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IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

KELLY LAWS,)	
)	
Petitioner,)	ANSWER
)	
v.)	Case No. SJ180700016
)	
WILLIE GRAYEYES,)	Judge: Don M. Torgerson
)	
Respondent.)	
)	

Respondent Willie Grayeyes (sometimes called “Respondent”) respectfully submits this answer to the unverified complaint of Petitioner Kelly Laws (sometimes called “Petitioner”).

AFFIRMATIVE DEFENSES

Respondent sets forth separately his affirmative defenses to the complaint with the following caveats. Not all of the defenses set forth below may be affirmative defenses within the meaning of the Utah Rules of Civil Procedure, but they nevertheless are denominated as such in

this answer for the convenience of the Court in order to highlight various weaknesses in the unverified complaint. Moreover, by denominating any of these defenses as affirmative, Respondent neither concedes nor waives any argument that, as to all matters affecting the outcome of this election contest, the Petitioner not only has the burden of moving forward but also the risk of non-persuasion at any trial on the merits thereof. Respondent naturally has not and does not and cannot waive any defense which he has on subject matter jurisdictional grounds.

STANDING

The Petitioner lacks standing to bring this complaint. In the absence of standing, this Court has no subject matter jurisdiction to adjudicate any issue raised in the complaint. The election contest statute purports to confer standing upon registered voters, but the statute alone is insufficient to confer standing to sue. Petitioner also must prove that he has standing in the constitutional sense – that he either suffered a redressable injury-in-fact or that he is qualified to bring this suit as a matter of public interest. Petitioner cannot make either of these proofs as a matter of law. Petitioner was defeated by Respondent in an election contest, but insofar as any cause for that defeat may constitute an injury in fact, such injury is not redressable under the election contest statute, since, even if Petitioner wins this litigation, a vacancy in the contested office will be declared, and the Utah election code provides that this vacancy will be filled by a member of the Democratic Party and Petitioner is a member of the Republican Party. Petitioner does not qualify to bring this suit as a matter of public interest because he does not satisfy the judicially delineated criteria in Utah’s case law for such a plaintiff.

THE COMPLAINT IS UNVERIFIED

The election contest statute requires all complaints to be verified. As with standing, this is a jurisdictional requirement. Petitioner's complaint was not verified. Respondent has filed a motion to dismiss the complaint on this ground. The arguments in that motion are incorporated by reference in this answer.

THE COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED

The complaint fails to state a claim upon which relief may be granted. Petitioner purports to claim that Respondent is not a resident of San Juan County and therefore Respondent was not electable to the office of San Juan County Commissioner. But in March, 2018, the statutory provisions of the election code validated Respondent's residency. In order to rebut this validation, Petitioner has to allege that, after March, 2018, Respondent moved out of San Juan County and found a new principal place of residence in another county or out of state. The complaint does not make any such allegation and hence is legally insufficient as a matter of law and must be dismissed. Respondent has filed a motion to dismiss the complaint on this ground. The arguments in that motion are incorporated by reference in this answer.

THE COMPLAINT IS BARRED BY LACHES

Election contests are equitable in nature and governed by equitable principles. The equitable doctrine of laches requires dismissal of the complaint. Under the circumstances of this case, Petitioner had a legal duty to raise his residency concerns on a pre-election basis at the earliest available opportunity. He did not satisfy this legal duty. Under controlling Utah case law, the complaint accordingly is barred. Respondent has filed a motion for summary judgment on this ground. The arguments in that motion are incorporated by reference in this answer.

**THE COMPLAINT MAY BE BARRED ON THE BASIS OF
THE EQUITABLE DOCTRINE OF UNCLEAR HANDS**

Election complaints are equitable proceedings and subject to dismissal, therefore, on equitable grounds. One such ground is the doctrine of unclean hands. In order to obtain equity in an equitable proceeding, a Petitioner first must have behaved equitably so that he can come to court with clean hands. On information and belief, Respondent claims that Petitioner was part of a group of San Juan County citizens who engaged in or otherwise countenanced illegal (including unconstitutional) behavior in an effort to keep Respondent off the 2018 ballot. Under these circumstances, Petitioner has unclean hands and his complaint should be dismissed.

**UTAH'S VOTER REGISTRATION STATUTE CREATES A PRESUMPTION THAT
RESPONDENT, WHO HAS BEEN A REGISTERED VOTER IN SAN JUAN COUNTY
FOR OVER 30 YEARS, IS A RESIDENT OF SAN JUAN COUNTY, THIS
PRESUMPTION ONLY CAN BE OVERCOME BY CLEAR AND CONVINCING
EVIDENCE, AND THE "EVIDENCE" SET FORTH IN THE UNVERIFIED
COMPLAINT IS LEGALLY INSUFFICIENT IN THIS REGARD**

In 1984, Mr. Grayeyes registered to vote in San Juan County. Voter registration, as everyone knows, depends upon a showing of residency. Utah Code, §20A-2-101(1)(d). When an application to vote is submitted to a county clerk, he is empowered, if there is a want of residency, to refuse registration. Utah Code, §20A-2-304. In 1984, when Mr. Grayeyes applied to vote, the clerk did not raise an issue of residency, and, instead, granted registration. That approval created a presumption that Mr. Grayeyes, as a legally registered voter, had his principal place of residence in San Juan County, a presumption which thereafter could not be overcome except on a showing, by clear and convincing evidence, that he had established a new principal place of residence, Utah Code, §20A-2-105(7), or, in other words, a fixed habitation in a single location other than Navajo Mountain to which he always intends to return, Utah Code, §20A-2-105(1)(a).

Mr. Grayeyes has cast ballots in most San Juan County elections since he registered to vote there in 1984. Utah's election code, as all are aware, contains provisions for parties in interest, should they believe that a voter lacks residency, to object to his ballot on the ground of ineligibility. Utah Code, §20A-3-202. From 1984 through 2016, however, no government official or law abiding citizen lodged an objection to Mr. Grayeyes's status as a *bona fide* resident and legally registered voter.

In 2016, after the County Clerk conducted what apparently was an illegal purge of Navajo voters, Mr. Grayeyes, re-stating his residency in San Juan County, re-registered to vote with the clerk. The Clerk approved this application for registration, thereby renewing the statutory presumption that Mr. Grayeyes was a resident of San Juan County, a presumption which stands unless and until it is rebutted by a clear and convincing showing that he has changed his residence to another "fixed habitation" in a "single location" to which he intends to return. Mr. Grayeyes in fact voted in the 2016 election and nobody, using the relevant statutory process, objected to his exercise of the franchise at that time. This circumstance created a judicial presumption, independent of the statutory presumption already noted, that he is a resident of San Juan County. *See, Beauregard v. Gunnison City*, 160 P. 815, 818-819 (Utah 1916).

The "evidence" which Petitioner purports to present in his unverified complaint does not address this voter registration issue – nor does it purport to rebut the presumption of residency created by Utah's election code – by clear and convincing evidence or otherwise. That "evidence" is insufficient as a matter of law, and the complaint should be dismissed accordingly.

**RESPONDENT HAS HIS PRINCIPAL PLACE OF RESIDENCE AT NAVAJO
MOUNTAIN IN SAN JUAN COUNTY**

Petitioner’s complaint is an exercise in misdirection. He asks the Court to focus on where Respondent may have “lived” at any given point in time or where he may “own” property in various locales. Residency for election law purposes, however, is determined under Utah’s “principal place of residency” statute, and, under the criteria set forth therein, at all times relevant to this election contest, Respondent has had a principal place of residency on Navajo Mountain in San Juan County.

1. Mr. Grayeyes’s Principal Place of Residence at Navajo Mountain

Mr. Grayeyes was born March 15, 1946, the son of Tulley Grayeyes and Bertha Clarke. At the time of birth, both parents were residents of Navajo Mountain, San Juan County, Utah. Please see Mr. Grayeyes’s birth certificate which is attached as Exhibit A.

