONER HUNTWORK: The other  
9 possibility is go back, reconsider the test on 6 and 7.

10 CHAIRMAN LYNN: May be willing to do that.  
11 We need to clear up what is on the floor at the moment.

12 COMMISSIONER HALL: Either that,  
13 Mr. Chairman, or request the admitted motion to include  
14 a test on 6 and 7 pursuant to tests of 9, 10, and 12, in  
15 addition to it, I should say.

16 CHAIRMAN LYNN: Either way.

17 COMMISSIONER HUNTWORK: Well, one of the  
18 points I made in discussion -- I'm very willing to  
19 consider that.

20 One of the points in the discussion on 6,  
21 7 was it would probably reduce the overall spread on 6  
22 and 7, as well, if you included 10 in that mix.

23 So if we were going to do this, it seems  
24 to me that the thing to do would be to say consider 6,  
25 7, 9, 10, and 12 and come back with as many ideas as you

1 can about how we create competitive districts or not.

2 COMMISSIONER HUNTWORK: You know, I think  
3 I want to withdraw my motion.

4 CHAIRMAN LYNN: Mr. Elder, is that  
5 acceptable to you?

6 COMMISSIONER ELDER: I guess.

7 CHAIRMAN LYNN: Let's do this: Let's give  
8 Lisa Nance a break. And let's try to hold that break,  
9 seriously, to 10 minutes, if we can. And we'll  
10 reconvene in 10 minutes.

11 (Recess taken.)

12 CHAIRMAN LYNN: The Commission will come  
13 to order.

14 For the record, all five Commissioners are  
15 present along with legal counsel and consultants.

16 Mr. Elder.

17 COMMISSIONER ELDER: Mr. Chairman, I would  
18 like to move we test District 6 and 7 to derive or see  
19 if we derive a better competitiveness atmosphere.

20 CHAIRMAN LYNN: Second?

21 COMMISSIONER MINKOFF: I'll second that.

22 CHAIRMAN LYNN: Discussion on the motion?

23 COMMISSIONER HUNTWORK: Mr. Chairman, I'd  
24 like to ask Mr. Elder if he would consider amending the  
25 motion to be 6, 7, 9 and 12.

1                   COMMISSIONER ELDER: No, I would not amend  
2 my motion. I want to have the analysis or any test be  
3 reflective of the districts that there is a synergy or  
4 relationship to. By going down into 12, which is eight  
5 miles away from 6 and 7, I don't know I would be able to  
6 pull apart the pieces we might derive.

7                   I would like to see what the effects are  
8 on various edge decisions that we can vote down, or  
9 whatever. My intent is to not mix apples and oranges,  
10 say yes, it makes sense, or no, it doesn't make sense.

11                   CHAIRMAN LYNN: The motion is to test 6  
12 and 7.

13                   Discussion on motion.

14                   MR. JOHNSON: Mr. Chairman, a question, to  
15 clarify, is the goal to make one of them closer to our  
16 seven percent Judge It range or is the goal to balance  
17 so each of them are roughly the same?

18                   COMMISSIONER ELDER: I guess what I'd like  
19 to see are in the various ranges of different experts.  
20 I'd like to see us get one more district, see if there's  
21 a way of getting one more district competitive. If that  
22 means making one more bulletproof, or even more  
23 bulletproof -- we're 12, 14 percent, something like  
24 that, giant, not half the way there, I don't know  
25 whether doable. I think we ought to take a look at it.

1 The goal is not be able to make both tens. I'd like to  
2 see a six and a 14 or 18, or something.

3 MR. JOHNSON: Okay.

4 CHAIRMAN LYNN: Discussion on the motion?

5 COMMISSIONER HALL: Mr. Elder, just to see  
6 if I understand what I perceive correctly, what I  
7 understand Mr. Huntwork to be saying, is in light of the  
8 fact 10 is 3.6, and six is at 11, and we had some  
9 discussions with respect to 9 and 12, what I thought I  
10 heard him say was is to -- since those are all five  
11 somewhat interactive simply by reason of the fact they  
12 have neighboring borders, whether there would be a --  
13 whether it would be appropriate to test those kind of  
14 all in one venue, from just clarification, so we're able  
15 to try to make six more competitive and not  
16 significantly affect detrimentally the competitiveness  
17 of 10. I'm wondering if that would be giving ourselves  
18 a little more flexibility in trying to trade folks in an  
19 effort --

20 COMMISSIONER ELDER: If you give direction  
21 you want to have whatever it might be, 6 and 10, or 6  
22 and 12, or something, if that is what the goal is,  
23 because if you level them all out, none are competitive,  
24 and then you also have a problem going in, then, with  
25 10, you can't lose 10 at the expense of trying to make

1 all of them even.

2 COMMISSIONER HALL: I understand.

3 If you bring 10 up to six, still, quote  
4 unquote competitive, right, or five, and still have an  
5 opportunity to maybe utilize neighboring numbers from 7  
6 and 10 to strengthen 6.

7 CHAIRMAN LYNN: Ms. Minkoff.

8 COMMISSIONER MINKOFF: Mr. Chairman, let  
9 me see if I can maybe crystalize this.

10 I can see a way we can look at all five of  
11 these districts together. Currently we have two really  
12 pretty competitive districts, 10 and 12. And I consider  
13 districts in the three percent, obviously, to be more  
14 competitive than a district that ends up 6.8. But if we  
15 combine these, then I think the direction we give to  
16 Doug is out of 6, 7, 9, 10, and 12 to look at adjusting  
17 population to create a minimum of three competitive  
18 districts. Because we've already got two. The only  
19 reason to do this is to create at least three. If he  
20 can create four, terrific, but I bet he can't.

