

1 ARIZONA INDEPENDENT REDISTRICTING COMMISSION

2  
3 Friday, July 29, 2011  
4 1:30 p.m., Mountain Daylight Time

5  
6  
7  
8 Location:

9 Navajoland Inn & Suites  
10 392 West Highway 264  
11 St. Michaels, Arizona

12  
13 Attending:

14 Colleen C. Mathis, Chair  
15 Scott Day Freeman, Vice Chair

16 Kristina Gomez, Deputy Executive Director  
17 Buck Forst, Information Technology Specialist

18 Joseph Kanefield, Legal Counsel

19 Stuart Robinson, Public Information Officer

20  
21 Reported by:

22 John A. Dalsin, CCR  
23 Certified Court Reporter No. 50290  
24 www.CourtReportersAz.com  
25

## 1 P R O C E E D I N G S

2

3 CHAIRPERSON MATHIS: Good afternoon.

4 This meeting -- or hearing, actually, of  
5 the Arizona Independent Redistricting Commission will  
6 now come to order.7 The time is 1:30 p.m., Mountain Daylight  
8 Time. We are coming to you live from the Navajo  
9 Nation, in St. Michaels, Arizona.10 And let's all begin with the Pledge of  
11 Allegiance. So if you would all rise and do that  
12 first, that would be great.

13 (Pledge of Allegiance recited.)

14 CHAIRPERSON MATHIS: So good afternoon,  
15 everyone. It's wonderful to see so many of you here  
16 today.17 I'm Chairman Mathis, and with me today is  
18 Vice Chairman Scott Freeman. And I've got a number of  
19 other folks to introduce to you all.

20 Our counsel today is Joe Kanefield.

21 We also have Willie Desmond from  
22 Strategic Telemetry, which is a mapping consultant. He  
23 will be making a presentation little bit later.24 We have a court reporter helping us  
25 today. His name is John. So if everyone could be

1 mindful to spell your name when you come up to the  
2 microphone and tell us where you reside, either a city,  
3 town or county, that would be very helpful, so that we  
4 get an accurate accounting of today's events.

5 We also have a number of staff who are  
6 here today to help us out, starting with Kristina  
7 Gomez, our Deputy Executive Director. She's in the  
8 back. And be sure to ask Kristina any questions if you  
9 need to.

10 Buck Forst is our Chief Technology  
11 Officer. He is making sure that we are streaming live  
12 over the internet today.

13 And we also have Stuart Robinson, our  
14 Public Information Officer, in the back there, raising  
15 his hand.

16 And we have two ladies. I want to get  
17 their last names right. They are Kristy Olson and Lisa  
18 Schmelling. They are standing in the back, and they  
19 are Outreach Coordinators who are helping us today.

20 So feel free to go to any of these folks  
21 and ask them questions if you need any assistance.

22 Let me see where we are with other  
23 housekeeping items.

24 I want to first, I think, talk about our  
25 translation services that are available with us today,

1 too. We have other assistants.

2 In accordance with the Voting Rights Act,  
3 a translator/interpreter is available at all of our  
4 public hearings in order to provide translating and  
5 interpreting services that might be needed for those  
6 citizens that need it. And please contact the  
7 translator or interpreter present at this meeting so  
8 that he or she can assist you.

9 Will the interpreters please raise their  
10 hands. We have two today.

11 We have Gurlice Buffington. She is  
12 translating into Spanish today for us for anyone who  
13 might need it.

14 And Ralph Scott, who is translating into  
15 Navajo for us.

16 Thank you both for being here.

17 And would you like to make any opening  
18 comments or translation of what we just said? Either  
19 of you.

20 (No audible response.)

21 CHAIRPERSON MATHIS: I don't know if anyone is  
22 needing assistance today or not.

23 Could you maybe come up to the  
24 microphone, Gurlice, and ask if there is anyone?

25 THE SPANISH INTERPRETER: (Addresses those

1 assembled in the Spanish language.)

2 CHAIRPERSON MATHIS: And would you like to say  
3 anything, Mr. Scott?

4 THE NAVAJO INTERPRETER: I'm Ralph Scott. I'm  
5 from the Indian Wells area. I'm the Navajo  
6 Interpreter.

7 I'm glad to be here.

8 I don't see anybody that is in need of my  
9 service, but I'm glad to be here.

10 CHAIRPERSON MATHIS: Well, if that changes, we  
11 are fortunate that you are both here.

12 I also wanted to say that we are honored  
13 to have with us today Chairman Yazzie of the Navajo  
14 Nation Human Rights Commission.

15 And I thought it would be wonderful if  
16 you could come up and just give a few words of welcome  
17 at the microphone and introduce any distinguished  
18 guests.

19 CHAIRMAN YAZZIE: Good afternoon, Madam Chair  
20 and Co-Chair and all of the staff that you bring with  
21 you this afternoon.

22 We are pleased and fortunate that you  
23 would be holding a public hearing here in Window Rock,  
24 the capital of the National Nation.

25 I was introduced. I am Duane Yazzie, the

1 Chairman of the Navajo Nation Human Rights Commission.

2 I'd like to, first of all, just introduce  
3 one of my colleagues, who also serves on the Human  
4 Rights Commission. That's Commissioner Irving Gleason.

5 And we have some staff here. Elaine  
6 Begay is back there by the door, for a quick escape if  
7 need be! And Rodney Tyee, one of our policy analysts.  
8 And we have some other staff here. And Charlene. I  
9 think that's all that's here.

10 We want to welcome you here to Window  
11 Rock, honorable Commissioners. And not to be remiss,  
12 I'd like to welcome home our good and dear friend and  
13 brother, Honorable Senator Hale. Senator,  
14 Representative, President, et cetera, et cetera!

15 Just very briefly, Madam Chair, I am  
16 probably going over the time that I need to take here,  
17 but I asked earlier if the Commission here would be so  
18 kind as to indulge us, as our Navajo Nation Council has  
19 reconvened this afternoon and our Executive Director,  
20 Leonard Gorman, is going to be presenting some options  
21 on the redistricting plans to the Council this  
22 afternoon. And our intent is to have the Council  
23 formulate a position that we can present to the  
24 Commission this afternoon. And as legislatures go,  
25 it's unpredictable on the time. So we seek your

1 indulgence in terms of allowing us that time, that  
2 opportunity to have the Council deliberate and get us  
3 the position that needs to be presented to the  
4 Independent Redistricting Commission.

5 I believe that's all I need to cover at  
6 this time. And again, we appreciate all that are here  
7 this afternoon. And have some good discussion.

8 Thank you, Madam Chair.

9 CHAIRPERSON MATHIS: Thank you very much,  
10 Chairman Yazzie.

11 And I would also like to acknowledge  
12 Lauren Long, who is also from the Human Rights  
13 Commission. And she helped coordinate a lot of the  
14 logistics today with Kristina Gomez. So thank you very  
15 much to her for her help.

16 Before I also move forward with the rest  
17 of the meeting, I should mention that there are three  
18 other Commissioners, too. Besides Scott and myself,  
19 there are three other Commissioners who form the group  
20 of five. And they are Jose Herrera, Vice Chair  
21 Herrera, from Maricopa County. He will be seeing us  
22 later in a presentation, but I just thought I would  
23 mention him now; Linda McNulty, and she is from Pima  
24 County; and Richard Stertz, from Pima County.

25 So the five of us are all taking turns

1 and going to different parts of the state for these  
2 public hearings. We haven't all been at one hearing  
3 before. So we are kind of dividing and conquering.  
4 But the three of them are likely watching on line  
5 today. They will be very interested in what gets  
6 discussed today just as much as we are.

7 Our purpose today is to receive public  
8 comments from all of you. And we are hoping that after  
9 the presentation that Mr. Desmond will be giving on the  
10 redistricting process you will provide us with your  
11 input on what we are doing. And there are forms to  
12 help you do that.

13 If you would like to speak and address us  
14 today, there is a yellow Request To Speak form that's  
15 in the back that you can fill out, and just give us a  
16 sense of what it is you would like to discuss with us  
17 today by checking the different boxes or making any  
18 comments.

19 If you are not comfortable addressing us  
20 formally today, you are welcome to fill out the blue  
21 form in the back. On that form you can provide all the  
22 information you would like to and give that to us, and  
23 it will still be part of the record. So that's another  
24 way to provide input.

25 If you think of something later on, after



1 we are gone, and you want to provide it, you can go to  
2 out web site at azredistricting.org and also provide  
3 input that way. You can call us or email us.