Consistent with Navajo tradition, Tulley and Bertha buried Mr. Grayeyes’s umbilical cord near their clan’s residences at Navajo Mountain. This ceremonial burial is a sacred rite, signifying that Navajo Mountain is the permanent abode of the cord’s owner, in this case Mr. Grayeyes. Please see the Supplemental Declaration of Willie Grayeyes, dated April 24, 2018, ¶¶ 2 and 3, which is attached as Exhibit B (hereinafter “First Supplemental Grayeyes Declaration”). Please see also the Affidavit of Dr. David Begay which is attached as Exhibit C. Please also see *United States v. Tsosie*, 849 F. Supp. 768, 774-775 (D. N. M. 1994). Please also see the Nielson deposition excerpts, pp. 99-100, attached as part of Exhibit O.

Mr. Grayeyes grew up with his family in Navajo Mountain and attended school there. Please see Declaration of Willie Grayeyes dated April 19, 2018, ¶¶ 6 and 7, which is attached as Exhibit D (hereinafter “Grayeyes Declaration”).

For at least the last 20 years, Mr. Grayeyes has had a residence, a fixed habitation in a single location, which is at Navajo Mountain in a rural area near Paiute Mesa in Utah (sometimes referred to as “Piute Mesa”). Please see the Grayeyes Declaration, Exhibit D, ¶¶ 5, 8, 9, and 10. He runs cattle at this location, pursuant to a permit granted under authority of the Navajo Nation Grazing District 2-3. Please see the Declaration of Russell Smallcanyon, dated May 2, 2018, which is attached as Exhibit E (hereinafter “Smallcanyon Declaration”). Russell Smallcanyon is the Grazing Officer for Navajo Nation Grazing District 2-3, and, based upon his official and hence personal inspection of Mr. Grayeyes’s home and cattle, Smallcanyon attests that Grayeyes has a home and cattle business in San Juan County, Utah. Smallcanyon Declaration, Exhibit E, ¶¶ 5, 7, and 8.

Mr. Grayeyes is an enrolled member of the Navajo Nation, portions of which are in Utah and Arizona. He resides in the Navajo Mountain Chapter of the Navajo Nation and serves as a Chapter Official for Navajo Mountain, Utah, the Secretary/Treasurer for the Navajo Mountain Chapter, and as Chairman of the School Board for the Naatsis’ann [Navajo Mountain] Community School. Grayeyes Declaration, Exhibit D, ¶¶ 2, 14, 15, and 16, and Exhibit F.

Vital services, such as mail delivery, are obtained with difficulty at Navajo Mountain, given its remote, rural character. Hence, residents of Navajo Mountain typically use a post office box at Tonalea, Arizona, as a mailing address, from which mail is collected and then delivered by truck to Navajo Mountain. Mr. Grayeyes uses this service so that he can collect mail near his home in Navajo Mountain. Please see the Declaration of Lena Fowler, dated April 25, 2018, ¶ 11, which is attached as Exhibit G (hereinafter “Fowler Declaration”). See also Grayeyes Declaration, Exhibit D, ¶¶ 11 and 12. San Juan County officials, including the County Clerk’s office, are aware that Navajos like Mr. Grayeyes are forced to use a Tonalea, Arizona, post office

box address so that they can obtain mail delivery, pursuant to the arrangement described above, in proximity to their homes in or near Navajo Mountain. Please see the Deposition of Norman Johnson, at page 42, found in the record for *Navajo Nation v. San Juan County*, civ. no. 1:12-cv-00039-RS (D. Utah, June 23, 2015) a copy of which, in pertinent part, is attached as Exhibit H. Please also see the excerpts from the Nielson deposition at p. 29, which are attached as part of Exhibit O.

Mr. Grayeyes always has been active politically in San Juan County, serving as chairperson of the Board of Directors for Utah Dine Bikeyah, the Utah based, non-profit entity which has advocated vigorously for establishment of the Bears Ears National Monument. He also has been a registered voter in San Juan County and has voted in San Juan County elections for at least the last 18 years. Grayeyes Declaration, Exhibit D, ¶¶ 13, 17, 18, and 20, and Utah Dine Bikeyah corporate records attached as Exhibit I. He never has resided – or voted – in Arizona. Grayeyes Declaration, Exhibit D, ¶¶ 32 and 20, and Fowler Declaration, Exhibit G, ¶¶ 12 and 13. Please also see the excerpts from the Nielson deposition, at pp. 94-95, which are attached as part of Exhibit O.

Mr. Grayeyes is aware of the allegations in Petitioner’s complaint that Mr. Grayeyes owns property in Page, Arizona. That home is a double-wide mobile home. It was purchased in the 1980s so that Mr. Grayeyes’s children could live near a school which they were attending at that time -- because there were no schools at the time near Navajo Mountain. His wife stayed with the children while they were attending school. Mr. Grayeyes never has lived in that home, and, for a long time, after his children’s school needs had been met, Mr. Grayeye’s son, Stephen,

used the home for living quarters. In recent months, Stephen moved to Phoenix and the home has been left vacant, boarded up, with all utility service stopped. Please see the “Affidavit of Willie Grayeyes,” dated January 10, 2019, which is attached as Exhibit J.

Although Mr. Grayeyes’s work sometimes forced him to travel to Arizona, and although his responsibilities as an official in the Navajo Nation had him frequently commuting back and forth, from Utah to Arizona to Utah, he always regarded his home to be at Navajo Mountain as the principal place of residence to which he intended forever to return. Grayeyes Declaration, Exhibit D, ¶ 10.

2. Mr. Grayeyes’s Voter Registration History, Including the County Clerk’s Decision That He Was Qualified to Be A Candidate for County Commissioner in 2012

In 1984, Mr. Greyeyes registered to vote as a resident in San Juan County, state of Utah. Grayeyes Declaration, Exhibit D, ¶ 17. Please also see the official voting record of San Juan County Clerk’s Office, Column J, which is attached as Exhibit K.

Although voting records are available only back to 1999, those records indicate that Mr. Grayeyes has voted consistently since that time to the present as a resident of San Juan County. Grayeyes Declaration, Exhibit D, ¶¶ 18 and 19. Please also see the official voting record of the San Juan County Clerk’s Office, Row 1263, Columns AH-DM, which is attached as Exhibit K.

In 2012, Grayeyes was the nominee of the Democratic Party for a seat on the San Juan County Commission. At that time, for the first time, his residency (and hence his eligibility as a voter and candidate) in San Juan County was challenged. The County Clerk at that time, Norman Johnson, overruled this challenge, and Grayeyes was certified as a *bona fide* resident to run in 2012 for a seat on the San Juan County Commission. Grayeyes Declaration, Exhibit D, ¶ 21. Please also see Mr. Grayeyes’s 2012 candidacy related records which are attached as Exhibit L.

In 2016, Mr. Grayeyes applied to renew his voter registration as a resident in San Juan County, state of Utah. Exhibit K, Column I.¹ In Utah, applicants who currently do not reside in the voting precinct from which they are attempting to register are not eligible for voter registration. Utah Code, §20A-2-101(1)(d). Likewise in Utah, county clerks “shall” register applicants who meet the requirements (including the residency requirement noted above) for registration or reject applications where those requirements (including the residency requirement noted above) are not satisfied. Utah Code, §20A-3-204. Under §20A-3-204(2)(b), in the event of rejection, the county clerk is to notify the applicant respecting the fact of rejection as well as “the reason for the rejection[.]” John David Nielson was the County Clerk of San Juan County in 2016; he approved and did not reject Mr. Grayeyes’s application to register to vote at that time.

3. Grayeyes’s 2018 Declaration of Candidacy for County Commissioner

In 2018, Mr. Grayeyes decided again to run for a seat on the San Juan County Commission, this time in District Two, newly established under a federal court’s redistricting order. On March 9, 2018, as required by Utah Code, §20A-9-201(1), Mr. Grayeyes submitted his Declaration of Candidacy in this regard to the San Juan County Clerk. Please see the Declaration of Candidacy attached as Exhibit M. Mr. Grayeyes’s 2018 Declaration of Candidacy gives his residential address as 17 miles north of the Navajo Mountain Chapter House on Paiute Mesa. This is the same residential address given to Norman Johnson, the County Clerk at that time, when Mr. Grayeyes declared his candidacy for County Commissioner in 2012. Exhibit L. It is the same address he used on his application to register to vote in 1984 and when he renewed that registration in 2016. Exhibit K.