21 CHAIRMAN LYNN: With that clarification,  
22 Mr. Elder.

23 COMMISSIONER ELDER: Yes, that would be  
24 acceptable. Modify the motion to modify the change.

25 CHAIRMAN LYNN: Seconder of the motion?

1 COMMISSIONER MINKOFF: Me. I accept it.

2 CHAIRMAN LYNN: Motion on the floor, as I  
3 understand it, is for Mr. Johnson to run tests on  
4 Districts 6, 7, 9, 10, 12 with the goal for there to be  
5 a third, at least a third competitive district.

6 COMMISSIONER MINKOFF: Mr. Chairman, I  
7 would like one caveat. If it's to go any further than  
8 my point of view, I don't want to see three districts  
9 6.9.

10 CHAIRMAN LYNN: Too many restrictions on  
11 him --

12 COMMISSIONER MINKOFF: My own personal  
13 point of view.

14 CHAIRMAN LYNN: It's for a test to be run,  
15 if the possibility is here.

16 Discussion on the motion?

17 COMMISSIONER HUNTWORK: Mr. Chairman, I am  
18 completely in favor of this motion, from my point of  
19 view, but also would like to see if we could do it  
20 without making any district less competitive than it  
21 already is and maybe even trying to get out of that mix  
22 none that is bulletproof by any definition that we've  
23 used.

24 I realize it may not be possible, but I  
25 want to hear a discussion of that as well when we see

1 the results of this effort.

2 CHAIRMAN LYNN: Further discussion on the  
3 motion?

4 If not, all those in favor of the motion  
5 signify by saying "Aye."

6 COMMISSIONER ELDER: "Aye."

7 COMMISSIONER HALL: "Aye."

8 COMMISSIONER MINKOFF: "Aye."

9 COMMISSIONER HUNTWORK: "Aye."

10 CHAIRMAN LYNN: Chair votes "Aye."

11 Motion carries unanimously.

12 Tests will be run on 6, 7, 9, 10, 11 and  
13 12.

14 COMMISSIONER MINKOFF: I'd like perform a  
15 test, in the form of a motion, looking at 11, currently  
16 not a competitive district, Republican district. I'm  
17 looking at 15, not a competitive district -- almost  
18 competitive district, Democratic district. I think this  
19 is a possibility of creating a win-win situation and  
20 would like to ask NDC to see if adjustments can be made  
21 between districts 11 and 15 to create two competitive  
22 districts.

23 CHAIRMAN LYNN: Is that a motion?

24 COMMISSIONER MINKOFF: Yes.

25 CHAIRMAN LYNN: Second?

1 COMMISSIONER HALL: Mr. Chairman.

2 CHAIRMAN LYNN: Mr. Hall.

3 COMMISSIONER HALL: I'll second then  
4 discuss it.

5 CHAIRMAN LYNN: Discussion.

6 Mr. Hall.

7 COMMISSIONER HALL: I'm wondering if we --  
8 wondering if Ms. Minkoff would add 17 in the mix. I  
9 think that might be helpful, 17 with the 1.4.

10 COMMISSIONER MINKOFF: My only concern is  
11 that it is already a competitive district. I wouldn't  
12 object to adding 17 as long as we place a caveat that  
13 any change to 17 should minimally affect its  
14 competitiveness.

15 COMMISSIONER HALL: I understand.

16 COMMISSIONER MINKOFF: 1.4, 2.5, still be  
17 competitive. Anything much beyond that I don't really  
18 see gives us anything.

19 COMMISSIONER HALL: Again, I think it's  
20 the same scenario just covered, just covered in 10, 12.  
21 I think that's why we hired Dr. McDonald, to determine  
22 what is competitive.

23 I just think there may be some resources  
24 in 17 in connection with respect to 11 and 15.  
25 Furthermore, I just think I'd like as part of that

1 motion, certainly to broaden it, to insure that we  
2 maintain the total minority VAP population in 15.  
3 That's why I think 17 might be necessary. 15 has total  
4 minority VAP of 50.37 percent total minority age voting  
5 population in 15, which I think is important, as  
6 previously discussed in previous meetings. With respect  
7 to having 13, 14 being majority-minority districts, 15  
8 is a heavily influenced district.

9                   So in utilizing 15, I think in an effort  
10 to try to make it competitive, we may need resources  
11 from 17 and 11 to maintain their important character.

12                   CHAIRMAN LYNN: 17, mix 11 and 15. Is  
13 that acceptable?

14                   COMMISSIONER MINKOFF: Yes.

15                   CHAIRMAN LYNN: The motion is Districts  
16 11, 15, 17, with caveats attached.

17                   COMMISSIONER MINKOFF: Yeah.

18                   One issue that I had is that if we say  
19 there will be no change in the minority population of  
20 District 15, essentially, I don't think the test works.  
21 I still -- 15 is not one of the districts that we  
22 submitted to DOJ to respond to their objections. It's  
23 one we sacrificed to strengthen 13 and 14.

24                   I think District 15 must maintain a strong  
25 minority influence. It must be a strong minority

1 influence district. I'm not quite as concerned with the  
2 over 50 percent, because it is not one of those  
3 districts that we asked to be considered under the  
4 Voting Rights Act.

5 We should not diminish the minority  
6 influence impact in this, since it's only 50.37 right  
7 now voting age, if can't lower below 50 percent, we  
8 can't do anything with this.

9 CHAIRMAN LYNN: Mr. Elder.

10 COMMISSIONER ELDER: Mr. Chairman, I guess  
11 in weighting things, look at what we should and  
12 shouldn't do, I take the Minority Voting Rights Act at a  
13 higher level than I do registrations. 17 we had a  
14 tremendous amount of discussion, City of Tempe, the  
15 school district, as Mr. Johnson was doing tests,  
16 considered jurisdictions.

17 If it needs to be that we break that area  
18 of interest, so be it, to have flexibility.

19 CHAIRMAN LYNN: Just to be clear, what  
20 will happen in any ordered tests Mr. Johnson will take  
21 our recommendations as to what we'd like tested. He'll  
22 come back with a full analysis of what was necessary,  
23 how far he could go, and what the effects of such  
24 changes were. We clearly -- there's no sense in  
25 ordering a test if we order a test and predispose the

1 possible outcomes. We need to look at the results of  
2 the test and then decide whether or not those outcomes  
3 are acceptable or not.