4 So there are many ways to do that, and we  
5 encourage you to let us know your thoughts.

6 Is there anything I'm forgetting, Scott?

7 I think we've got everything covered on  
8 the front end.

9 And so I think if Willie is ready, we  
10 will bring Mr. Desmond from Strategic Telemetry up, and  
11 he will give you the presentation.

12 MR. DESMOND: Thank you all for allowing me to  
13 be here today.

14 Again, my name is Willie Desmond. I work  
15 with Strategic Telemetry, who is a firm hired to help  
16 the Commission, providing technical assistance as they  
17 begin and continue this map-drawing process.

18 I will be giving a short presentation  
19 today on exactly what redistricting is, what the AIRC  
20 is, and the guidelines we follow as we redistrict.

21 This is the eighth, I believe, in a  
22 series of seventeen first-round public meetings all  
23 over the state. And the main goal of all these is to  
24 solicit input from the public about what criteria, what  
25 communities of interest, what they want the Commission

1 to consider when drawing these maps. So I encourage  
2 everyone here or anyone listening on the live stream to  
3 make your input. And I will go over how you can do  
4 that exactly.

5 I should also mention for anyone watching  
6 on the live stream on line that the PowerPoint  
7 presentation is available on the web site, so you can  
8 download it and follow along if you are unable to see  
9 it on the webcast.

10 So I will be giving a short presentation  
11 today, discussing a few things.

12 The first one is: Why do we have a  
13 Redistricting Commission?

14 The next is: What is redistricting?

15 What are the differences between  
16 reapportionment and redistricting?

17 Why do we have to redistrict?

18 What guidelines need to be followed when  
19 drawing new districts?

20 What steps are in the redistricting  
21 process?

22 And how can public input be submitted to  
23 the Arizona Independent Redistricting Commission?

24 All right. First of all, why do we have  
25 a Redistricting Commission?

1                   This is the second time that Arizona's  
2 congressional and legislative districts will be drawn  
3 by the Arizona Independent Redistricting Commission.

4                   In 2000 the voters of Arizona passed  
5 Proposition 106, which created the Commission, and  
6 established a series of criteria to be followed when  
7 drawing new district lines.

8                   The Commission is made up of two  
9 Democrats, two Republicans and an independent Chair,  
10 who is elected by the other Commissioners. The fifth  
11 member, the Chair, shall not be registered with any  
12 party already represented on the district -- or on the  
13 Commission. Excuse me.

14                   In 2011, the members are:

15                   Vice Chairman, Scott Freeman, who we are  
16 lucky enough to be joined by today;

17                   Vice Chairman, Jose Herrera;

18                   Chairwoman, Colleen Mathis, who is also  
19 here; and

20                   Commissioners Linda McNulty and Richard  
21 Stertz.

22                   All right. What is redistricting?

23                   Simply put, redistricting is the process  
24 of redrawing congressional and legislative district  
25 lines.



1 is different in different areas, the existing districts  
2 no longer have equal populations.

3 OK. The guidelines that need to be  
4 followed by the AIRC when drawing these new districts.

5 First, they must comply with the U.S.  
6 Constitution and the Voting Rights Act.

7 Next, they must have equal population.

8 These first two criteria are federally  
9 mandated, and any plans that are submitted must meet  
10 these two criteria. However, Proposition 106  
11 established four other criteria to be considered during  
12 the redistricting process, the first of which is  
13 compact and contiguous districts; respect for  
14 communities of interest; use visible geographic  
15 features -- cities, towns, county boundaries and  
16 undivided census tracts; and lastly, to create  
17 competitive districts where there is no significant  
18 detriment to the other goals.

19 Redistricting in Arizona.

20 The first step is the public hearings,  
21 where we solicit input from the public.

22 Following these, the Commission will  
23 start with a grid map. In some states they start with  
24 the previous plan; however, this is not the case in  
25 Arizona. Proposition 106 specifically states that you

1 must start with a grid map.

2           The commencement of the mapping process  
3 for both the congressional and legislative districts  
4 shall be the creation of equal population in a  
5 grid-like pattern across the state.

6           The best way to think of this grid map is  
7 a checker board or a tic-tac-toe board drawn over  
8 Arizona, but adjusted just to meet equal population.

9           It's likely that this initial grid map  
10 will only meet criteria B and C, which are equal  
11 population and compact and contiguous.

12           As a result, this grid map is adjusted to  
13 meet the other criteria, the first of which is the  
14 Voting Rights Act.

15           Arizona's congressional and legislative  
16 districts must receive preclearance or approval from  
17 the Department of Justice or a federal court under  
18 Section 5 of the Voting Rights Act before they can take  
19 effect. To get preclearance, Arizona must demonstrate  
20 that the new districts do not discriminate against  
21 minority voters in purpose or effect, which means there  
22 can be no intentional or accidental discrimination.

23           Under Section 5, Arizona's redistricting  
24 plans cannot be retrogressive. The plans cannot weaken  
25 or reduce minority voters' rights.

1                   And finally, the presence of discrimi-  
2 nation can be determined by analyzing population data  
3 and election results.

4                   Following this first adjustment, the grid  
5 map is further tweaked to ensure equal population,  
6 compact and contiguous districts, and respect for  
7 communities of interest.

8                   And again, one of the goals of these  
9 hearings is to solicit the public input about  
10 communities of interest.

11                   There are forms available at these  
12 meetings and on the web site where you can define areas  
13 that you feel should be considered a community of  
14 interest. You can fill out one of the yellow forms if  
15 you wish to speak, and your comments will not only be  
16 put on the record from what you have to say, but also  
17 on your form. If you are here and you don't feel  
18 comfortable speaking, you can fill out one of the blue  
19 forms and submit it to the Commission, and your  
20 comments will also be considered. Finally, if you have  
21 any other sort of information that you would like to  
22 submit, feel free to do so. We do ask that if you are  
23 comfortable, please put your name and contact  
24 information on the materials you submit so that we may  
25 contact you should we have any questions about the

1 criteria you are trying to establish.

2           Finally, after this adjustment is made,  
3 we then go and use visible geographic features, which  
4 are then printed up by county boundaries, cities and  
5 towns and undivided census tracts. We're lucky that  
6 that census geography often follows these visible  
7 features.

8           And finally, districts are adjusted to  
9 create competitive districts where there is no  
10 significant detriment to the other goals.

11           OK. And how can you submit your input to  
12 the AIRC?

13           Again, you can fill out one of the forms  
14 to speak or submit your input today. Examples of input  
15 could be criteria that the Commission is using,  
16 communities of interest you feel need to be kept  
17 together, or anything else about the redistricting  
18 process. You can also submit these on our web site,  
19 which is [www.azredistricting.org](http://www.azredistricting.org), or you can call our  
20 office at 602 - 542-5221.

21           Thank you very much for the opportunity  
22 to speak today.

23           We are very much looking forward to  
24 hearing what you have to say.

25           Thanks.



1 CHAIRPERSON MATHIS: Thank you, Mr. Desmond.

2 That takes us to agenda item 3 on our  
3 agenda, which is the call for public comments.

4 And right now I have three Request To  
5 Speak forms filled out. So feel free to complete yours  
6 and turn it in to Kristina, and she will bring that up  
7 to us.

8 Our first speaker today is Gabriel  
9 Freeland, representing self, a Navajo Nation member,  
10 from Apache County/Window Rock.

11 MR. FREELAND: Good afternoon. My name is  
12 Gabriel Freeland, G-a-b-r-i-e-l, Freeland,  
13 F-r-e-e-l-a-n-d.

14 Good afternoon, Commission members.

15 I kind of want to just highlight some,  
16 you know, questions and concerns from my perspective.

17 I know you highlighted the Voter Rights  
18 Act and the Constitution, and we know that's what we're  
19 governed by. And I would like to reiterate that we use  
20 that and abide by that, so that way Navajo has an  
21 opportunity to potentially gain strong representation  
22 in Washington.

23 And also, Native American communities.  
24 You know. I know Arizona has a strong population of  
25 Native Americans in the state of Arizona. What I would

1 like to have the Commission members understand is it  
2 would be better to have Native American communities,  
3 whether Apache, Hopi, Navajo, have those nations stay  
4 intact. We have that analogy of divide and conquer,  
5 but it would be detrimental in some instances if we  
6 divide the Navajo Nation, if that was the case to be  
7 when we do this redistricting. You know. I know we  
8 cover three counties. And it would hurt, in some  
9 instances, if we divide the Navajo Nation when we go  
10 through this redistricting. It would be nice to keep  
11 the Navajo Nation as a whole so that we would have  
12 strong representation.