¹ Mr. Grayeyes was forced to re-register because, in or about 2014, the County Clerk’s office systematically “purged” Navajos, including Mr. Grayeyes, from the voter registration rolls of San Juan County.

Page 2 of the Form of Declaration used by Mr. Grayeyes lists the qualifications – including residency requirements -- which candidates for the office of County Commissioner must have, tracking statutory language which is found at Utah Code, §§ 17-53-202 and 17-16-1. The Form notes that, before accepting a Declaration of Candidacy, the County Clerk must read these qualifications to the candidate and have the candidate affirm that he meets them. It is undisputed that the county clerk accepted and filed the Declaration of Candidacy for Grayeyes without further ado.

Utah Code, §20A-9-202(5), provides that Declarations of Candidacy are valid unless written objections thereto are made within 5 days of the last day for filing declarations of candidacy. If an objection is made, notice promptly must be given to the candidate and the objection then must be resolved within 48 hours after the objection is filed. The election official's decision respecting form is final. The election official's decision respecting substance – for example, a determination based upon residency requirements -- is subject to judicial review on condition that prompt application for such review is made to a court. Pursuant to Utah Code, §20A-9-407(3)(a), declarations of candidacy in Mr. Grayeyes's case had to be filed on or before March 15, 2018, and, as calculated under Utah Code, §20A-1-401(3)(a), the 5-day bar date for objection to that declaration under Utah Code, §20A-9-202(5) would have expired March 20, 2018. No objection to Mr. Grayeyes's candidacy, pursuant to Utah Code, §20A-9-202(5), ever was lodged with the relevant election official (in this instance, John David Nielson as county clerk) against the Grayeyes Declaration of Candidacy. Hence, Mr. Grayeyes's affirmation of residency (on Navajo Mountain in San Juan County) in the Declaration of Candidacy continues to remain valid as a matter of law pursuant to Utah Code, §20A-9-202(5)(a).

4. The Only Relevant Inquiry for Residency Purposes

In Utah, citizens have a right to vote but are not eligible to exercise that right absent registration. Registration is conducted by county clerks and in order to register, among other proofs, the applicant must show that he or she “currently resides within the voting district or precinct in which the person applies to register to vote.” Utah Code, §20A-2-101(d).

Residency for voter registration purposes is defined in Utah Code, §20A-2-105(3)(b): “A person resides within a particular voting precinct if, as of the date of registering to vote, the person’s principal place of residence is in that voting precinct.” “Principal place of residence,” is a term of art which is defined in Utah Code, §20A-2-105, to mean “the single location where a person’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.”

When a person registers and names a principal place of residence under oath, there is a rebuttable presumption that he resides in Utah as well as the applicable precinct -- which presumption may be overcome only when, after objection, it is shown as a matter of law or by clear and convincing evidence that the individual’s principal place of residence is not in Utah. Utah Code, §20A-2-105(7).

Mr. Grayeyes registered to vote with the San Juan County Clerk in 1984 and then renewed that registration in 2016. On both occasions, he affirmed under oath that his principal place of residence was at a stated location in the vicinity of Navajo Mountain. What is more, in 2012, under challenge, the County Clerk, Norman Johnson, found that this indeed was Mr. Grayeyes’s principal place of residence -- for the purpose of both voter registration and candidate qualification. Hence, when Mr. Grayeyes filed his Declaration of Candidacy on March 9, 2018, his Navajo Mountain address, not only enjoyed a presumption of veracity, rebuttable only by

clear and convincing evidence, as his principal place of residence for voter registration purposes, but also had been found expressly to be such in a 2012 decision by Norman Johnson as an election official. These circumstances are reinforced by the statutory consequences which flowed from any failure to object to Mr. Grayeyes's Declaration of Candidacy pursuant to Utah Code, §20A-9-202(5) and which are elaborated in Respondent's motion to dismiss for failure to state a claim.

This background is important because, pursuant to Utah Code, §20A-2-105(5)(b), a person may not have more than one principal place of residence at the same time, and §20A-2-105(5)(c) says that a person does not lose one principal place of residence *until* he establishes another principal place of residence. Hence, when these statutes are read in tandem with §20A-2-105(7) and the circumstances described above, it means that, in order to prove – by clear and convincing evidence -- that Mr. Grayeyes no longer had a principal place of residence in Utah, Petitioner will have to prove by clear and convincing evidence that – on or after March, 2018 -- Mr. Grayeyes had established a new principal place of residence in Arizona. Remember, too, that principal place of residence, old or new, is defined to mean a “single location” with a “fixed habitation” to which the voter or candidate always intends to return.

The relevant inquiry, accordingly, is not whether Mr. Grayeyes's Navajo Mountain property – prior to March, 2018 -- had been his principal place of residence, a fact already established in the 2012 decision, if not by the presumption advanced in §20A-2-105(7)(a) and the statutory consequences which flow from Petitioner's failure to object to the Declaration of Candidacy in March, 2018, pursuant to Utah Code, §20A-9-202(5).

The relevant inquiry instead is whether Mr. Grayeyes, after March, 2018, had lost residency at Navajo Mountain by behavior, within the meaning of the statute, which signified

that he had established a new principal place of residence in Arizona. Petitioner therefore must show by clear and convincing evidence that Mr. Grayeyes – again advertent to the statutory definition – had established *in Arizona* a “single location where a person’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.” Utah Code, §20A-2-105(1)(a).

Petitioners complaint, however, focuses primarily, if not exclusively, on whether Grayeyes “lives” at Navajo Mountain, and nowhere demonstrates, or even analyzes – using the factors set forth in §20A-2-105(4) -- whether or where Mr. Grayeyes might have a “single location” with a “fixed habitation” to which he always had the intention of “returning” in Arizona.

The only possible “evidence” to which Petitioner could have resorted (had he chosen to make this inquiry) was Deputy Turk’s report which is attached as an exhibit to the complaint. That document, however, actually disproves that Grayeyes had a principal place of residence in Arizona, that is, a “single location” with “fixed habitation” to which he always intended to return. Turk’s witnesses, most of whom remained unidentified, variously stated that Mr. Grayeyes lived in Tuba City, Kayenta, Page, and Cameron (in addition to Navajo Mountain). Within one location, Tuba City, witnesses said Mr. Grayeyes lived in a number of different places, behind a car wash, in a red brick cinder house, and in a trailer by a church. At one point in his nine pages of single-spaced analysis, Turk reports that Wendy Black told him that a young couple (who remain nameless) told her that Grayeyes lives in “Deshonto,” a place which, according to Google maps, simply does not exist.

Witnesses from Arizona, according to Turk’s reportage, either could not identify or had difficulty pinpointing whether or where Mr. Grayeyes might have a fixed habitation at a single

location in that state. “Ladies” in the main office of the Navajo Chapter House in Tuba City knew Mr. Grayeyes by name, but didn’t know where he lived. People “behind the car wash” in Tuba City didn’t even know who Mr. Grayeyes was. Carlene Yellowhair and Candelora Lehi, both of whom knew Mr. Grayeyes from shared tribal responsibilities, didn’t know where he might live in Arizona and in fact assumed he had residency in Navajo Mountain in light of his role as a chapter official in representing that area. The Navajo Police Department in Tuba City didn’t have an address for Mr. Grayeyes in Tuba City. So they loaned Albert Nez, one of their investigators, to assist Turk in a search for Mr. Grayeyes. They also recommended a call to the Navajo Police Department in the Kayenta District because “they knew Grayeyes lived in their area.” But the folks in Kayenta district “had an address for him at the same spot where [Turk] had checked the Grayeyes family property [on Navajo Mountain].” Then Turk called Kendall Laws for an update on the investigation and Kendall Laws reported that Kelly Pehrson, the San Juan County Manager, had reported that he had received an “anonymous tip” that Mr. Grayeyes lived with a girlfriend, Victoria Bygone, in Tuba City. Following this lead, Turk contacted Lucida Johnson, the mother of Victoria Bygone, who informed Turk that Mr. Grayeyes “live[d] there with Victoria and added that Willie lives in Navajo Mountain,” adding again that “he is everywhere on the rez because he is a councilman.” This echoed another unnamed witness at Navajo Mountain who informed Turk that Mr. Grayeyes was “from” Navajo Mountain but lived “all over.” Mr. Grayeyes himself told Turk that, although he stopped with his girlfriend when working in Arizona, he didn’t have a place of his own in Tuba City, a statement never contradicted in Turk’s report.