4 Mr. Johnson clearly understands all of the  
5 criteria that we've used from the beginning of this  
6 process. And each and every one of them is potentially  
7 at risk when we order this test or any test.

8 Mr. Huntwork and then Mr. Elder.

9 COMMISSIONER ELDER: A quick follow-up,  
10 first. Since Josh got to interrupt, I will.

11 I'd like Mr. Johnson, when going through  
12 his review, specifically, say, on considering -- number  
13 one was population deviation, number two is competitive,  
14 number three, whatever, so we cover each one of those  
15 when you give us analysis of the tests run so we don't  
16 have one, well, community of interest, next test run  
17 didn't say anything about community of interest or  
18 jurisdictions.

19 How many jurisdictions are split, what  
20 effect did it have on minority voting rights.

21 CHAIRMAN LYNN: Detailed impact.

22 COMMISSIONER ELDER: Try to make a list of  
23 five, six items you address in each study test you do so  
24 we have a comparison.

25 Thank you.

1                   CHAIRMAN LYNN: Mr. Huntwork.

2                   COMMISSIONER HUNTWORK: Mr. Chairman, on  
3 the motion, I'm going to oppose the motion on the floor  
4 because it includes District 17. The original concept  
5 of 11 and 15 I would be wholeheartedly in favor of. 17  
6 I'll personally oppose because it is a community of  
7 interest. It is basically the City of Tempe. It was  
8 closely defined. We were very careful in drawing that  
9 based on communities of interest. And it is a  
10 competitive district.

11                   If it were going to be split in some  
12 way -- my own preference would be to look at 18.  
13 Between 17 and 18 you can arrive at two districts,  
14 neither of which is bulletproof, although probably  
15 neither of which is competitive within some of those  
16 definitions floating around out there. It doesn't make  
17 any sense at all to bring Tempe into Phoenix, run with  
18 Phoenix districts. It's just what everybody in Tempe to  
19 a person told us not to do.

20                   I'm against doing that, even testing that,  
21 because of the clear community of interest that would be  
22 significantly impacted.

23                   CHAIRMAN LYNN: Thank you, Mr. Huntwork.

24                   Ms. Minkoff.

25                   COMMISSIONER MINKOFF: Mr. Huntwork, the

1 northern part of 17, south part of the City of  
2 Scottsdale.

3 I agree with you on the City of Tempe. I  
4 do not think we should split it any more than it already  
5 is, the portion south of it to the south.

6 Would you be comfortable with the motion  
7 if we limited the instruction to Doug to only look at  
8 the area of District 17 not part of the City of Tempe?

9 COMMISSIONER HUNTWORK: That's a very  
10 important point.

11 The reason I stated before certainly would  
12 not apply. However, I do want to point out that at this  
13 point it's much more difficult to do a swap between 11  
14 and 15.

15 Take out a portion of 17, you'll have  
16 ripple effects, and we're going to have to think about  
17 what those are.

18 There's significant population in that  
19 Scottsdale portion, and it would have to ripple through  
20 everything else we've done.

21 So where do we go? I mean I guess that's  
22 what our consultant will test.

23 CHAIRMAN LYNN: That's what the test is  
24 designed to show.

25 Discussion on the motion.

1                   COMMISSIONER MINKOFF: Can I ask, all of a  
2 sudden there's purple in it? Scottsdale?

3                   MR. JOHNSON: Just braking it up. The  
4 Scottsdale area, here's the border of Phoenix,  
5 Scottsdale, Tempe. The northern portion is Scottsdale,  
6 17.

7                   COMMISSIONER MINKOFF: My own strong  
8 preference is just look at 11 and 17, 15. The reason to  
9 vote for the motion, hope we don't have to go into 17.  
10 If it becomes necessary that a small portion --

11                   CHAIRMAN LYNN: Again, any comments are  
12 speculative until we see the results of the test.

13                   On the motion?

14                   COMMISSIONER HALL: I call the question.

15                   CHAIRMAN LYNN: All in favor of the  
16 motion, say "Aye."

17                   COMMISSIONER MINKOFF: "Aye."

18                   COMMISSIONER ELDER: "Aye."

19                   COMMISSIONER HALL: "Aye."

20                   CHAIRMAN LYNN: Chair votes "aye."

21                   COMMISSIONER HUNTWORK: I apologize. Was  
22 it modified for just the Scottsdale portion of 17?

23                   CHAIRMAN LYNN: Discussed as other things  
24 were tested.

25                   The test would be 11, 15, 17.

1 COMMISSIONER HUNTWORK: I vote "No."

2 CHAIRMAN LYNN: Motion passes four to one.

3 11, 15, and 17 are included in testing.

4 We're up to District 13.

5 Mr. Hall, I believe you go first.

6 COMMISSIONER HALL: Mr. Chairman, I make a  
7 motion that we do not run any test on District 13, 14,  
8 and 16 in light of the fact that they are very important  
9 districts with respects to the requirements of the  
10 Voting Rights Act and were recently amended in an effort  
11 to address objections by Department of Justice which now  
12 have been approved by a three-judge panel. I think it  
13 would be important to maintain the significant  
14 characteristics of these three districts.

15 CHAIRMAN LYNN: Second?

16 COMMISSIONER HUNTWORK: Second.

17 CHAIRMAN LYNN: Further discussion on the  
18 motion?

19 I think Mr. Hall's quite clear. It's  
20 quite evident three districts in particular, because of  
21 all that was previously stated, and all the discussions  
22 that have gone on with the three districts, it would not  
23 be in any way advantageous to try to move these around  
24 in terms of a competitive scenario, they clearly are so  
25 important to other in terms of voting rights compliance.

1 Mr. Huntwork.

2 COMMISSIONER HUNTWORK: I think as  
3 debating districts, for purposes of putting before the  
4 federal court, we did acknowledge it is not the final  
5 answer and we will have effectiveness tests run on them  
6 before we're through with the process.