13           The other is, again, keeping cities and  
14 counties whole, so that way we are able to -- You  
15 know. I know in some instances that it's sometimes  
16 impossible to keep cities and counties whole when it  
17 comes to representatives, but when you divide the  
18 cities, you know, you have one side against the other.  
19 Again, the same concept of divide and conquer. You  
20 know. It would be nice to have St. Michaels -- all the  
21 issues addressed in St. Michaels and Window Rock as a  
22 whole, you know, be represented, and be represented by  
23 one individual, instead of two representatives, and one  
24 issue be nondetrimental to the other.

25           Again reiterating, community interests.

1 You know. The interest is here on Navajo sometimes on  
2 different things. Interest is off Navajo, off the  
3 Navajo Nation.

4 So again, I think, you know, that would  
5 be something that would be strongly important to  
6 consider. And I'm pretty sure our representatives from  
7 the State or from our Tribal Council will be able to  
8 reiterate some of those interests that are due to the  
9 Navajo Nation and the other Native American tribes.

10 And again, considering independent  
11 voters, I know I've been an independent voter since I  
12 was eighteen, but, you know, we are not as strongly  
13 represented in Washington or in the states like the  
14 Democrats and the Republicans, but we do appreciate our  
15 voice being heard.

16 So thank you, Commission members.

17 CHAIRPERSON MATHIS: Thank you very much.

18 Our next speaker -- and forgive me if I  
19 mispronounce your name, and you can correct me when you  
20 come to the microphone -- is Leonard Tsosie, Council  
21 Delegate, and representing Navajo Nation.

22 And you will have to say what the "C"  
23 stands for.

24 From Window Rock.

25 DELEGATE TSOSIE: Thank you, members of the

1 Commission. Ya'ate'e'h.

2 CHAIRPERSON MATHIS: Ya'ate'e'h!

3 If you could spell your name for us, too,  
4 because I probably mispronounced it. I'm sorry.

5 DELEGATE TSOSIE: No. You got it right.

6 CHAIRPERSON MATHIS: Oh. Good.

7 DELEGATE TSOSIE: T-s-o-s-i-e.

8 CHAIRPERSON MATHIS: OK. Thank you.

9 DELEGATE TSOSIE: Thank you.

10 My name is Leonard Tsosie. I am a member  
11 of the Navajo Nation Council. The capital of the  
12 Navajo Nation is in Window Rock.

13 Welcome to Window Rock!

14 Thank you for bringing this Commission  
15 here, and out here.

16 The Navajo Nation Council is very much  
17 interested in the redistricting process.

18 Unfortunately, your hearing is at the  
19 same time as our Committee meeting. So many of the  
20 Arizona ones cannot make it up here to say a few  
21 things. Also, some of them might be coming in.

22 And then we also have, I noticed, Mr.  
23 "Chili" Yazzie here. And the office he represents, the  
24 Human Rights Commission, I think have some maps to  
25 present for the record later on.

1                   But I wanted to tell you a few things.

2                   In yesterday's discussion within the  
3 Council, the Council wanted to take a position. And  
4 this will probably be formalized in a written  
5 resolution that will be sent to the Commission. But  
6 it's to give us a chance to elect a member, or someone,  
7 to congress. We have never had a member elected to  
8 congress.

9                   And this is where, when we draw it, I  
10 think we believe that you could create a district that  
11 is over twenty percent Native American, and also maybe  
12 over twenty percent Hispanic and other minority groups.  
13 And often, when you do that, the interests of the  
14 minorities begin to coalesce and they begin to see  
15 similarities in issues. Medicaid is an example. And  
16 other issues.

17                   And so we coalesce along a common issue  
18 that brings us together and, hence, sometimes the  
19 minority and majority districts working together.  
20 And so we strongly ask the Commission to seriously  
21 look at that.

22                   Arizona has grown on us, without our  
23 permission. And it's because the weather is good and  
24 other things. And so the other population across the  
25 United States migrates to Arizona, causing a swell in

1 population, and diminishing our voice and diminishing  
2 our representation. We can't help that.

3 But a good thing the U.S. Constitution  
4 has this, so that we could make our presentation to you  
5 and ask you to consider that side, and that is the  
6 diminishment of Navajo Nation voice because of the high  
7 population growth. And I will strongly ask that you  
8 consider the interests of the Navajo Nation.

9 And then the other thing, too, is: We  
10 have communities of interest we talked about. I  
11 strongly ask that you also include what we call a  
12 "tribal interest". And the reason why is that not only  
13 do we live out here, and not only are we citizens, but  
14 the U.S. Constitution recognizes Indians. And it's the  
15 only ethnic group that's in the Constitution that's  
16 recognized. And it's recognized along the sense of the  
17 government-to-government and nation-to-nation. And  
18 it's in Article 6.

19 Unfortunately, federal judges and state  
20 judges do not uphold their oath to the U.S. Consti-  
21 tution when they rule that we are a social club. You  
22 know. And most of the judges, most of the federal  
23 judges, if not all the federal judges, in the state of  
24 Arizona are of not Indian descent. And these judges  
25 make decisions. And who's the one that has some

1 control over that, and some voice? Congress. And yet  
2 we have no one in congress to make a pitch for us, for  
3 representation.

4           Because of this lack of foresight by  
5 federal judges, there is an attack on our religious  
6 structures, like San Francisco Peaks. This all has to  
7 do with representation. And so that we are very  
8 concerned about and we ask, when you draw the line,  
9 give us a chance. The United States Constitution would  
10 like to see you give us a chance.

11           Indians and Navajos are no exceptions.  
12 We've always fought for representation through the  
13 courts and through the halls of legislature. Always.  
14 And it started ever since when U.S. law did not  
15 recognize us as citizens, even though we were the first  
16 Americans, and it had to take a statute to say that  
17 "Oh, yeah. These first Americans should be able to  
18 vote." And that's wrong. And that somewhat has been  
19 rectified. But it will be further corrected if you  
20 allow Navajo Indians and Navajo citizenship, Navajo  
21 citizens to elect the representative of their choice  
22 and include the tribal interests of Navajo Nation and  
23 the economic interests.

24           As you go throughout the district, you  
25 will probably hear that Holbrook does not want to be

1 with Navajo, Winslow does not want to be with Navajo.

2 And so -- You know. And those are the economic  
3 differences we have.

4 We want to do economic development.

5 We realize that we may not have enough in  
6 population to equalize it; and so therefore, we need to  
7 go into Holbrook, we need to go into Winslow, we need  
8 to go into Flagstaff. And for congressional districts,  
9 we realize that we need to go further south, down south  
10 towards or maybe even around Tucson, to pick up enough  
11 voters to equalize the district so that the other  
12 requirement is satisfied. But when you hear that,  
13 though, recognize the fact that the differences are  
14 great at times because of the color of our skin and  
15 because we grow up differently and because some  
16 political people just outright say that "I don't want  
17 to be represented by an Indian". And hence, they  
18 inflame the differences between us.

19 We've never said we don't want Holbrook,  
20 we've never said we don't want Winslow, we've never  
21 said we don't want Flagstaff. We've always done  
22 commerce with them. But the reverse is somewhat not  
23 true.

24 Finally, I'd like to ask that you refrain  
25 from Hopi gerrymandering. You have a map that's



1 similar to the district that was in North Carolina that  
2 was declared unconstitutional. And I call this the  
3 "Hopi gerrymandering", where you try to pick up  
4 Republicans in the Hopi area and then take them out.  
5 All you're doing when you do that is division among  
6 tribal groups.

7                   The federal government, if it continues  
8 to do this and this Commission, if it endorses it, have  
9 not learned the lesson of the Navajo-Hopi land dispute  
10 and the many things, the bad things, that came with it.  
11 And that's all you're going to promote with further  
12 Hopi gerrymandering.

13                   I wish you well, I wish you luck, and I  
14 pray that you will hear us, and my people, so that you  
15 could be fair to us.

16                   Thank you very much for this opportunity.

17                   CHAIRPERSON MATHIS: Thank you.

18                   DELEGATE TSOSIE: And if I could be excused, I  
19 need to go back to my Committee meeting.

20                   CHAIRPERSON MATHIS: To the other meeting!

21                   Thank you for coming.

22                   Just a reminder to everyone. If you  
23 would like to address us today, be sure to fill out a  
24 Request To Speak form (indicating). This is the third  
25 one, and the last one that I have currently.

1                   Albert Hale, Representative from the  
2 Arizona House of Representatives, from LD, Legislative  
3 District, 2.