Turk’s report was wrongfully commissioned by the County Clerk, John David Nielson, in the first instance, and is rank hearsay and inadmissible as evidence in all events. But, even if we

grant Turk’s reportage a cursory look – when that look is directed at only the real issue in this case – it is impossible to translate the comments from witnesses like Ms. Johnson and others, namely, that Mr. Grayeyes is “everywhere on the rez” and Wendy Black’s quadruple hearsay that he was in “Deshonto,” a place from nowhere, and the suggestions that he was by turns in Page, Kayenta, Cameron, and four different sites in Tuba City into a conclusion that his principal place of residence was a “single location” with a “fixed habitation” in Arizona.

In summary, Utah Code, §20A-2-105(5)(c) says that Mr. Grayeyes could not have lost the principal place of residence which – according to statutory directives and multiple circumstances – he had at Navajo Mountain unless and until, he moved and established a new principal place of residence in a fixed habitation in a single location in Arizona. Petitioner’s complaint offers no relevant proof – clear, convincing, or otherwise – that this move was made or that it was made to any single location outside of San Juan County. The election official for San Juan County, John David Nielson, admits in his deposition at pp. 104-105, which is attached as part of Exhibit O, that no such evidence, making any such proof, exists.

5. Mr. Grayeyes Unquestionably Has His Principal Place of Residence at Navajo Mountain

The evidence is overwhelming that Mr. Grayeyes has his principal place of residence at Navajo Mountain. Let’s tally the facts.

Deputy Turk and John David Nielson, the County Clerk and designated elections official for San Juan County under Utah law, both have admitted, under oath, that Mr. Grayeyes has his principal place of residence at Navajo Mountain. Please see these deposition excerpts which are attached as Exhibits N and O.

Mr. Grayeyes was born at Navajo Mountain. He went to school in that community. He has a blood sister who lives nearby with whom, according even to Turk’s report, he spends 60 to

70 percent of his time. He also has a nephew living in the same vicinity. Although Native Americans technically cannot “own” land on a reservation, within the more limited sense of natural custom and related traditions, it can be said that Mr. Grayeyes is “heir” to real property at Navajo Mountain, property which was left to him by more family members, his mother and an aunt.

Mr. Grayeyes has been politically involved in San Juan County affairs for over 30 years. He registered to vote, claiming residency at Navajo Mountain, in 1984. He re-registered to vote, using the same address, in 2016. He in fact voted in most San Juan County elections throughout this period of time. He ran for county commissioner in 2012 and in 2018. He never has voted in Arizona, a fact confirmed by John David Nielson, the County Clerk, on page 93 of his deposition which is attached as part of Exhibit O. Until this year, no law abiding citizen, election official, or other party in interest has attempted seriously to question the residency facts which are the legal predicates for this political activity. Indeed, the fact that Mr. Grayeyes cast ballots in San Juan County in elections in 2016 and 2018 is highly significant in this case, since the last jurisdiction in which a person votes is presumed to be the location of his residence. *See Beaugeraard v. Gunnison City*, 160 P. 815, 818-819 (Utah 1916).

Mr. Grayeyes has business pursuits, as well as employment, on and in relation to Navajo Mountain. It is undisputed that he runs cattle at his homestead there, and, in Navajo tradition, the location of cattle is an important signifier of where one enjoys permanent residency. It also is undisputed that Mr. Grayeyes works as a tribal official in the Navajo Nation, and that this work puts him front and center as a representative for the people of Navajo Mountain – the same citizens, it should be added, whom Mr. Grayeyes will represent in light of his election to the District 2 seat on the San Juan County Commission. This work responsibility, in fact, is the

context for which he is known by the very few named witnesses in the Turk report. More than this, Mr. Grayeyes is the chair of the board of trustees of a non-profit corporation, Utah Dine Bikeyah, which is organized under the laws of the state of Utah, headquartered in Salt Lake City, and dedicated to the promotion of the Bears Ears National Monument in San Juan County. Even a cursory search on Google, unaided by Turk's investigative prowess, shows that Mr. Grayeyes is the face of this movement which has been a *cause celebre* in southeastern Utah for at least the last 6 years. The Petitioner, among others, did not care where Mr. Grayeyes lived or voted from 1984 when he first registered until the second decade of the 21st Century. But when Mr. Grayeyes became active in San Juan County issues, making the kinds of connections which durational residency requirements are purposed to advance, they pulled on the levers of power in local government in order to suppress his candidacy and silence his voice.

Even the Turk report (although Turk knows nothing of land law on the Navajo reservation) notes that Mr. Grayeyes "owns" real property and runs cattle and has employment, as a tribal representative and community activist at Navajo Mountain, the three most important factors in determining voter registration residency according to Utah case law. *See Dodge v. Evans*, 716 P. 2d 270, 274 (Utah 1985) (prison inmate deemed not resident in Salt Lake County for voter registration purposes because of want of ownership of real property or personal property and absence of "any other contacts" in that community). Lorena Atene in Utah showed Turk a map in her possession respecting Mr. Grayeyes's real property at Navajo Mountain, and the Navajo Police Department at Kayenta, Arizona, gave Turk, through his dispatcher, the address to this same real property. And the real property, in Mr. Grayeyes's case, is much more than mere land. It is his inheritance, a birthright from his local clan, and the place where, at birth, that family buried his umbilical cord, a sacred ceremonial space which signifies home and

fixed habitation. Mr. Grayeyes's personal declaration as well as Dr. Begay's expert testimony which are attached to this pleading explain and stress the significance of this indicator of principal place of residence, an indicator so significant that it has figured in Tenth Circuit opinions which bear upon this subject.

In *United States v. Tsosie*, 849 F. Supp. 768 (D. N. M. 1994), Judge Hansen entered an order of abstention so that Navajo courts in the first instance could apply tribal custom, part of the common law of an Indian tribe, to determine a real property ownership issue between two members of the Navajo Nation. Tsosie's claim was based on the fact that her maternal ancestors had buried her umbilical cord on the land in question. In deciding to allow Navajo Tribal Courts to decide this question in the first instance, Judge Hansen adverted to affidavit testimony from Tom Tso, a former Chief Justice of the Navajo Nation Supreme Court, who opined that Navajo cultural traditions are "sacred" because they are "rooted in religious songs, prayers and chants[,] and for this reason are embodied as part of the Navajo common law. Land "inherited" from maternal ancestors, according to Mr. Tso, has the status of *res judicata* as a principle. And burial of the umbilical cord has "profound significance," suggesting a fundamental tie to Mother Earth. Tso opined that "Relocating traditional Navajos from the land where their umbilical cords are buried and where they have always lived is uprooting them from their religion, and from a central part of their own identities. There are no precise analogies in the non-Navajo society of which I am aware to describe the harm that such relocation causes. It would be like yanking an infant away from its mother when the infant is still screaming and the mother is reaching for it, and the mother is killed of loneliness and the child is killed for lack of tenderness and sustenance. It is tantamount to separating the Navajo from her spirit."

In contrast to these signifiers that Navajo Mountain is Mr. Grayeyes's principal place of residence, all that Petitioner alleges is that Mr. Grayeyes owns a mobile home in Page, Arizona, a singularly unremarkable circumstance in a day and age when many of us own properties or hold investments in multiple jurisdictions, and that he has an Arizona driver's license, a circumstance which, given the imperatives of life on the Navajo reservation, is not peculiar to Mr. Grayeyes, is well-known in official circles in San Juan County, and which, on prior occasions, has not disenfranchised any other Navajo voter. Mr. Grayeyes's affidavit, attached as Exhibit J, explains that the mobile home in Page, Arizona, is a non-issue. The papers attached as Exhibits O and P, which include excerpts of the testimony given by John David Nielson as County Clerk in his deposition at pp. 30-33, demonstrate that ownership of an Arizona driver's license should be given little or no weight under the circumstances of this case.