7 For the purposes of competitiveness, I  
8 agree with the point you've made.

9 CHAIRMAN LYNN: That is the purpose --  
10 that purpose being only for which we're ordering testing  
11 at the moment.

12 The motion on the floor is to have  
13 Districts 13, 14, and 16 not further tested with respect  
14 to competitiveness.

15 Further discussion on the motion?

16 Hearing none, all those in favor of the  
17 motion signify by saying "Aye."

18 COMMISSIONER MINKOFF: "Aye."

19 COMMISSIONER ELDER: "Aye."

20 COMMISSIONER HALL: "Aye."

21 COMMISSIONER HUNTWORK: "Aye."

22 CHAIRMAN LYNN: The Chair votes "Aye."

23 Motion carries unanimously and it is so  
24 ordered.

25 District 18.

1                   COMMISSIONER MINKOFF: Mr. Chairman, 18,  
2 19, 20, 21, 22, in an attempt to move along.

3                   COMMISSIONER HALL: And 23.

4                   COMMISSIONER MINKOFF: No. 18 through 22.  
5 These are all districts somewhat similar in character,  
6 none competitive, none likely to be competitive, without  
7 moving all over the state to pick up population. My  
8 only concern about them is population deviation. Want  
9 to deal with that now or later? I'd be happy to ask  
10 Doug to run tests to equalize population. I don't think  
11 anything --

12                   CHAIRMAN LYNN: I'm disposed either way.  
13 A couple comments. What we need to do here at some  
14 point is see if there's a way to equalize population,  
15 but I'd be happy to take it now, if it squares with the  
16 testing you are going to be doing, Mr. Johnson, or if  
17 you'd rather do it at a later date.

18                   MR. JOHNSON: Mr. Chairman, I can do it  
19 either way. I do have maybe a five-minute presentation,  
20 summarizes deviations and questions run through before  
21 the Commission.

22                   COMMISSIONER MINKOFF: I make motion no  
23 further tests on Districts 18, 19, 20, 21, 22 be  
24 conducted regarding competitiveness.

25                   CHAIRMAN LYNN: Is there a second?

1                   COMMISSIONER HALL: I don't know why we're  
2 not including 23, 24, 25, voting rights --

3                   COMMISSIONER MINKOFF: Different reasons.

4                   CHAIRMAN LYNN: Separate motion.

5                   COMMISSIONER HALL: Okay.

6                   CHAIRMAN LYNN: Is there a second?

7                   Hearing none --

8                   Mr. Huntwork.

9                   COMMISSIONER HUNTWORK: I'd like to focus  
10 on 18 before too far afield.

11                   Since we're already tinkering with 17, and  
12 if you take population out of 17, in particular, I think  
13 it would be appropriate to look at whether there is a  
14 way to make 18 more competitive by combining in some way  
15 17. It might be a part of the testing done in 11, 15,  
16 17.

17                   According to the Judge It analysis, 18 is  
18 12.8 percent, 17 is 1.4 percent. The two combined, just  
19 over 14 percent; half, just barely over seven percent.

20                   If moving people around, it might be a way  
21 to make something -- perhaps not completely competitive,  
22 perhaps more competitive, and out of 18.

23                   CHAIRMAN LYNN: Ms. Minkoff.

24                   COMMISSIONER MINKOFF: Mr. Chairman, the  
25 only way to swap population between 18 and 17 is to

1 break up the City of Tempe. And we made it very, very  
2 clear in some discussion of the previous motion,  
3 although not part of the motion, Doug heard us, there's  
4 not a lot of support for chopping up Tempe to put it  
5 into 11 or 15.

6 By the same token, I can't see any reason  
7 to create two, you know, one 6.9, one 7.4, something  
8 like that, which is essentially two noncompetitive  
9 districts, chop up a community of interest, the City of  
10 Tempe doing it. We'd not achieve anything.

11 There are a few districts I look at and  
12 smile because they really work. This is one of them.  
13 And it's because of the community of interest  
14 represented by the majority of the City of Tempe.

15 There's no way -- the only parts of  
16 District 17 that aren't the City of Tempe are a very  
17 small area of Scottsdale to the north. I don't see how  
18 we do this without chopping up Tempe.

19 CHAIRMAN LYNN: There is no motion. We're  
20 still looking for an affirmative motion with respect to  
21 18.

22 Mr. Huntwork?

23 COMMISSIONER HUNTWORK: The problem is I  
24 agree with everything Ms. Minkoff just said.

25 Let me say what I was thinking more

1 clearly. We already said we're going to do a test that  
2 might involve taking out part of 17, which means you  
3 have to change 17, have to add population, move it  
4 around. As long as we're doing that, I'm wondering if  
5 there's a way to accomplish the goal of making 18 a  
6 little more competitive.

7 I was against tinkering with 17 at all.  
8 If you remember, I was the only one that voted against  
9 it. Now I've voted in favor of it. If something  
10 happens to 17, what will we do?

11 I think we ought to include 18 in the mix.  
12 There's one that isn't that -- for an East Valley  
13 district, it's probably least uncompetitive, to the  
14 extent you make it less uncompetitive, we've achieved  
15 something.

16 CHAIRMAN LYNN: There's a strong  
17 suggestion, if you'd like to get that voted on, you move  
18 to include 18 in the test on 11, 15, and 17.

19 COMMISSIONER HUNTWORK: I so move.

20 CHAIRMAN LYNN: Is there a second?

21 It was worth a shot.

22 We still need an affirmative motion on  
23 District 18.

24 District 18.

25 COMMISSIONER MINKOFF: Let me renew the

1 motion, as I didn't get a second.