4                   Is Representative Hale here?

5                   Yes. Representative Hale.

6                   REPRESENTATIVE HALE: Good afternoon.

7                   CHAIRPERSON MATHIS: Good afternoon.

8                   MR. HALE: Ya'ate'e'h. Welcome to the Navajo  
9 Nation.

10                  CHAIRPERSON MATHIS: Thank you.

11                  REPRESENTATIVE HALE: The Navajo Nation capital,  
12 as was stated here, is just down the road, in Window  
13 Rock. Window Rock, Arizona.

14                  And I welcome the Commission to the  
15 Navajo Nation. I'm Albert Hale, aka Ahe'he'e'.

16                  I am the former President of Navajo  
17 Nation. I've been so for a number of years. I'm also  
18 former Chairman of Navajo Nation Water Rights  
19 Commission. And those are interests that I will be  
20 touching upon, because water seems to be an issue where  
21 the communities, the nations, the Indian nations and  
22 non-Indian nation communities have a vast difference,  
23 in terms of addressing those issues.

24                  And I have also served in the Arizona  
25 State Senate, and got turned out this last election

1 cycle. So I ran for the House of Representatives, and  
2 that's where I'm serving today. And this is my first  
3 term in the House of Representatives.

4 (At this point, Mr. Hale addressed the audience  
5 briefly in the Navajo language.)

6 REPRESENTATIVE HALE: These are the four clans  
7 that I'm affiliated with. We are told by our elders  
8 that we have to introduce ourselves this way, and that  
9 way we will always have relatives, wherever we go,  
10 wherever we speak. And so it is today I am surrounded  
11 by my relatives. In fact my brother, Tilly Yazzie, who  
12 introduced me, and said "Hello" to me. And that's the  
13 way it is with Navajos.

14 And secondly is that we are told to  
15 introduce ourselves this way because in that way,  
16 regardless of where we are, the sacred mountains that  
17 define our boundaries, traditional boundaries, if we go  
18 beyond those points, the Holy People will always  
19 recognize who we are and render us aid, in terms of  
20 what we are about to say.

21 And so I call upon the Holy People to  
22 help me address you at this hour and at this day on a  
23 very important issue.

24 You have the task of trying to come out  
25 with redistricting lines that meet certain criteria.

1 And those criteria we are very familiar with -- the  
2 competitiveness and the commonality and all those  
3 things.

4                   Unfortunately, and particularly in the  
5 state of Arizona, there is diversity, not only among  
6 people, but also geographically. And the diversity  
7 that I want to talk about is diversity in terms of the  
8 origin of self-governments, or self-governance.

9                   For Indian nations, you have a whole  
10 array of federal laws, state laws that have stated  
11 consistently throughout United States history that  
12 Indian nations predate the Constitution, that Indian  
13 nations are inherently sovereign, which means that  
14 Indian nation government and Indian people have the  
15 right to self-government and can make their own laws  
16 and be ruled by them. And that proposition has been  
17 upheld, from day one, from the forming of the United  
18 States. And unfortunately, as was stated by Delegate  
19 Tsosie, throughout the course of history, that has been  
20 diluted and removed at the federal level, especially in  
21 the court system, towards minimizing the inherent  
22 sovereignty of Indian nations and going towards more of  
23 a delegation of sovereignty.

24                   And the question that arises in argument  
25 that whether that be in the federal court or in state

1 courts is the judges will say -- This is just to  
2 illustrate what I mean by "inherent sovereign" and  
3 "delegated sovereign", "inherent sovereignty" and  
4 "delegated sovereignty". The judges will sometimes  
5 ask, "Point me to the federal law or a state law" --  
6 particularly the federal law, because all of Indian  
7 affairs is regulated by federal law, for the most part,  
8 and the state laws do not apply on an Indian  
9 reservation unless it is expressly allowed for by the  
10 United States government. And such is the case with  
11 the Indian Gaming Compact.

12 So the judge in many cases will ask,  
13 "Point me to the statute, the federal statute, that  
14 gives you this authority, that gives you the authority  
15 to impose, for example, the Navajo Nation Hospitality  
16 Occupancy taxation on a private enterprise, a private  
17 restaurant and hotel that is located right in the  
18 middle of the Navajo Nation over in Cameron, owned by a  
19 non-Indian, but advertising that "Come to this place so  
20 you'll be right in the middle of Navajo people and  
21 Navajo country". Yet, when it came down to imposing  
22 that tax, there was an objection by that individual.  
23 And that went all the way to the Supreme Court.

24 I was there, listening to the Supreme  
25 Court arguments. And one of the Supreme Court justices

1 asked a question to, I believe it was, the United  
2 States solicitor who was arguing on behalf of and in  
3 support of the Navajo Nation's position, that this tax  
4 applies to that operation since it's within the Navajo  
5 Nation land.

6 And the judge asked, "Point me to the  
7 federal law that gives you this authority."

8 So that's what I mean by the federal  
9 government, particularly judges, moving away from  
10 inherent sovereignty, where case laws have been, for  
11 generations have been, that Indian nations are  
12 inherently sovereign; and therefore, that means that  
13 they don't need to point to a law in the federal code,  
14 or in the state law, that gives them the authority to  
15 enact these laws.

16 These are major differences that you have  
17 to take into consideration when you consider that one  
18 element, that one element, that you are required to  
19 take a look at and accommodate and provide for, which  
20 is the community of interest requirement.

21 If you look at Indian nation history and  
22 the relationship of Indian nations with non-Indian, you  
23 will see and you will conclude that that community of  
24 interest is very difficult to accomplish and  
25 accommodate. And the reason why I say that is because

1 the community, or the interest of Indian nation  
2 communities is the fulfillment of United States  
3 treaties with those Indian nations.

4           The Navajo Nation has a treaty that was  
5 approved by the United States congress pursuant to  
6 authority in the United States Constitution. And that  
7 was approved in 1868. In there, in that treaty, is  
8 spelled out what the relationship is going to be  
9 between the Navajo Nation and the United States  
10 government and what the United States government is  
11 going to provide to Indian nations and Indian people.  
12 Things such as agricultural benefits, education. Those  
13 are all spelled out in these treaties, not only with  
14 Navajo Nation, but all Indian nations that have  
15 treaties with the United States government.

16           And on top of that, if you look at the  
17 United States Constitution, the United States  
18 Constitution is very specific when it says that  
19 treaties are supreme law of the land. So what that  
20 means is that treaties with the Navajo Nation, the  
21 Treaty of 1868 is supreme law of the land. That means  
22 that this law that is enumerated and all the benefits  
23 that are enumerated in the 1868 treaty of the Navajo  
24 people has to be abided by and accommodated and  
25 provided for.

1                   That's where we come from. That's our  
2 interest as a community.

3                   As a community of Indian nations, we want  
4 those treaty obligations to be fulfilled by the United  
5 States government and the people of the United States,  
6 including the people of the state of Arizona, and other  
7 states. We expect that, and we demand that.

8                   And we have support from the United  
9 States Constitution that says treaties are supreme law  
10 of the land. So that has to be accommodated for.  
11 That's our interest. And that is a unique interest  
12 that sets us apart from all other communities. All  
13 other communities off the Navajo Nation and off Indian  
14 reservations in the state of Arizona don't have this  
15 interest that arises from a treaty. In many cases the  
16 interest that non-Indian communities have -- for  
17 instance, Holbrook, Winslow, whoever we get tied in  
18 with -- they will not have as their primary interest  
19 fulfillment of a federal treaty. They will not. And  
20 it's going to be hard to meet that.

21                   I think in some ways we have reached some  
22 sort of an appeasement type arrangement when the Navajo  
23 Nation and other Indian nations, the five Indian  
24 nations that are part of LD 2, which I represent, got  
25 connected with the City of Flag'. Because the City of



1 Flag', as you know, is predominantly Democrat, and more  
2 independent now as we are moving forward. So they  
3 understand, to a large extent, what we talk about in  
4 terms of fulfillment of treaty obligations.

5           But when you move away from that  
6 community and go to other communities -- Holbrook,  
7 Winslow, and I've seen maps that are proposed that take  
8 us down into Eagar, St. Johns -- they don't have that  
9 interest, they don't have the interest of making sure  
10 that Indian nation treaties are fulfilled. They don't  
11 have that interest. In fact, in many cases, in many  
12 cases, those communities and the people of those  
13 communities always question, always raise the question  
14 why are Indian people being treated differently.

15           Because another part of the Constitution  
16 says all the people in the United States are equal  
17 under law.

18           And the people who do not understand the  
19 nature of Indian nation government and the treaties  
20 that the United States have with Indian nations cannot  
21 reconcile that difference; that when it comes to Indian  
22 people, Indian nations, they are in fact different.  
23 They are in fact unique.