The overall emphasis of the residency statute, Utah Code, §20A-2-105, is on the intent to return, notwithstanding absences of whatever length, to the residence in question and whether, when leaving, one has established a new principal place of residence, a fixed habitation, in a single location in another place. Under Utah's statute, the "intent to remain" or an "intent to return" are refrains which signify the *sine qua non* of a principal (the statute does not say "permanently or even frequently occupied") place of residence. In short, it's perfectly legitimate for a person to live in other states but remain a resident of San Juan County. The statute, taken as a whole, expressly contemplate this result. John David Nielson, on page 74 of his deposition, which is attached as part of Exhibit O, speaking in his capacity as the elections official for San Juan County, acknowledges as much.

And even Turk's report shows that Mr. Grayeyes returned often and always to Navajo Mountain, staying with his sister sixty or seventy percent of the time, commuting between Tuba

City and Navajo Mountain on tribal business and in order to collect his mail, going everywhere on the reservation in his capacity as a representative of the Navajo Mountain Chapter of Navajo Nation, and in order to maintain a regular presence as local agitator for and ardent proponent of the Bears Ears National Monument (the circumstance which, ironically, most unsettles Republican candidates such as Petitioner Laws). In sum, even if we overlook the inadmissible nature of the Turk report, six of the 13 persons whom he interviewed, including his only named “witnesses,” gave information which indicated – by referencing official work, homestead maps, mail collection, visiting, staying, commuting, officiating -- that Grayeyes had a substantial, recurring presence in the Navajo Mountain community. The balance of Turk’s interviewees made inconclusive or irrelevant comments.

THE DURATIONAL RESIDENCY REQUIREMENT IS UNCONSTITUTIONAL

Petitioner’s complaint is based upon the durational residency requirements which qualify a citizen’s right to seek office as county commissioner. These requirements cannot form the basis of the complaint because (either on their face or as applied to the circumstances of this case) they are unconstitutional under the First and Fourteenth Amendments to the United States Constitution and under Article IV of the Utah Constitution.

EQUITABLE ESTOPPEL AND WAIVER

The complaint may be barred by equitable estoppel and waiver.

THE OFFICE OF LIEUTENANT GOVERNOR FOR THE STATE OF UTAH HAS JURISDICTION OVER THIS ELECTION CONTEST, AND PETITIONER HAS FAILED TO EXHAUST HIS ADMINISTRATIVE REMEDIES WITH THAT AGENCY

On November 30, 2018, Petitioner filed an unverified petition with the Office of the Lieutenant Governor of the state of Utah wherein he raised issues which are identical to the complaint which he has filed in this action. The Lieutenant Governor has primary, if not

exclusive, jurisdiction over the issues surrounding Respondent's qualification for election to the office of San Juan County Commissioner and Petitioner has not exhausted his administrative remedies before the Lt. Governor. This complaint accordingly should be dismissed.

RESPONDENT'S RESPONSE TO SPECIFIC AVERMENTS IN PETITIONER'S COMPLAINT

Having raised his affirmative defenses above, Respondent now addresses the numbered paragraphs of Petitioner's complaint and admits, denies, and otherwise answers the material therein.

1. Answering paragraphs 1, 2, and 6, Respondent admits the averments found in the same.

2. Answering paragraphs 3, 4, 5, 12, and 45, Respondent denies the averments found in the same.

3. Responding to paragraph 7, Respondent admits that Navajo Mountain is in district 2, but denies the balance of the averments therein for want of knowledge or information sufficient to form a belief respecting their veracity.

4. Answering paragraphs 8, 9, 10, and 11 Respondent admits that he swore out the declaration of candidacy, as well as the April 19, 2018, declaration, and that (under the customs, traditions, and norms of Indian law) he has "inherited" an interest in property, located on Navajo Mountain, from his mother and an aunt, but affirmatively states that these documents speak for themselves and denies the balance of the averments found in the same as well as the inferences which Petitioner draws from them.

5. Answering paragraph 13, Respondent admits that he has an Arizona driver's license and that he does not have a Utah driver's license and denies the claim that a Utah driver's license "is required by Utah law to be obtained by anyone who claims to be a Utah resident." This

claim, moreover, has no foundation in the law – or in the footnote cited in Petitioner’s complaint. Residency for election law purposes is defined at Utah Code, §20A-2-105, which treats a great variety of relevant circumstances in assessing residency for political purposes – but does not mention driver’s licenses expressly as one of those. Members of the Navajo Nation may vote, under Utah’s Voter ID statute, Utah Code, §20A-1-102(81), by presenting any number of documents – and not just a driver’s license – which establish residency on the Navajo reservation. As shown by Respondent’s discussion in his affirmative defenses, as well as the pertinent exhibits appended thereto, there are many reasons why members of the Navajo Nation, such as Respondent, use Arizona rather than Utah driver’s licenses and the San Juan County Clerk does not disqualify such persons, from voting or running for office, as a result of that fact. Respondent denies the balance of the averments found in this paragraph of the complaint.

6. Answering paragraph 14, Respondent denies these averments and refers the Court to the explanation of the mobile home in Page which is found in Exhibit J.

7. Answering paragraph 15, Respondent denies these averments for want of knowledge or information sufficient to form a belief respecting their veracity. As noted in Exhibit J, Respondent does not receive these property tax bills. He also affirmatively alleges that whatever the Arizona tax authorities may think of the now-abandoned home for purposes of Arizona tax law, their thought is not relevant to his never-changing intent to use the Navajo Mountain home as his principal place of residence for purposes of Utah’s election code.

8. Answering paragraph 16, Respondent admits that he occasionally spends time with a girlfriend and works in Tuba City, but denies the balance of the averments in this paragraph.

9. Answering paragraph 17, Respondent admits that he owns a horse and that this animal is kept by a relative in Arizona whom he sometimes visits and denies the balance of the averments found in this paragraph.

10. Answering paragraph 18, Respondent admits that Deputy Turk conducted a so-called investigation but denies the balance of the averments in this paragraph.

11. Answering paragraphs 19-45, Respondent denies these averments for a variety of reasons. These statements are third hand reports which allegedly were collected by Deputy Turk. Respondent does not have knowledge or information sufficient to form a belief respecting their authenticity or veracity. He cannot account for how Deputy Turk or Petitioner Laws may have recorded or edited or otherwise corrupted the reports. The reports, like Deputy Turk's report itself, are hearsay and none are based on a foundation adequate to support their introduction into evidence, even if they were not out of court declarations. Moreover, the reports are based upon questions – giving no time frames or other relevant context -- which therefore have provoked answers which are not relevant to the subject-matter of the complaint. These averments also are in the nature of argument, not fact, which need not be answered by pleading under Rule 8.

12. Answering paragraph 47, Respondent admits that the Utah election code sets forth grounds for launching an election contest, but denies the balance of the averments in this paragraph.

13. Answering paragraph 48, Respondent admits that this election contest involves the 2018 election for county commissioner in District Two, but denies the balance of the averments in this paragraph for want of knowledge or information sufficient to form a belief respecting their veracity.

14. Answering paragraphs 49 to 56, Respondent affirmatively alleges that the Utah election code and law speak for themselves and denies the balance of the averments in these paragraphs.

15. Answering paragraphs 57 to 64, Respondent denies these averments except to the extent he expressly may have admitted parts of them in his responses above. He denies all of these averments since they are in the nature of argument, not fact, which do not warrant an answer under Rule 8.

16. Respondent denies each and every averment of the complaint (or inferences to be taken therefrom) except to the extent that any particular averment expressly is admitted in this answer to the complaint.

REQUEST FOR RELIEF

Having answered the complaint, Respondent asks the Court to dismiss the same for no cause of action. He should be awarded his costs. He also asks for an award of his attorneys' fees on any or all bases that might be available at law or in equity.

Dated this 14th day of January, 2019.