2 COMMISSIONER HALL: I'll second it.

3 COMMISSIONER MINKOFF: 18 through 22, no  
4 further tests regarding 18 through 22.

5 COMMISSIONER HALL: Second.

6 CHAIRMAN LYNN: Motion remove 18, 19, 20,  
7 21, and 22 from further testing.

8 COMMISSIONER MINKOFF: Competitiveness  
9 testing.

10 CHAIRMAN LYNN: Competitiveness testing.  
11 And it's been seconded.

12 Discussion on the motion?

13 COMMISSIONER ELDER: Call the question.

14 CHAIRMAN LYNN: I want to be sure we're  
15 clear why we're taking these districts out of the mix  
16 and not testing them, so there's no ambiguity about the  
17 motion once we get to a vote.

18 Mr. Huntwork.

19 COMMISSIONER HUNTWORK: Mr. Chairman, the  
20 only reason I asked it, when the motion was originally  
21 made, we wanted to explore question of 18 separately.  
22 Aside from that, I believe this is pretty much of a  
23 no-brainer. These are -- firstly, they are compact  
24 districts. They fit the political subdivisions in the  
25 East Valley very well. Unity in the East Valley has

1 given us tremendous support for where we drew the lines  
2 and how we drew the lines in this area. And beyond  
3 that, there really isn't anywhere we can go to create  
4 competitiveness with these districts other than into  
5 District 23, which surrounds them on all sides, District  
6 20, which we're getting to, but it doesn't help the  
7 competitiveness analysis significantly at all.

8 COMMISSIONER MINKOFF: That's true.

9 COMMISSIONER HUNTWORK: And 17, which you  
10 just talked about, because 17's community of interest,  
11 competitiveness, compactness, and tremendous public  
12 community support for that district as well.

13 I think for those reasons I strongly  
14 support this motion.

15 CHAIRMAN LYNN: Further discussion on the  
16 motion?

17 Mr. Elder.

18 COMMISSIONER ELDER: To say go along with  
19 it, the majority of the area around the four districts  
20 are urban tribes. We agreed to set a precedence -- not  
21 precedence -- we set a precept we would not divide any  
22 of the tribes. And that's one of the goals here. So  
23 I'd want to stay with the motion and vote affirmatively.

24 CHAIRMAN LYNN: Thank you.

25 Further discussion on the motion?

1 If not, Mr. Hall? No?

2 If not, move to a vote. The motion is for  
3 Districts 18 through 22 to be exempted from further  
4 competitiveness testing at this point.

5 All those in favor of the motion, signify  
6 by saying "Aye."

7 COMMISSIONER ELDER: "Aye."

8 COMMISSIONER HALL: "Aye."

9 COMMISSIONER MINKOFF: "Aye."

10 COMMISSIONER HUNTWORK: "Aye."

11 CHAIRMAN LYNN: Chair votes "Aye."

12 Motion carries unanimously and it is so  
13 ordered.

14 District 23.

15 COMMISSIONER MINKOFF: Another  
16 multi-multi-district motion.

17 I move Districts 23, 24, 25, 27, 29 be  
18 removed from further testing for competitiveness because  
19 of Voting Rights Act implications.

20 CHAIRMAN LYNN: Is there a second?

21 COMMISSIONER HUNTWORK: Second.

22 CHAIRMAN LYNN: Thank you.

23 Discussion on the motion?

24 Mr. Huntwork?

25 COMMISSIONER HUNTWORK: Mr. Chairman, I

1 have -- I still have some concern in my mind about  
2 whether we can achieve a better result on Voting Rights  
3 Act issues dealing with District 23 in a different way,  
4 or rather dealing with Districts 23, 25, 27, 29 in a  
5 different way. And I'm concerned about the fact if we  
6 did look at another alternative way of approaching the  
7 districts, one of the factors we might consider, if all  
8 other factors were equal, would be what creates the most  
9 competitive district out of District 23. Now, that's a  
10 long way off.

11 We can't talk about that until the data  
12 base -- based on the table right now, I obviously  
13 strongly support this motion. At the point when we are  
14 thinking about alternatives for satisfying the Voting  
15 Rights Act, then we might want to revisit this issue.

16 CHAIRMAN LYNN: And we'll have that  
17 opportunity before too long.

18 I appreciate the fact we're separating  
19 issues at this juncture. It doesn't mean we won't  
20 revisit all the districts in some fashion for final  
21 determination.

22 Further discussion on the motion?

23 If not?

24 MR. JOHNSON: Mr. Chairman?

25 CHAIRMAN LYNN: Mr. Johnson.

1 MR. JOHNSON: I believe the motion  
2 mentioned 24, also?

3 COMMISSIONER MINKOFF: Yeah.

4 MR. JOHNSON: We have a motion, 24 as it  
5 works with 23?

6 CHAIRMAN LYNN: Mr. Johnson, thank you  
7 very much.

8 With the permission of the maker and  
9 second --

10 COMMISSIONER MINKOFF: Yes.

11 CHAIRMAN LYNN: And previous admonitions  
12 already in that discussion.

13 So the motion --

14 COMMISSIONER ELDER: Could we have  
15 Mr. Johnson zoom in on just above the county line where  
16 we're looking at 26, 25, you know -- let's look at Pima  
17 County except the western portion of it.

18 I guess what we're looking at, going to be  
19 visiting 26, 26, 28, 30. I wouldn't want to preclude  
20 looking at 25, see if there's a trade to make the thing  
21 more competitive.

22 MS. HAUSER: Mr. Chairman.

23 CHAIRMAN LYNN: Ms. Hauser.

24 MS. HAUSER: Mr. Chairman, Commissioner  
25 Elder, the focus of the motions with respect to testing

1 that focus on making particular districts more  
2 competitive. It does not mean that that district might  
3 not change or be affected in some way by a test done on  
4 another district, as we discussed earlier.

5 A change or motion to take 25 off the  
6 table, for example, as a focus of a competitiveness  
7 test, does not mean it might not be impacted when some  
8 other districts are tested, if they are tested.