24           And the bigger thing on that is that they  
25 are different, they are unique, and they are that way

1 under law. Under the United States Constitution they  
2 are different. And historically they are different.  
3 Because these Indian nations, these Indian people,  
4 predate the Constitution, predate the formation of  
5 these United States, predate the formation of ANY of  
6 the states, and as a result are different. Our  
7 community of interest and the community of interest of  
8 Indian nations is entirely different and unique.

9           Where else outside the Indian reservation  
10 will somebody stand up and say, "I want the treaty of  
11 1868 with the Navajo Nation and the Navajo People to be  
12 fulfilled"? Nobody is going to say that off the Indian  
13 reservation. But we on Indian reservations that are  
14 leaders, including myself, we always stand up and say  
15 that.

16           Like I said earlier in my introduction,  
17 I've spent now close to ten years down in the state  
18 legislature in Arizona. And every time I say, "I need  
19 some help for my people on the Navajo Nation. They are  
20 citizens of the United States, and they are citizens of  
21 these states" -- And just as a footnote here, we were  
22 not recognized -- and when I say "we", Indian people  
23 were not recognized as citizens of these United States  
24 until 1922. Just imagine that.

25           And just to give you an aside to that

1 footnote, there was this bill that was introduced when  
2 I was down at the Arizona State legislature, and that  
3 bill said, "OK. If one of your parents is illegally  
4 here in the state, you will be declared illegal, as a  
5 child of that parentage."

6                   And I stood up and said -- in effect, I  
7 issued a personal statement, and I said, "OK. If  
8 that's what the law is going to say, that means I and a  
9 large number of my people here are illegal citizens."  
10 And the reason why is because my mother was born in  
11 1915, my father was born in 1912. So if you look at it  
12 in terms of the Citizenship Act coming into being in  
13 1922, they were not citizens. Or 1924. So that makes  
14 me -- If this law passes, that makes me an illegal  
15 citizen. Go figure! A child of the people who have  
16 been here for centuries declared to be an illegal  
17 citizen. It doesn't make sense. And that's another  
18 part of this community of interests that is presenting  
19 difficulties.

20                   And as I started to say, the community of  
21 interests is entirely different between these non-  
22 Indian communities and Indian nation communities.

23                   But you have to find some solution.  
24 That's your job.

25                   And our job here is to urge you not to

1 lose the voice of Indian people, because they are also  
2 citizens of these United States, and these states.

3           You have to draw those lines so that  
4 there is still representation down in Phoenix from  
5 Indian nations.

6           Unfortunately, in the years past, the  
7 past twenty years, the voice of Indian nations in the  
8 state legislatures has come from the Navajo Nation, for  
9 the most part. Now I've seen maps where it's looking  
10 towards diluting that vote. But you also have a  
11 requirement that you should not dilute the vote of  
12 minority groups. And if you move in that direction, I  
13 think you're going to run into some issues.

14           Now I can't just leave you with this  
15 problem that I see. So I will offer a suggestion.

16           When I was President of the Navajo  
17 Nation, the first thing that I did in terms of Indian  
18 nation relationship with the federal government, I  
19 wrote a letter to then President, President Clinton,  
20 because when I came into office in -- it's been quite a  
21 while back I can't think back that far. I'm getting  
22 old! -- 1996.

23           In 1995, which was election time, and  
24 after the general election, or thereabouts, there was a  
25 conference or a gathering of Indian nation leaders with

1 President Clinton on what has been referred to as the  
2 "White House lawn conference of Indian leaders".

3           And out of that came this proclamation or  
4 executive order by President Clinton that any federal  
5 agency dealing with Indian issues, they must consult  
6 with Indian nations before they implement or develop  
7 that policy.

8           And whether that has been complied with  
9 or not, that's another story.

10           But what I did after I came into office  
11 is -- And I noticed that there was at that time huge  
12 budget cuts that were on the table. And the first  
13 thing I noticed is that the Bureau of Indian Affairs,  
14 that has the authority to oversee the execution of  
15 trust responsibility to Indian nations, they were  
16 getting disproportionately high cuts in their agency.  
17 And they're within the Interior Department. The Bureau  
18 of Indian Affairs is within the Interior Department.  
19 The Bureau of Land Management is in there too, National  
20 Forest is in there too. So Indian people are  
21 classified with wild animals in treaties, et cetera, by  
22 virtue of where they're at now in that structure.

23           So when I sent this letter to President  
24 Clinton, I told him, "Look. Everything that I read  
25 about what transpired and what you said to Indian

1 leaders I've heard before, all my life. And it's to  
2 the point where it's just rhetoric." Every time a  
3 state leader comes to the Navajo Nation or a federal  
4 leader comes to the Navajo Nation to have a meeting  
5 with Indian people, what do they say? "I'll respect  
6 you. I'll deal with you on a government-to-government  
7 basis. I will respect your treaty, I will abide by  
8 that treaty." They say that all the time. But yet to  
9 do something that actually does that hardly happens.

10 So what I said was: "There are a number  
11 of things, twelve recommendations. Here are a number  
12 of things to bring life to what you say. Don't just  
13 let that be empty words again."

14 Here's one. "Get that Bureau of Indian  
15 Affairs out of that Interior Department. Make it a  
16 presidential cabinet level office. That's one thing.  
17 But in terms of what we're talking about here, why not  
18 do as you are doing with the United States terri-  
19 tories?"

20 And you know the territories that I'm  
21 talking about. Guam, Puerto Rico. You know what?  
22 Those are territories. Those are not states. Those  
23 are not Indian nations. They are territories. But yet  
24 they are provided for, their representation in congress  
25 is provided for. I don't think they are voting

1 members, but they have a voice in congress because  
2 there are representatives being elected from those  
3 territories that go to congress.

4 "So why don't you do that for the first  
5 people of this nation? Why don't you set it up so that  
6 there is a representative from these Indian nations,  
7 just like you have for Guam, just like you have for  
8 Puerto Rico. Why not do it that way? That way, at  
9 least Indian people, Indian nations, have a voice."  
10 And they have a voice when things are being discussed  
11 such as water rights, which I mentioned earlier.  
12 Because these water rights settlements have to be  
13 approved by the United States congress.

14 In 1932, by case law, the Winters  
15 Doctrine, United States Supreme Court, Indian nations  
16 water rights were declared to -- Well, let me digress  
17 a minute. Indian nations were declared to have water  
18 rights from the day reservations were created.

19 And yet from 1932 to the present they  
20 have not been quantified. And when we move for  
21 quantification of water rights, you know what? All the  
22 non-Indian communities off Indian reservations, they  
23 join up and they file opposition to our efforts to  
24 establish our water rights. And the states jump in  
25 there and say, "We support the non-Indians. We don't

1 want you to have all these water rights."

2           So again, an example of a lack of  
3 commonality of interest.

4           So that was my recommendation.

5 Unfortunately, and I'm sad to say, I never got a  
6 response from President Clinton. The only response I  
7 got was: "We received your letter" -- This was maybe  
8 a year later. I got a letter from the office there.  
9 And the letter said to me: "We received your letter,  
10 and we referred it to the Office of Presidential  
11 Personnel".

12           And what in the heck is my letter doing  
13 in the Office of Presidential Personnel? Because that  
14 office, to my understanding, is where people who are  
15 considered for appointment to presidential offices are  
16 vetted. And my letter had nothing to do, nothing to do  
17 with myself getting appointed to a federal office. It  
18 had to do with some major issues faced by Indian people  
19 and what I thought would be a solution, a solution that  
20 would begin to solve these issues that I just alluded  
21 to.

22           The gerrymandering, it was already  
23 mentioned, that the Hopi gerrymandering is a real  
24 problem for us. It's a divide-and-conquer tactic that  
25 we are so familiar with, and historically that's what



1 we've been subjected to. "Divide the Indians. Let  
2 them fight among themselves, and then we'll just come  
3 and do whatever we want to do with them." That's  
4 always been the case, and it continues to be the case.

5 So here is the other proposal. And I  
6 said -- I laid out the problem. Here's one  
7 suggestion, here's another one.