/s/ Alan L. Smith
Alan L. Smith

/s/ David R. Irvine
David R. Irvine

MAYNES, BRADFORD, SHIPPS
& SHEFTEL, LLP

/s/ Steven C. Boos
Steven C. Boos

/s/ Eric P. Swenson
Eric P. Swenson

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of January, 2019 I electronically filed the foregoing ANSWER with the Seventh Judicial District Court in and for San Juan County, State of Utah. Notice will be electronically mailed to the following individuals representing Petitioner Kelly Laws:

PETER STIRBA
MATTHEW STROUT
STIRBA, P.C.
215 S. State Street, Suite 750
P.O. Box 810
Salt Lake City, Utah 84110-0810
Telephone: (801) 364-8300
Fax: (801) 364-8355
Email: peter@stirba.com
mstrout@stirba.com

/s/ Suzanne P. Singley

Suzanne P. Singley

EXHIBIT A

HEALTH
STATISTICS
UTAH

DELAYED CERTIFICATE OF BIRTH
STATE OF UTAH

25737

STATE FILE NO.

1. REGISTRANT'S FULL NAME AT BIRTH WILLIE GRAYEYES				2. DATE OF BIRTH [REDACTED]			
3. COLOR OF HAIR Indian		4. SEX Male		5. PLACE OF BIRTH Navajo Mountain San Juan		6. CITY OR TOWN OF BIRTH Navajo Mountain Community	
7. FULL NAME OF FATHER Tulley Grayeyes				8. STATE OF BIRTH OF FATHER'S BIRTH Utah		9. STATE OF COUNTRY OF FATHER'S BIRTH Utah	
10. FULL MAIDEN NAME OF MOTHER Bertha Clarke				11. SIGNATURE OF REGISTRANT <i>Tulley Grayeyes</i> Father		12. PRESENT ADDRESS OF REGISTRANT Tuba City, Arizona	
13. I hereby declare upon oath that the above statements are true to the best of my knowledge and belief.				14. SIGNATURE OF REGISTRANT <i>Tulley Grayeyes</i>		15. COUNTY COMMISSION EXPIRES Aug 13 1965	

APPLICANT -- DO NOT WRITE BELOW THIS LINE

1. TYPE OF DOCUMENT HOSPITAL RECORD		2. WHERE ISSUED AND SIGNED PHS INDIAN HOSPITAL, Tuba City, Arizona		3. DATE ISSUED [REDACTED]		4. DATE ORIG. ENTERED [REDACTED]	
5. DATE OF BIRTH [REDACTED]		6. BIRTH PLACE Utah		7. FULL NAME OF MOTHER Bertha Clarke		8. NAME OF FATHER Tullie Grayeyes	
9. TYPE OF DOCUMENT CENSUS RECORD		10. WHERE ISSUED AND SIGNED Utah State Indian Affairs Agency - Blanding, Utah		11. DATE ISSUED [REDACTED]		12. DATE ORIG. ENTERED [REDACTED]	
13. DATE OF BIRTH [REDACTED]		14. BIRTH PLACE Navaho Mountain Community, San Juan Co. Utah		15. FULL NAME OF MOTHER Bertha Clarke		16. NAME OF FATHER Tullie Grayeyes	
17. TYPE OF DOCUMENT CHURCH RECORD		18. WHERE ISSUED AND SIGNED Fr. J. H. Valine, Pastor, St. Bridget's Church, Milford, Utah		19. DATE ISSUED [REDACTED]		20. DATE ORIG. ENTERED [REDACTED]	
21. DATE OF BIRTH [REDACTED]		22. BIRTH PLACE Navajo Mountain Trading Post, Utah		23. FULL NAME OF MOTHER not known		24. NAME OF FATHER Tulley Grayeyes	
25. Document: AFFIDAVIT		26. Signed by: (GRANDMOTHER)		27. Date issued: April 14, 1964		28. Father: Tulley Grayeyes	
29. birthdate [REDACTED]		30. birthplace Navajo Mountain, Utah		31. Mother: Bertha Clarke		32. Father: Tulley Grayeyes	
33. I hereby certify that no prior birth certificate has been found in the Division of Vital Statistics for this registrant and that documentary evidence has been reviewed, which substantiates the facts as set forth in the foregoing abstract.				34. STATE REGISTRAR JOHN W. WRIGHT		35. EVIDENCE REVIEWED BY <i>Lucia Frickberger</i>	
				36. DATE FILED May 12, 1964			

STATE OF UTAH)
(CO. OF SALT LAKE) ss

THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL CERTIFICATE ON FILE IN THE UTAH STATE DEPT. OF HEALTH.

DATE

[REDACTED]

John W. Wright
DIRECTOR, DIVISION OF VITAL STATISTICS

EXHIBIT B

SUPPLEMENTAL DECLARATION OF WILLIE GRAYEYES

I, WILLIE GRAYEYES, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. On April 19, 2018, I prepared a Declaration that identified my current residence in the Navajo Mountain, Utah area.
2. I was born about one mile southeast of my current residence, on land within San Juan County, Utah, and my umbilical cord is buried near my place of birth.
3. According to Navajo tradition, which I believe, the area where I was born and where my umbilical cord is buried is my permanent place of residence.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 24, 2018

BY:


Name: Willie Grayeyes

EXHIBIT C

Steven C. Boos, USB# 4198
Maynes, Bradford, Shipps & Sheftel, LLP
835 East Second Avenue, Suite 123
Durango, Colorado 81301
(970) 247-1755 / Facsimile: (970) 247-8827
E-mail: sboos@mbssllp.com;

Eric P. Swenson, USB #3171
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Salt Lake City, Utah 84102
Telephone: (801) 521-5674
E-mail: e.swenson4@comcast.net

David R. Irvine USB# 1621
Attorney and Counselor at Law
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ATTORNEYS FOR PLAINTIFFS

**IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH**

KELLY LAWS,
Petitioner,

vs.

WILLIE GRAYEYES,
Respondent.

AFFIDAVIT OF DR. DAVID BEGAY

Case No. 180700016
Judge: Don M. Torgerson

Dr. David Begay, Ph.D., being first duly sworn, states as follows:

1. I am currently an Associate Research Professor with the University of New Mexico, Albuquerque, in the College of Pharmacy, Community Environmental Health Program, working with several research projects, including Environmental Health Disparities. David is considered a tribal elder and he provides cultural consultant to many organizations and corporations both in the United States and internationally. David is a disabled combat Vietnam veteran. He is a member of the Navajo Nation Human Research Review Board (IRB) appointed by the Navajo Nation Council.

2. I am a former adjunct faculty member at Northern Arizona University, Flagstaff, in the Department of Physics and Astronomy.

3. I am a former faculty member and academic dean and for Dine' (Navajo Nation) College.
4. I am Vice President of the Indigenous Education Institute, located in Friday Harbor, WA.
5. I have worked with the National Science Foundation and other federal projects, including NASA, the Jet Propulsion Lab and the Goddard Space Flight Center, for 20 plus years, doing heliophysics educational outreach.
6. I am a member of the Navajo Nation Human Research Review Board (IRB), appointed by the Navajo Nation Council.
7. I am also a member of the Diné Hatallii (Spiritual and Herbal Healers) Association. I was raised with the deep cultural knowledge, tradition, and language of the Diné (Navajo) people. I am considered a tribal elder and I provide cultural consultant to many organizations and corporations both in the United States and internationally. I am a recognized expert in Diné culture and tradition.
7. I am also a disabled combat veteran of the Vietnam War.
8. I have been asked by Mr. Willie Grayeyes to provide an explanation of the cultural significance of the umbilical cord in Diné culture and its significance in understanding how Diné people view where they are from, or what Anglos call "permanent legal residence."
9. The vital knowledge of the human umbilical cord and how it connects to Mother Earth and place is considered revered and ancient traditional knowledge that has passed down through many generations. It is an old tradition, still respected, and is currently lived knowledge.
10. When a Diné baby is born, the umbilical cord, or using the Diné word, *shi tsake* (my umbilical cord), is customarily placed or "planted" underneath the ground in a selected place, like a cornfield, normally adjacent to a hogan or house.
11. This placing of the umbilical cord at a special place connects the person to a birth-place and is considered by Diné people to be binding forever.
12. The place where the umbilical cord is buried is considered a home of origin and land to which a person belongs forever, but a person can come and go as conditions demand it. In Navajo, a person usually refers to this place as "where my umbilical cord is placed". Implicit in this statement is the understanding that this person's traditional home and land is where his or her umbilical cord is placed or planted. It is a birth right in Navajo customary law and recognized in the Dine' Fundamental Law of the Navajo Nation Government.
13. A person's "land" in the Navajo language is called *Shi keyah* (my land). *Shi* refers to "my" and *ke* refers to the shoe or moccasin and *Yah* refers to underneath the shoe. It connotes an infant/mother relationship or *Ke'*. The infant in this case would be a person or baby and

mother would be Mother Earth. It is understood that a human is in constant connection to Mother Earth through the land underneath the shoe.