9 COMMISSIONER ELDER: Take all off, come  
10 back and revisit them.

11 MS. HAUSER: No, no.

12 CHAIRMAN LYNN: Reverse of that.

13 MS. HAUSER: The difference between  
14 focusing a test on a district, trying to make that  
15 district more competitive, and whether or not that  
16 district will have any change to it at all or not by  
17 virtue of test on another district.

18 CHAIRMAN LYNN: The motion, then, on the  
19 floor, is to exempt Districts 23, 25, 27 and 29 from  
20 further competitiveness testing at this point.

21 Further discussion on the motion?

22 If not, all those in favor of the motion,  
23 signify "aye."

24 COMMISSIONER HUNTWORK: "Aye."

25 COMMISSIONER MINKOFF: "Aye."

1 COMMISSIONER HALL: "Aye."

2 COMMISSIONER ELDER: "Aye."

3 CHAIRMAN LYNN: Chair votes "Aye."

4 Motion carries unanimously and it is so  
5 ordered.

6 We're up to 28.

7 COMMISSIONER ELDER: 26.

8 CHAIRMAN LYNN: 26, 28, and 30 are  
9 remaining districts.

10 COMMISSIONER MINKOFF: Mr. Chairman.

11 CHAIRMAN LYNN: Ms. Minkoff.

12 COMMISSIONER MINKOFF: Mr. Chairman, three  
13 districts here, none of which are competitive, but none  
14 of which are very far from being competitive.

15 I'd like to move we ask NDC to focus  
16 primarily on Districts 26, 28, and 30 and see if there  
17 are adjustments that be made among those three  
18 districts, primarily, in order to create one or more  
19 competitive districts with the understanding that if  
20 there is any need to go into existing majority-minority  
21 districts to create a population corridor or to maintain  
22 a community of interest, so long as it does not diminish  
23 the majority minority character of those districts, you  
24 are authorized to do that as well.

25 CHAIRMAN LYNN: Is that a motion?

1 COMMISSIONER MINKOFF: That's a motion.

2 CHAIRMAN LYNN: Is there a second?

3 COMMISSIONER HALL: Second.

4 CHAIRMAN LYNN: Thank you.

5 Discussion on the motion.

6 Mr. Huntwork.

7 COMMISSIONER HUNTWORK: Mr. Chairman, I  
8 recall our previous discussion of these districts very  
9 well. We focused on the competitiveness of these  
10 districts. And we focused on communities of interest  
11 that they represent. We had very strong testimony  
12 regarding communities of interest, particularly in that  
13 central Tucson area.

14 Once again, it is really a situation where  
15 I am loath to -- I'm really hesitant to vote in favor of  
16 intruding on a pretty well-defined community of  
17 interest, just as I was with District 17. There may be  
18 nooks and crannies that can be explored in that area.

19 I guess I can't oppose just one test to  
20 see, especially as I'm not that -- personally not  
21 familiar with that area of Tucson. I do recall we  
22 considered this very specifically and drew those lines  
23 carefully the first time.

24 I'm wondering what the difference is --  
25 how have the numbers changed from the first time?

1                   Do we have anything that would tell us  
2 exactly between the numbers we were using the first time  
3 and numbers we have now?

4                   COMMISSIONER MINKOFF: District 26 has  
5 changed because we pulled some areas out.

6                   CHAIRMAN LYNN: Hang on one second.

7                   I think what Mr. Huntwork is asking has to  
8 do with data base correction, if I understand the  
9 question.

10                  COMMISSIONER HUNTWORK: Correct.

11                  MS. HAUSER: A data base question.

12                  CHAIRMAN LYNN: I'll call on Mr. Hall in  
13 the meantime.

14                  COMMISSIONER HALL: I agree with you  
15 wholeheartedly. I recall that discussion, too.

16                  I would like us to, one, run the test for  
17 three reasons, refresh my memory and, two, we are  
18 working with new data. And I want to insure that we  
19 have appropriately considered all of the information we  
20 received. And, three, there has been a change to some  
21 of those surrounding districts with respect to our  
22 response to the Department of Justice letter.

23                  For my benefit, simply, I, like you, am  
24 not as familiar with this area. I'd appreciate the test  
25 just to make sure I understand all the questions before

1 I feel it appropriate to provide any answers.

2 CHAIRMAN LYNN: Mr. Johnson?

3 MR. JOHNSON: What I have on my screen  
4 right now, it's a little hard to read as projected, but  
5 these are data as we understood them at the time the  
6 Commission adopted its plan in November. And we had a  
7 -- District 26, believe the AQD spread was 9.4. And the  
8 corrected AQD spread is 11.2. For the same district,  
9 the difference between Republican and Democratic  
10 registration, had almost 12 percent. And corrected we  
11 have 14.8.

12 28, AQD spread went from 21 and  
13 essentially stayed the same, 21.

14 District 30, AQD was 14.8 and stayed 14.8.

15 So 26, registration and AQD spreads are  
16 larger than we thought they were at that time. 28 and  
17 30 AQD stayed the same.

18 CHAIRMAN LYNN: And AQD, I'm sorry,  
19 District 23 -- 26 also had other modifications in it  
20 with respect to adjusting District 23.

21 MR. JOHNSON: Yes. Good point. And that  
22 is probably the main reason for the change.

23 CHAIRMAN LYNN: Mr. Huntwork.

24 COMMISSIONER HUNTWORK: That's part of the  
25 point I was going to make, Mr. Chairman.

1                   I certainly do intend we'd equalize  
2 populations here at some point and get fairly narrow,  
3 small changes in these districts. I'm wondering if we  
4 should -- I hate to bring this up.

5                   When we ripple population through the East  
6 Valley, which is other major area of imbalance, we are  
7 thinking then about probably relatively homogeneous  
8 populations and not much change. Here all questions are  
9 going to be where do we get the people necessary to  
10 equalize the population. And is it terribly meaningful  
11 to run these tests when we've dealt with that issue is  
12 really the question.