8 Why not, if you're going to be  
9 gerrymandering, and I've seen you gerrymander, the  
10 Commission gerrymander this last redistricting,  
11 gerrymandering Hopi Nation to be connected with CD 1, I  
12 think. Or CD 2. Why not do that for all Indian  
13 nations. Because our interest, as stated by Council  
14 Delegate Tsosie, was: We want to see a move in the  
15 direction where we have the possibility of finally,  
16 finally voting into congress a true Native son or  
17 daughter. We want to see that in our lifetime. And  
18 one way to accomplish that is: Why don't you connect  
19 all the Indian reservations. There are twenty-two  
20 Indian nations in the state. And I don't know if  
21 collectively they will meet the population threshold.  
22 But even if they don't, when you run Navajo Reservation  
23 connected to Whiteriver, for example, you can pick up  
24 population along the way. And you extend that on to  
25 San Carlos, extend that on into Fort McDowell, Ak-Chin,

1 and beyond, to Keyoh, why not do that? You already  
2 have precedents for gerrymandering. You've done it  
3 with Hopi.

4                   So I see that possibility as a way to  
5 finally achieve what we're talking about, what our  
6 interest is, to finally get a true Native American  
7 voice in the body that has taken on this responsibility  
8 to a development of law. And that responsibility says  
9 that congress has "primary authority" over Indian  
10 people.

11                   What that means is that congress has  
12 absolute power over Indian people, Indian nations.  
13 That's "primary authority". What that means is that  
14 Indian people exist at the whim of the federal  
15 government, especially the legislature.

16                   Today that federal government, that  
17 congress, can pass a law and say, "Navajo Nation, we no  
18 longer recognize you as a sovereign, semi-sovereign  
19 Indian nation." It has done that in the past, in the  
20 Termination Act of the '50s. It has done that to  
21 Indian nations, Indian people, Indian reservations. It  
22 has done that through this power that the courts, the  
23 federal courts, just grabbed out of nowhere and said,  
24 "Well, Indian nations are not part of this federalism,  
25 state and federal government, because under American

1 government there's only two sovereigns. It's the state  
2 government and the federal government. Nowhere in  
3 there is there a mention of Indian nations as another  
4 viable sovereign entity."

5           We don't teach that to our kids. And for  
6 that reason I introduced legislation when I first went  
7 down to the state legislature to do that, to  
8 incorporate a study in studying Indian nation  
9 government in the state's education curriculum.

10           And here's an example again of what  
11 happened from people who don't understand, that I serve  
12 with in the state legislature, and their interest is  
13 entirely different.

14           When I started pushing that legislation,  
15 I got all kinds of comments about "We shouldn't treat  
16 the Indians differently"; "Indian nations, you're not  
17 really sovereign". I don't need to revisit that issue,  
18 but I stated a while ago that Indian nations are  
19 sovereign because they predate everybody else.

20           And then even when I look at state law in  
21 the position where I'm at, ever since I got to the  
22 state legislature I introduced a bill to amend the  
23 Transaction Privilege tax, which is a tax on sales  
24 transactions from which the state gets a huge amount of  
25 revenue down to the state legislature. And then that's

1 divided up according to law. And the law says about  
2 twenty-five percent of that money, that's generated all  
3 over the place, including Indian Nation, because that  
4 tax is applied to transactions involving non-Indian  
5 owned businesses operating on Indian land. And the  
6 mines up here, they pay state transaction privilege  
7 taxes. And that goes down to the State Treasury. On  
8 the average, fourteen million dollars a year in Navajo  
9 money goes to the state legislature, or the State  
10 Treasury.

11 But the law -- In giving up that money,  
12 the law says twenty-five percent of that will go to  
13 municipalities in those counties where that money comes  
14 from -- Just a minute.

15 Forty-one percent will go to the counties  
16 where it came from, and the balance will stay with the  
17 state.

18 Nowhere in there is a mention of Indian  
19 nations getting back that money that it paid down to  
20 the treasurer, or the State Treasury.

21 What does that remind you of?

22 It reminds me of colonialism. Because  
23 colonialism is taking resources from a land, taking it  
24 somewhere else, and not returning that money in terms  
25 of service or money to that community or that land

1 base.

2 That's what's happening here.

3 And every dollar that comes off the  
4 Navajo Nation, twenty-five cents of that is  
5 supporting -- If it comes out of Apache County, there  
6 are three incorporated municipalities in Apache County:  
7 Eagar, St. Johns and Springerville. So every dollar  
8 that comes off a Navajo, twenty-five cents of that is  
9 going over there to support whatever that municipality  
10 does with it.

11 And when we came upon the crisis in  
12 Arizona, there was a huge uprising from the  
13 municipalities and the counties saying, "Don't touch  
14 our revenue share of the TPT, because we use this money  
15 to pay for the recreation department, to pay for city  
16 equipment, to pay for city offices, to pay for  
17 recreation centers" -- the very things that my people,  
18 Indian nations, want and need. But yet, no money  
19 coming from the state to finance those types of things.

20 And when I asked for an amendment down  
21 there, I heard all of these comments: "Indian people,  
22 Indian nations, they're supposed to be sovereign.  
23 Indian nations, Indian people, you are imposing your  
24 own taxes. So why don't you use your tax money for  
25 those purposes. Indian nations, Indian people, you are

1 making tons and tons of money from gaming. So why  
2 don't you use that money". I heard that. And I  
3 constantly hear that.

4 And I push this legislation every  
5 session, and I'm going to push it again.

6 And that's what we have to deal with.  
7 That's what I mean by not having a commonality of  
8 interest between Indian nation community and non-  
9 Indian nation community.

10 And how do you deal with that?

11 I gave you a couple of options.

12 And what do you do with that?

13 That's your choice and your decision.

14 But this is what I wanted to talk to you about, wanted  
15 to present to you, and I appreciate the opportunity to  
16 do so.

17 And may the Holy People be with you in  
18 this undertaking of a difficult task.

19 Thank you very much. Have a wonderful  
20 day. Cha'a'.

21 CHAIRPERSON MATHIS: Thank you, Representative  
22 Hale.

23 OK. We have a couple more Request To  
24 Speak forms.

25 Our next speaker is Dr. Pauline Begay,

1 Apache County School Superintendent. Her office is in  
2 St. Johns, Arizona. Apache County.

3 SUPERINTENDENT BEGAY: Thank you.

4 Thank you for allowing me to speak here.

5 I'm the Apache County School  
6 Superintendent. And from what I see from that  
7 standpoint is that our Navajo people here are in  
8 various districts. Starting with the appropriate  
9 school districts, we have our boundaries, and there are  
10 eleven unified school districts in Apache County. And  
11 then we have, our Navajo Nation have one hundred and  
12 ten chapters in Arizona. About half of them. And from  
13 those chapters, it is their district where voters vote.

14 From Apache County, St. Johns, we have  
15 three boards of supervisors. They also have districts:  
16 District 1, District 2, District 3. And most recently,  
17 our board of supervisors did the redistricting based on  
18 the voters. They had to go through a process like you  
19 all are doing, giving public hearings here and there,  
20 and they also had some choices on geographical maps.  
21 And they've seen -- They have shown that to the  
22 people.

23 When I came in, I wanted to see a map.  
24 And I didn't see a map. So that was my question.

25 So there are other districts that you are

1 working on, legislative districts and congressional  
2 districts. We are all districts out.

3           And in our Navajo people, I bet about  
4 seventy-five percent do not understand what they are,  
5 except for the local chapter.

6           Every time there is a public hearing of  
7 any kind, I don't see very many people, very many  
8 Navajo people, attending hearings. So when it comes to  
9 making decisions, only a few make the decisions. And  
10 the time when they confront with these new laws that  
11 come into place from the state during election time,  
12 that's when we, some of us, have to explain to our  
13 elders what they are. If it's on the ballot, then we  
14 have to tell them what they are. And they try to  
15 understand. But they just go ahead and vote yes or no.

16           There are a lot of things, to me, our  
17 people need. Education, they need education. Even our  
18 students need education at the public schools and all  
19 the other education schools, and BIA schools. There  
20 are different schools on the Navajo Reservation. Grant  
21 schools as well.

22           So, talking about districts, we know that  
23 we have eight districts now. We are talking about the  
24 ninth district. So I was wondering where you're going  
25 to put it. Are you going to put it at the Hopi



1 Reservation, are you going to put it at the Tohono  
2 O'odham Reservation? Who has more population, who has  
3 more voters, here and there, in the state of Arizona?  
4 That's what I wanted to know.

5                   Every time there's a decision being made  
6 at the state level, there are more focus on urban  
7 issues. There is a difference between urban and rural,  
8 where these people live, and we just happen to be in  
9 the rural area. And in the rural areas we are always  
10 neglected. I tell you we are neglected, because we  
11 don't have the many resources like the urban locations.

12                   And so I don't know where the ninth  
13 district will be, but hopefully that it will be more  
14 considered.

15                   And that's all I have to share today.

16                   Thank you.

17                   CHAIRPERSON MATHIS: Thank you.

18                   Our next speaker is Chris Deschene,  
19 member of the Navajo Nation, representing self, from  
20 Window Rock, Arizona.