14. Where a person's umbilical cord is placed under the ground is where the person is rooted and grounded through the understanding by the Navajo term *shi keyah*. It is a well-established traditional customary knowledge that there is no separation between the human and earth. It is holistic, and interrelated and where the past is connected to the present undivided.

15. It is my understanding that Mr. Grayeyes's umbilical cord is buried nearby his house at Piute Mesa, Utah and that he considers this place to where he will remain "permanently and indefinitely" (using the Anglo terminology), because his umbilical cord is buried there. Mr. Grayeyes's belief and understanding is entirely in keeping with Diné culture and tradition.

Dated this 10th day of January, 2019.

STATE OF Arizona)
)ss.
COUNTY OF APACHE)


Dr. David Begay

Sworn before me this 10th day of January 2019. WITNESS my hand and official seal.

My commission expires: 02/20/2022


Notary Public



CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of January, 2019 I electronically filed the foregoing **AFFIDAVIT OF DR. DAVID BEGAY** with the Seventh Judicial District Court in and for San Juan County, State of Utah. Notice will be electronically mailed to the following individuals representing Petitioner Kelly Laws:

PETER STIRBA
MATTHEW STROUT
STIRBA, P.C.
215 S. State Street, Suite 750
P.O. Box 810
Salt Lake City, Utah 84110-0810
Telephone: (801) 364-8300

Fax: (801) 364-8355
Email: peter@stirba.com
mstrout@stirba.com

/s/ Suzanne P. Singley

Suzanne P. Singley

EXHIBIT D

DECLARATION OF WILLIE GRAYEYES

I, **WILLIE GRAYEYES**, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Willie Grayeyes.
2. I am an enrolled member of the Navajo Nation.
3. I reside in the Navajo Mountain Chapter.
4. I maintain my full-time residency at Navajo Mountain in San Juan County, Utah.
5. Navajo Mountain is my principal place of residence.
6. I have lived in Navajo Mountain, Utah, almost my whole life. My entire family and clan is from San Juan County, Utah.
7. I attended school at Navajo Mountain.
8. The latitude/longitude coordinates for my home are 37.084477, -110.626033. See Exhibits A and B, Satellite Imagery and Latitude/Longitude Coordinates for the Principal Residence of Willie Grayeyes.
9. My home is in a very rural location near Piute Mesa in Utah. There are only three houses in the immediate vicinity.
10. I have resided at this home for at least 20 years and intend to remain there permanently and indefinitely.
11. I maintain a Post Office Box in Tonalea, Arizona. The Post Box number is 10035, and the zip code is 86044.
12. Most people in the Navajo Mountain community maintain a mail box, subcontract post office, under Tonalea, Arizona, based on convenience (80 miles away) and the fact that Tonalea provides prompt and reliable post office service.

13. I serve as the Chair of the Board of Directors for Utah Diné Bikéyah.
14. I am the Chapter Official for Navajo Mountain, Utah.
15. I am currently the Secretary/Treasurer for Navajo Mountain Chapter.
16. I am Chairman of the School Board for Naatsis'aan Community School.
17. I have been a registered voter in San Juan County, Utah, since I turned 18.
18. I have voted in almost every primary and general election in San Juan County since 2000.
19. If San Juan County reviewed their own voter file that they maintain on me, they would find that I voted in the 2000 Primary and General Elections, the 2002 General Election, the 2006 General Election, the 2008 Primary and General Elections, the 2010 General Election, the 2012 General Election, the 2014 General Election, the 2015 General Election, and the 2016 Primary and General Elections.
20. I have never voted in any other state.
21. In 2012, I was certified as the Democratic candidate in the former San Juan County Commission District 1 by the Lieutenant Governor of the State of Utah based upon my residence in Utah and Navajo Mountain. Exhibit C, 2012 Partial List of Certified Democratic Candidates.
22. According to the Memorandum Decision and Order, Dkt. 441, dated December 21, 2017, I reside in the new, Court-ordered District 2 of the San Juan County Commission for the 2018 Primary and General elections.
23. On March 15, 2018, I filed with the San Juan County Clerk's Office as a Democratic candidate for Court-ordered County Commission District 2. Exhibit E, Court Ordered Election Districts for San Juan County Commission.

24. I was at Navajo Mountain on March 21, 2018, for a meeting at school and left afterward. The next day, on March 22, 2018, Maggie Holgate from the school called me to tell me that Sheriff was looking for me. Apparently, he talk with my sister, Rose Mary Johnson, regarding where I live. My sister indicated that she didn't specify where I lived to him at that time, but Investigator Turk later said that my sister said I lived somewhere else other than Navajo Mountain.

25. I called Mr. Turk after his visit to follow up and we agreed to meet in person.

26. At the San Juan County Democratic Convention on March 24, 2018, I was nominated as the Democratic candidate for the new, Court-ordered District 2 of the San Juan County Commission for the General Election in 2018.

27. On April 4, 2018, I met with Officer Turk from the San Juan County Sheriff's Department in Bluff, Utah. Mr. Turk told me that the purpose of his visit was to determine my permanent residence.

28. During that visit, I described to Mr. Turk where I lived, Mr. Turk told me that he was unable to locate my residence.

29. I received a letter from the San Juan County Clerk/Auditor, John David Nielson, dated March 28, 2018, stating that my right to vote and hold office in San Juan County, Utah, was challenged by Wendy Black, of Blanding, Utah.

30. I have never met, and do not personally know, Wendy Black.

31. The letter stated that the basis of Ms. Black's challenge was that my primary residence is not within San Juan County, Utah, but the State of Arizona.

32. I am not a resident of Arizona.

33. The letter states that I have an opportunity to refute the challenge.

34. The letter did not contain any evidence or provide a description of the facts and circumstances that formed the basis for Ms. Black's challenge.

35. I have not been provided with a copy of the affidavit Ms. Black was required to file as part of her challenge.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 19, 2018

BY:


Name: Willie Grayeyes

EXHIBIT E

DECLARATION OF RUSSELL SMALLCANYON

I, RUSSELL SMALLCANYON, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Russell Smallcanyon.
2. I am an enrolled member of the Navajo Nation.
3. I am the Grazing Officer for Navajo Nation Grazing District 2-3.
4. Among other duties, I conduct livestock tallies of grazing permittees within District 2-3 to make sure that the permittees are in compliance with their permits in terms of the number and type of livestock they are grazing.
5. Willie Grayeyes has a grazing permit in District 2-3 and he grazes livestock in the area of his house at Paiute Mesa, Utah.
6. A copy of Mr. Grayeyes' grazing permit is attached to this Declaration.
7. I conducted a tally of Mr. Grayeyes' livestock in June 2017 at his home (an older frame house, corral, and hogan) in Paiute Mesa, Utah. A copy of the tally is attached to this Declaration.
8. Based on personal knowledge, Mr. Grayeyes' home and his livestock are located within the State of Utah and, in my opinion, he is a resident of Paiute Mesa, in San Juan County, Utah, and within the Navajo Mountain Chapter of the Navajo Nation.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on May 2, 2018

BY:


 D6CM-2-1
Name: RUSSELL SMALLCANYON

EXHIBIT F

THE NAVAJO NATION
Navajo Board of Election Supervisors
Oath of Office
For All Elective Positions of the Navajo Nation

I, Willie Grayeyes,

do solemnly swear to uphold and abide by the laws of the Navajo Nation and Treaty of 1868 between the Navajo Nation and the United States of America and will faithfully execute the office of

Secretary/Treasurer
Representing
NAA'TSIS'AAN Chapter.

and will to the best of my ability preserve, protect and defend the laws and government of the Navajo Nation and advance the interests of the Navajo people, having due regard for the ethical duties and responsibilities of the office;
So help me God.