13                   CHAIRMAN LYNN: District 26 is one of the  
14 three we're dealing with now, the most problematic with  
15 respect to deviation. And, again, I think what we might  
16 want to do is keep the issues separate insofar as we are  
17 going to talk population deviation statewide, something  
18 suggestive as we look at testing, Mr. Johnson, to tuck  
19 away to bring up again as we deal with population  
20 deviation. Before final adoption, that would be useful.  
21 But for the purposes of the testing, I'd look at the  
22 possibilities that exist.

23                   Again, I appreciate the deference,  
24 Mr. Huntwork, in the Tucson districts. I like you feel  
25 very comfortable with districts drawn in Tucson based on

1 what I know about the communities of interest.

2 I think for purposes of the process, I  
3 think it's more than fair to take a look at the  
4 districts, see if we can't make adjustments that don't  
5 do significant damage in other areas to achieve a more  
6 competitive balance, if that's possible.

7 I'm more than happy to support the motion.

8 I do think the issue of deviation,  
9 particularly of District 26, is probably best addressed  
10 separate.

11 COMMISSIONER HUNTWORK: I agree. It seems  
12 the numbers we're making a determination on were dead  
13 on. The only reason 26 wasn't dead on, population  
14 changed. In that light, I'm not sure why we are  
15 revisiting the issue, because we made a fair, full  
16 discussion of competitiveness, until we know what is  
17 going on with District 26. Nevertheless, the point is  
18 made.

19 CHAIRMAN LYNN: It's not inconceivable to  
20 me when finished with the discussion, population  
21 deviation in 26 won't change. What will change is  
22 population on the other side, zero overall deviation in  
23 the map. I don't want to predispose that, but it may  
24 happen.

25 Ms. Minkoff.

1                   COMMISSIONER MINKOFF: Mr. Chairman,  
2 there's nothing to preclude Mr. Johnson when looking at  
3 making districts more competitive to improving  
4 population deviation by the same token. If he can look  
5 at this, 7,000 too few people in District 26, all he  
6 needs do is move 3,000 people from 28 to 26. 28 is  
7 overpopulated. Makes both more competitive. If he's  
8 done two things at once, nobody would quarrel 3,000 out  
9 of 26 were put back into 28.

10                   COMMISSIONER HALL: Assuming it doesn't  
11 cause significant detriment to anything else.

12                   CHAIRMAN LYNN: On the motion.

13                   Okay. Further discussion on the motion?

14                   The motion is to include 26, 28, 30 in a  
15 test to improve competitiveness.

16                   All those in favor of the motion, signify  
17 by saying "Aye."

18                   COMMISSIONER ELDER: "Aye."

19                   COMMISSIONER MINKOFF: "Aye."

20                   COMMISSIONER HALL: "Aye."

21                   COMMISSIONER HUNTWORK: "Aye."

22                   CHAIRMAN LYNN: Chair votes "Aye."

23                   Motion carries unanimously and is so  
24 ordered.

25                   Mr. Johnson, what I need from you at this

1 point is a guesstimate.

2 First of all, I'll suggest, I want to give  
3 an opportunity to the public, particularly Mayor  
4 Donaldson who requested to speak again, I want to give  
5 you that opportunity this evening, Mr. Mayor, or  
6 tomorrow morning, your choice; because we are coming to  
7 the close of today's business.

8 I'm about to ask Mr. Johnson how long it  
9 will take to run these tests and get a preliminary idea  
10 what results will be, which will determine our starting  
11 time tomorrow.

12 Had you not intended to stay over this  
13 evening, I'm more than happy to take your comments this  
14 evening.

15 MAYOR DONALDSON: I'll wait until  
16 tomorrow. Thank you, sir.

17 CHAIRMAN LYNN: I appreciate your  
18 flexibility in doing that.

19 We'd then begin tomorrow with public  
20 comment and hear reports from the consultants and then  
21 have additional public comment based on those.

22 You can choose at which of those  
23 opportunities you wish to make comments, and we'll  
24 accommodate you whenever you wish to speak.

25 While the consultants are consulting to

1 determine when we may be able to reconvene, my overall  
2 question to the Commission is: Is there any other  
3 business we need to conclude this evening before we  
4 determine tomorrow's departure point?

5 Ms. Minkoff.

6 COMMISSIONER MINKOFF: I just would like a  
7 quick summary going forward of what we expect to  
8 accomplish during tomorrow's meeting. In other words,  
9 what is going forward?

10 CHAIRMAN LYNN: I'm not sure I can answer  
11 definitively. Let me give a shot.

12 As we get the consultants' report tomorrow  
13 with results of testing, what we'll begin to see is  
14 where -- whether and where significant or partial damage  
15 is done to one or more of the objectives by testing the  
16 various options that we have ordered.

17 It would be my hope tomorrow we could make  
18 some more definitive decisions with respect to which of  
19 those we actually wish to pursue, which we wish to take  
20 off the table based on testing, and then get some sense  
21 of where we are in terms of overall competitive mapping  
22 based on that process. That would conclude sometime  
23 tomorrow. That would give us, going into next week,  
24 when we have an opportunity to not only have corrected  
25 racial block voting but other information in front of

1 us, an opportunity then to make final recommendations on  
2 a new map based on not only the competitive data but  
3 also the other data that will be available.

4 COMMISSIONER MINKOFF: When will we be  
5 able to give instructions to NDC on population  
6 deviation?

7 CHAIRMAN LYNN: Next week. Could happen  
8 now --

9 COMMISSIONER MINKOFF: I'm not sure why we  
10 wouldn't -- the more tests we have already run, they'll  
11 be ready for us to look at when we reconvene next week.

12 CHAIRMAN LYNN: Certainly we can do that  
13 with the understanding that the testing on population  
14 deviation, unless it was corrected as a result of a  
15 competitive test that would be run, would be run  
16 subsequently or dealt with subsequently. And we  
17 wouldn't expect a report back on any correction in  
18 population deviation other than those related to  
19 competitiveness adjustments tomorrow. We'd expect those  
20 the following week.