21                   MR. DESCHENE: Thank you.

22                   Good afternoon. Ya'at'e'e'h.

23                   CHAIRPERSON MATHIS: Good afternoon.

24                   MR. DESCHENE: My name is Chris Deschene, and  
25 I'm a member of the Navajo Nation; also, a former State

1 Representative.

2           If you will allow me, in our way I just  
3 want to say thanks to the Commission and the Chair and  
4 also the leaders that are here as well.

5           (Mr. Deschene addresses those assembled in  
6 the Navajo language.)

7           MR. DESCHENE: I just want to share a few words,  
8 and hopefully it will be brief.

9           First of all, I do support the concerns  
10 that you will get from the Navajo Nation, especially  
11 the Chair of the Human Rights Commission, who mentioned  
12 some comments regarding community of interests and the  
13 like. And I'm sure you're going to get some literature  
14 to that effect.

15           I also support Senator and Representative  
16 Hale's comments regarding the background, the issues,  
17 as well as the challenges that tribal communities have  
18 faced with regards to being involved politically. And  
19 I know I've walked that battle with him as well.

20           My comments are to the point of  
21 competitiveness of the districts.

22           I am a member of a number of institutes  
23 who are active, with just looking at preserving equal  
24 rights and preserving our voting strength.

25           And what I see, I need your comments, and

1 hopefully the Commission will take this into effect, is  
2 that when we look at the state of Arizona and we look  
3 at the districts and we look at the past ten years, and  
4 we see there are definitely trends that are moving in  
5 one particular direction.

6                   And we come, from our people, from a  
7 standpoint of what we call balance, or hozho', finding  
8 a balance to a number of things. And this has been a  
9 principal point that I've been conveying in a lot of  
10 the work that I've done, not only at the state, but in  
11 the communities.

12                   And in that regard, if we look at the  
13 state, and I know there are folks on both sides and I  
14 know that there are extremists on both sides, and the  
15 like, but what we're trying to do is find a balance  
16 that will preserve not only our state and our  
17 communities.

18                   And I am saying this with all respect to  
19 my people because I do support their concerns of  
20 preserving community of interests, no fracking, no  
21 dilution, protecting the Nation's voting rights. But I  
22 also am a citizen of the state of Arizona, and I care  
23 what's happening to my state.

24                   So if we look at the state and we look at  
25 the voter registration, we see roughly one-third D,

1 one-third R, and one-third independent. And yet we  
2 have super-majorities that are a result of the  
3 redistricting process that occurred ten years ago. And  
4 to me, that's creating a disproportional balance that  
5 is, I think, skewed slightly, and we are getting off  
6 track.

7                   And so I'm reminded of a comment or a  
8 quote that one of my favorite scientists, Einstein,  
9 said. Basically, he said: "Look. The significant  
10 problems that we face cannot be solved by the same  
11 level of thinking that created them."

12                   So when we are now looking at this  
13 process again, redistricting 2.0, we should take a look  
14 at the competitive nature of the districts and ensure  
15 that while we are protecting fundamental core issues  
16 for our respective communities throughout the state,  
17 that we are looking to see if we can find that balance  
18 and bring in competitive districts so that we have  
19 strong leaders who are being equally representative of  
20 all of Arizona's diverse communities.

21                   And so I trust that the Commission, I  
22 trust that your decisions, and I trust that you have  
23 the ability to not only incorporate the concerns of our  
24 communities, but also find the right mix that will  
25 allow us to have not only a state that works in the

1 future, but has equal representation, finds balance.  
2 And I think, you know, I'm not out of line, because  
3 this is consistent with what our teaching is, which is,  
4 again, the teaching or concept of hozho', which means  
5 balance.

6 And so those are my comments. I thank  
7 you for coming and traveling. It's a long way from  
8 Phoenix, but I hope you enjoy your drive. And I know  
9 it's much cooler than what you guys are dealing with  
10 down there. So, thank you. Atch'a'ha.

11 CHAIRPERSON MATHIS: It's beautiful.

12 Mr. Deschene, do you mind spelling your  
13 name for the record? Sorry.

14 MR. DESCHENE: It's Chris Deschene. And it's  
15 spelled D-e-s-c-h-e-n-e.

16 CHAIRPERSON MATHIS: Great. Thank you.

17 I think we will take a ten-minute recess,  
18 a short recess. The time is now 2:46, so if we could  
19 be back in ten minutes, then we will continue the  
20 hearing. Thank you.

21 (Recess taken.)

22 CHAIRPERSON MATHIS: We will come back from our  
23 recess now. The time is 3:03 p.m.

24 Our next speaker is Leonard Gorman. He  
25 is the Executive Director of the Navajo Nation Human

1 Rights Commission, from Window Rock, Arizona.

2 EXECUTIVE DIRECTOR GORMAN: Good afternoon.

3 CHAIRPERSON MATHIS: Good afternoon.

4 EXECUTIVE DIRECTOR GORMAN: Welcome to the  
5 Navajo Nation.

6 Hopefully, your journey from your homes  
7 has been a wonderful one.

8 I want to share with you the maps that  
9 the Navajo Nation is considering and will be forwarding  
10 the formal resolution endorsing this particular plan  
11 for the state of Arizona.

12 I'm sure you have heard plenty of  
13 comments and recommendations concerning competi-  
14 tiveness, congregating and community of interest and  
15 those standards that pertain to the redistricting in  
16 the state of Arizona and also nationwide.

17 As we have presented to you in the past  
18 couple of meetings, we have expressed a very, very  
19 strong concern that the Navajo Nation, through the  
20 Human Rights Office, is exceptionally concerned about  
21 ensuring that the Navajo Nation remains in a single  
22 district as a whole nation in the state legislature, as  
23 a single district.

24 And also, we have also expressed a very  
25 strong concern about meeting the federal standards, the

1 Voting Rights Act. There is a reason why those laws  
2 are in place and why the state of Arizona is a covered  
3 jurisdiction. We all know that. And it's very, very  
4 important to the Navajo people and the state of Arizona  
5 portion that those standards be hailed to the highest  
6 in this redistricting activity again.

7 Ten years ago the Navajo Nation was very  
8 successful in impressing upon then the Redistricting  
9 Commission to ensure that indigenous nations in the  
10 state of Arizona are characterized as a part of  
11 community of interest, and that they must be placed in  
12 that category, and by that definition. We continue to  
13 support that definition.

14 Secondly, community of interest also  
15 includes a variety of other issues -- sacred site  
16 concerns, natural resource concerns -- that bond  
17 indigenous nations in the state of Arizona and  
18 throughout the country.

19 Navajo Nation is involved in a variety of  
20 discussions, not only redistricting issues, but also  
21 rights of indigenous peoples in the world. And those  
22 rights that are being discussed and endorsed by the  
23 United States apply to communities in the state of  
24 Arizona.

25 We have locations in the state of Arizona

1 that are considered sacred sites to the Navajo people,  
2 to the Hopi people, that are now located off the Navajo  
3 Nation, the demarcated area. Before the demarcations  
4 had been imposed, those places had not been character-  
5 ized as remote as it is today. Because of the demar-  
6 cations, there are efforts to not have the indigenous  
7 peoples in the state of Arizona not have full access,  
8 unfettered access to those types of sites.

9           Now we are being regulated to practice  
10 our beliefs. We have to abide by written standards in  
11 order to fully practice our beliefs. And that's where,  
12 from our office's perspective, which element of  
13 redistricting is best fitting for conditions and  
14 environment in which a people live together.

15           Competitiveness. That's not necessarily  
16 fitting for the Navajo people.

17           Yes. The term that was used earlier in  
18 the presentation puts them in the corner. They belong  
19 in the corner. That's a view that's being fostered  
20 because of a misperception. It's a disrespect type of  
21 environment in which the main business people find us,  
22 that we find ourselves in.

23           Community of interest is one of the  
24 fundamental bedrocks of assuring that we have the  
25 opportunity to vote for someone that we believe will



1 best represent us in the foreign state election system.  
2 So community of interest is very important to the  
3 Navajo people.

4 So having said that, you have three maps  
5 that we've provided to you (indicating), and we will be  
6 forwarding a formal resolution endorsing these maps  
7 later on next week, as you conduct your hearings.