21 COMMISSIONER MINKOFF: I'd like to make  
22 sure we order them before we adjourn tomorrow rather  
23 than leave the whole issue to next week.

24 If we order them tomorrow, they can be  
25 worked on and we can have them to look at when we

1 reconvene.

2                   CHAIRMAN LYNN: Not a problem. We can  
3 give that instruction tomorrow.

4                   I'd suggest you might think about the  
5 manner in which you'd like to give that instruction so  
6 when we have that discussion tomorrow we're clear on  
7 language.

8                   Anything else in terms of tomorrow's  
9 agenda?

10                  All right.

11                  As soon as Mr. Johnson is able to tell us  
12 when he thinks he can be ready, we'll establish a time  
13 to return.

14                  Mr. Johnson.

15                  MR. JOHNSON: Mr. Chairman, Commissioners,  
16 looking at the list of tests, I mean obviously these  
17 won't be full-blown, perfectly balanced, every  
18 neighborhood analyzed tests. My estimate is if we met  
19 at 11:00 tomorrow morning, I could have a fairly good  
20 sketch of where the changes would be, how far they  
21 reach, and what the impacts might be.

22                  CHAIRMAN LYNN: Mr. Elder?

23                  COMMISSIONER ELDER: Mr. Chairman, Doug,  
24 does that also give you time to relay the information to  
25 Dr. McDonald and get some McD numbers?

1 MR. JOHNSON: Good question.

2 What this relates to, Judge It isn't  
3 compiled as I do work. I send the results to  
4 Dr. McDonald and he runs it.

5 CHAIRMAN LYNN: Dr. McDonald, if you want  
6 to join us and weigh in on this tiny issue.

7 DR. McDONALD: Once Doug gives me the  
8 equivalency file, it should be about an hour.

9 CHAIRMAN LYNN: If, for example,  
10 Mr. Johnson were to complete with his analysis,  
11 hypothetically, at 10:00 a.m., for the sake of argument,  
12 and he were to transfer those figures to you at that  
13 point, by the time he was completing his communication  
14 to us about what tests were run, you might be able to  
15 have some results?

16 Ms. Hauser says perhaps not.

17 MS. HAUSER: Mr. Chairman, I want to make  
18 sure he understands what he'll come back with. He's  
19 going to come back with trends. When he said not coming  
20 back with full-blown mapping, that means he can't give  
21 equivalency files to Dr. McDonald unless he actually  
22 moves all populations and maps it. He's going to give  
23 you trends that are going to show you the direction in  
24 which the testing will go if he in fact at some time  
25 tomorrow he is told to turn that into a full-blown test,

1 full-blown map, which he'll come back with for the  
2 following week.

3                   The difficulty -- the difficulty is just  
4 that. We don't have that particular time. That will  
5 blend in nicely with information from Dr. Handley on the  
6 18th. Dr. McDonald doesn't need to be here to do a run  
7 on -- under Judge It, on any of these more full-blown  
8 tests. In fact, that information can be relayed to him  
9 between now and the 18th, and we can get his report  
10 electronically.

11                   You need to see the trends in terms of the  
12 impact on other criteria versus exactly how that  
13 district shakes out in terms of any of the  
14 competitiveness measures.

15                   Does that make sense?

16                   CHAIRMAN LYNN: What I hear you saying is  
17 this is perhaps a two-stage process. That the first  
18 stage to be completed tomorrow is an initial assessment  
19 by Mr. Johnson as to what impacts are either apparent or  
20 likely with respect to proposed changes in the districts  
21 to achieve a greater competitiveness. If those impacts  
22 on other criteria are acceptable or negligible and we  
23 then instruct that they -- full-blown mapping occur to  
24 achieve those changes, it's at that point that Judge It  
25 would then be run and we would have a result.

1 Am I understanding that correctly?

2 MR. JOHNSON: Let me clarify just one  
3 thing. There will be, as Ms. Hauser is mentioning, a  
4 lot of squiggly lines, not perfectly straight things in  
5 these trend maps, but I can -- we can do an equivalency  
6 file, rough Judge It numbers based on that. There's no  
7 guarantee, of course, when I, if instructed by the  
8 Commission, I finish the map, the Judge It numbers won't  
9 change as a result finishing.

10 CHAIRMAN LYNN: As with other  
11 characteristics, we could get a trend in Judge It, are  
12 the numbers coming down, going up, staying the same.

13 MR. JOHNSON: Yes.

14 DR. McDONALD: Yes.

15 CHAIRMAN LYNN: That makes some sense.

16 So without objection, my suggestion at  
17 this point is we recess until 11:00 a.m. tomorrow at  
18 which point we will hear Mr. Johnson's report and then  
19 to the extent that that, those trends are identifiable,  
20 hear from Dr. McDonald as well.

21 MR. RIVERA: Mr. Chairman?

22 CHAIRMAN LYNN: Mr. Rivera.

23 MR. RIVERA: I know there's a time crunch.  
24 Perhaps 10:30 for public comments before Mr. Johnson  
25 comes up?

1 MS. HAUSER: Or 10:00.

2 It's my understanding other people are  
3 coming in tomorrow.

4 MR. RIVERA: Public comment.

5 CHAIRMAN LYNN: Anything more efficient  
6 tomorrow in terms of time is perfectly fine with me.

7 How about -- given the way we normally  
8 progress, we recess until 10:00 a.m., decide to take  
9 public comment to the extent it exists at that time,  
10 perhaps a brief recess, if Mr. Johnson is not prepared  
11 to join us. But at the -- at the latest we'll hear from  
12 Mr. Johnson at 11:00.

13 MR. RIVERA: All right.

14 CHAIRMAN LYNN: Is that acceptable to the  
15 Commission?

16 Without objection, the Commission will  
17 stand in recess until 10:00 a.m. tomorrow morning at  
18 this location.

19 (Whereupon, the Commission recessed at  
20 approximately 6:49 p.m. to resume on June 14, 2002, at  
21 10:00 a.m.)

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