8 The first map, that's labeled as Exhibit  
9 3, is a Congressional District 1 illustration that  
10 encompasses the entirety of the eastern part of the  
11 state of Arizona, going all the way down to the  
12 southeast side in the state, southeast of Tucson, and  
13 umbrella-ing across into the Tohono O'odham Nation, and  
14 then picking up in Maricopa and Gila River Nations.  
15 This is a map, a plan that demonstrates a very, very  
16 strong opportunity for an indigenous person to become a  
17 member of the U.S. congress from the state of Arizona.  
18 This is a majority-minority district. As it says in  
19 there, that there's an American Indian population  
20 that's going to be consisting of 25.01 percent.  
21 Hispanic population is going to be in the 23 percentile  
22 at this time.

23 While we realize that there are concerns  
24 about incumbents holding these districts at the present  
25 time, we want to have it known and placed on the record

1 that there is an opportunity that exists for indigenous  
2 persons, people that are protected under the Voting  
3 Rights Act of the United States.

4 The second map is an illustration that is  
5 labeled as the "Navajo Nation Proposal NN2". A  
6 slightly less percentage of Native American population  
7 figures is also an opportunity the Navajo nation would  
8 like to foster through this whole process.

9 The final map is the Legislative District  
10 2, the Navajo Nation proposal.

11 Examining the current Legislative  
12 District 2, utilizing the 2010 numbers, that brings the  
13 American Indian population percentage in that current  
14 district to 63.97 percent. For the Navajo Nation, that  
15 is our threshold in an effort to meet that percentage  
16 in the upcoming District 2 configuration.

17 And the question is: How do we meet that  
18 configuration?

19 We need about thirty-five thousand more  
20 people to incorporate into the District 2 in the  
21 future.

22 And how do we meet the 63.97 percent of  
23 the Native American population?

24 We've made the sincere effort to meet  
25 with a variety of organizations in the north, in the

1 northern region of the state of Arizona in the past  
2 couple of months. We had the opportunity to discuss a  
3 plan with the White Mountain Nation; San Carlos Nation;  
4 we've also had the opportunity to sit down with the  
5 Hopi Nation; and also the City of Flagstaff.

6           It is a cumbersome process, as I'm sure  
7 you well know, that you've embarked upon to meet the  
8 goal of October 1st, 2011.

9           It is also a very tedious process, even  
10 on our end, to try and muster a very, very good unified  
11 plan.

12           So we had an opportunity to host another  
13 meeting last week, on July 20th, to see if there could  
14 be some compromises coming from the group that attended  
15 the meeting.

16           And the proposal that we present to you  
17 represents the comments and recommendations that were  
18 offered by those folks that attended that July 20th  
19 meeting.

20           And just in summary, the Apache nations,  
21 the White Mountains and San Carlos are included in  
22 whole, in totality, the land base area, are included in  
23 there. And taking into consideration the community of  
24 interest concerns. And then also, bridging on into the  
25 Apache County, southern portion area; and picking up

1 Holbrook, just the city; Winslow; and west of Winslow.

2           The portion that's west of Winslow and  
3 south of the southwest side of the Navajo Nation  
4 encompasses areas that have demonstrated a strong  
5 interest for the Hopi Nation. The Hopi Nation has  
6 ranch land in that area. The Hopi Nation also has land  
7 west and very adjacent to the city of Winslow, and they  
8 have ranch lands south of Winslow, which is why you see  
9 that curve on the west and south of Winslow.

10           Hopi also expect to meet to ensure that  
11 their ranch land is incorporated into this proposal at  
12 the Eagar-Springerville area.

13           We are waiting for their response, if  
14 this map is accurate, to including their ranch area.

15           In addition, when we go west of Flagstaff  
16 we incorporate the Hualapai, the Havasupai Nations; and  
17 just east of the Havasupai Nation, in Coconino County,  
18 Navajo Nation has a large land area. And that's called  
19 the Big Pokies Ranch. That's included in here.

20           We also made the effort to ensure the  
21 Kaibab, and this is included in the northern portion of  
22 Westphal 8.

23           And the one significant aspect of this  
24 plan that the Apaches have expressed very strong  
25 concerns about and ensuring that that issue is

1 addressed in particular plan is the San Francisco  
2 Peaks. San Francisco Peaks is considered a sacred site  
3 for the indigenous peoples in the state of Arizona.  
4 Indigenous peoples have made sincere efforts to enjoy  
5 the freedom without regulations, filling out forms,  
6 their religion and beliefs. However, we have been on  
7 the trail of defeat on that issue. We've exhausted all  
8 of the domestic opportunities in the United States.  
9 Which is why the Apaches have made a strong  
10 recommendation in our meetings with them that they want  
11 assurance that the San Francisco Peaks be included in  
12 District 2.

13 So this plan does demonstrate that San  
14 Francisco Peaks is in District 2.

15 That will conclude my presentation. And  
16 this proposal that we submit to you for District 2 is  
17 66.5 percent Native American population. This far  
18 exceeds the 63.97 percent.

19 Thank you.

20 CHAIRPERSON MATHIS: Thank you.

21 I am out of Request To Speak forms at  
22 this point, so I don't know if there is anyone else who  
23 would like to address the Commission right now.

24 (No audible response.)

25 CHAIRPERSON MATHIS: Hearing and seeing none, we

1 talked with Chairman Yazzie about maybe going into  
2 recess for a while to see if the other meeting might  
3 conclude, and then reconvene at that time, once those  
4 folks could join us.

5 We are open to suggestions as to what  
6 might be appropriate.

7 CHAIRMAN YAZZIE: They have already joined us.

8 CHAIRPERSON MATHIS: OK. Great. Wonderful!

9 Is there anyone else who would like to  
10 address the Commission?

11 Last call.

12 EXECUTIVE DIRECTOR GORMAN: Madam Chairperson?

13 CHAIRPERSON MATHIS: Sure. Come back.

14 Mr. Gorman is back,

15 EXECUTIVE DIRECTOR GORMAN: One particular point  
16 I didn't mention.

17 In the congressional plan, as you may be  
18 aware, ten years ago, when we talked about community of  
19 interest issues, our brothers and sisters from the Hopi  
20 Nation had raised concerns about what they believed at  
21 that time were issues existing were to a point in a  
22 separate district, congressional district.

23 We are happy to indicate that they have  
24 expressed to us, and hopefully that they would --  
25 They have assured us that they would produce that in

1 writing sometime soon, that they are very comfortable  
2 in dealing with redistricting in this matter with the  
3 Navajo Nation. So that wouldn't be a concern of yours  
4 in this go-around. So I just wanted to point that out.

5 Thank you.

6 CHAIRPERSON MATHIS: Thank you.

7 Well, just some concluding remarks.

8 It was an honor to be here today and hear  
9 all of the commentary that was expressed very  
10 eloquently, I thought, and passionately. And I really  
11 appreciate hearing from you directly, all of you. It's  
12 a pleasure.

13 So let me see if my Vice Chair, Mr.  
14 Freeman, would like to say any words.

15 VICE CHAIR FREEMAN: Sure. I want to thank you  
16 all for having us. It's really a privilege to be here,  
17 in the center of the Navajo Nation, and to be up in  
18 Indian country. My parents brought me up here when I  
19 was just a young child, they brought me up to this part  
20 of the state, and I haven't been back since. And I  
21 knew, when I applied to get on this Commission, that we  
22 would be having these public comment hearings. And  
23 this is a place that I was really looking forward to  
24 come to. So thank you all for having us.

25 And I'd like everyone to know that

1 tomorrow the Commission will be conducting a hearing at  
2 Hon-Dah, but we will have satellites, public intake  
3 locations, at Holbrook and Winslow.

4 Ms. Mathis and I will not be there, but  
5 we will have one of our staff there, and they will be  
6 linked to Hon-Dah with video and microphone. So if  
7 there's anyone else who thinks of something and wants  
8 to address us personally, you can do that. And that  
9 hearing begins at 1:00 o'clock Mountain Standard Time  
10 tomorrow.

11 Thank you again.

12 CHAIRPERSON MATHIS: Thank you all very much.

13 The time is now 3:24 p.m., and this  
14 hearing will conclude.

15 Thank you.

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1 STATE OF ARIZONA )  
 ) ss.  
 2 COUNTY OF COCONINO )

3 BE IT KNOWN that the foregoing proceeding  
 4 was held before me, John A. Dalsin, a Certified Court  
 5 Reporter, CCR No. 50270, State of Arizona; that the  
 6 foregoing 64 pages constitute a true and accurate  
 7 transcript of all proceedings had upon the taking of  
 8 said meeting, all done to the best of my skill and  
 9 ability.

10 DATED at Flagstaff, Arizona this 11th day  
 11 of August, 2011.

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John A. Dalsin, CCR  
 Certified Court Reporter  
 Certificate No. 50270