Signature

CERTIFICATION


I hereby certify that the above oath was sworn to and subscribed in my presence this 27th day of October, 2017.


Dated: October 27, 2017



Chief Justice,
Navajo Nation Supreme Court
(his or her Designee)

WITNESS:





THE NAVAJO NATION
Navajo Board of Election Supervisors
Oath of Office
For All Elective Positions of the Navajo Nation

I, Willie Grayeyes,

do solemnly swear to uphold and abide by the laws of the Navajo Nation and Treaty of 1868 between the Navajo Nation and the United States of America and will faithfully execute the office of

Naa' Tsis' Aan Community School Board Member
Representing
Naa' Tsis' Aan Chapter.

and will to the best of my ability preserve, protect and defend the laws of government of the Navajo Nation and advance the interests of the Navajo people, having due regard for the ethical duties and responsibilities of the office;
So help me God.



Signature

CERTIFICATION

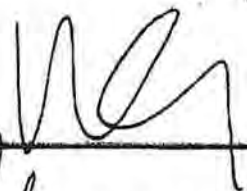
I hereby certify that the above oath was sworn to and subscribed in my presence this 20th day of January, 2017

Dated: January 20, 2017



Chief Justice Navajo Supreme Court
(his or her Designee)

WITNESS:



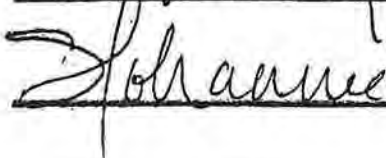


EXHIBIT G

DECLARATION OF LENA FOWLER

I, LENA FOWLER, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Lena Fowler.
2. I am an enrolled member of the Navajo Nation.
3. I serve on the Board of Supervisors for Coconino County, Arizona, which consists of five members, each elected by district to four-year terms.
4. The Board of Supervisors establishes administrative policy and direction for the County, has budgetary oversight, and works within established guidelines to carry out its duties.
5. I have served Coconino County District 5 since 2009 and am currently in my third term.
6. My district encompasses tribal nations therefore I represent the citizens of these tribes in my work, including members of the Navajo Nation.
7. As part of my official duties, I represent the Arizona portion of the Navajo community of Navajo Mountain.
8. I am aware that an individual in San Juan County, Utah has accused Mr. Willie Greyeyes of residing in Arizona.
9. The Navajo Mountain community is divided between the state of Utah and Arizona, it has limited community services, there's a Navajo Head Start Center, Naatsis'aaan Community School, Navajo Mountain High School and Navajo Utah Health Clinic. The local government is the Navajo Mountain Chapter. The nearest grocery store, gas station and laundry mat is at Inscription House Trading Post, approximately 40 miles away in Arizona.
10. The schools, head start, senior program, health clinic and the chapter are the employers in the community, as a result the residents travel to bigger towns and distant cities for employment

and higher education. The residents travel over two hours into Arizona to the nearest employment and purchase simply necessities.

11. All the residents of Navajo Mountain from the state of Utah and Arizona are served by the Tonalea U.S. Postal Service, 343 Highway 160, Tonalea, AZ 86044. The Tonalea Post Office mail truck delivers the mail at 10 a.m. every weekday to the Navajo Mountain Chapter where all residents pick up their mail.

12. The Coconino County Recorder's Office has confirmed Mr. Willie Greyeyes is not a registered voter in Coconino County, Arizona.

13. To my knowledge, Mr. Greyeyes has never been registered to vote in Coconino County, Arizona.

14. I have observed Mr. Greyeyes to always be a strong advocate for Utah Navajos.

15. I believe that Mr. Greyeyes resides in Utah. He was born and raised in the area.

16. I have known Mr. Greyeyes to be a very active community member. To this day, he continues to be a community servant.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 25, 2018

BY:

A handwritten signature in cursive script that reads "Lena Fowler". The signature is written in black ink and is positioned above a horizontal line.

Name: LENA FOWLER

EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

NAVAJO NATION, a federally)
recognized Indian tribe, et al.,)
)
Plaintiffs,)
)
v.) Civil No.
) 2:12-cv-00039-RS
SAN JUAN COUNTY, a Utah)
government subdivision)
)
Defendant.)
)
)
)
)
)
Attorney:)
)
Steven C. Boos, Esquire)
Eric P. Swenson, Esquire)
Maya Leonard Kane, Esquire)
MAYNES, BRADFORD, SHIPPS &)
SHEFTEL, LLP)
835 E. Second Avenue, Ste. 123)
Durango, Colorado 81302-2717)
Phone: (970) 247-1755)
E-mail: sboos@mbssl1p.com)
mkane@mbssl1p.com)
E.Swenson4@comcast.net)

DEPOSITION OF NORMAN JOHNSON

BE IT REMEMBERED that on, to wit, the 23rd day of June, 2015, this matter came on for the taking of the deposition of **NORMAN JOHNSON** before Beverly E. King, Certified Shorthand Reporter and Notary Public of the firm of ANIMAS REPORTING SERVICE, 919 County Road 142, Durango, Colorado 81303, taken at the San Juan County, Utah Administrative Offices, Monticello, Utah, at the hour of 9:00 a.m.

1 election judges?

2 A I am saying that they would have had that ballot
3 for a long enough time that had they been interested in
4 the election they would have been able to easily find
5 somebody who could have assisted them and directed them to
6 us.

7 Q How would they know whether they are interested
8 in the election if they don't speak English?

9 A I don't know. I can't look into their minds. I
10 don't know.

11 Q How do you know that they had the ballots for
12 three weeks?

13 A Didn't come back to us.

14 Q Did you ever get any ballots that had been mailed
15 out in one year and they weren't returned to you until the
16 year following?

17 A Not from the reservation that I remember.

18 Q We'll get back to that.

19 Do you know anything about how the postal system
20 works on the reservation?

21 A Like anywhere else, except sometimes they are
22 satellite post offices.

23 Q The folks who live in the Utah part of Monument
24 Valley, where do they typically go to pick up their mail?

25 A Utah part of Monument Valley?

1 Q Uh-huh.

2 A Monument Valley.

3 Q There is a post office in Monument Valley?

4 A Yes.

5 Q Do you have any folks from the Utah part of
6 Monument Valley who have mailing addresses in Kayenta?

7 A Could be. I don't recall exactly.

8 Q What about people out at Navajo Mountain, where
9 do they go for their mail?

10 A Tonalea, Arizona. However, that is the ZIP code,
11 but they do have a satellite office, a satellite post
12 office in the Navajo Mountain chapter house. So, they
13 must send it in bulk to Navajo Mountain and then put it in
14 the boxes there.

15 Q Do you know how long typically it takes an
16 envelope to go from Monticello to Navajo Mountain?

17 MR. TRENTADUE: Objection, foundation.

18 THE WITNESS: I am making an assumption.
19 Four days. And that is changing.

20 Q (BY MR. BOOS:) How so?

21 A The post office is changing their processes and
22 where our mail goes to.

23 Q In what way?

24 A Used to go to Provo, I think now it goes to
25 Grand Junction, Colorado. I don't have any idea what they

1 do with it.

2 Q So, historically mail that left Monticello went
3 to Provo first?

4 A Yeah.

5 Q Do you know how it got to --

6 A I do not. It is the postal system.

7 Q Let's talk about the 2003 election plan. This is
8 Plaintiff's Exhibit 3.

9 (Exhibit 3 marked for identification.)

10 Q (BY MR. BOOS:) It is a letter from Bob Nagel,
11 the State of Colorado, dated April 30, 2003 to County
12 Clerk/Auditor. Do you remember getting this letter?

13 A I don't remember it just offhand. I would have
14 passed it on to Mr. Fellmeth.

15 Q There is a second letter in this exhibit from the
16 lieutenant governor. Do you recall getting that letter?

17 A I don't remember it offhand. I responded to it,
18 obviously, but I don't specifically remember the letter.

19 Q Having looked at it again, does it refresh your
20 recollection what was going on back then?

21 A The State was doing something with their precinct
22 boundaries and whatnot.

23 Q Were they asking you for updated information on
24 the county precinct boundaries?

25 A Yes, we did change our precinct boundaries, so

EXHIBIT I

BYLAWS of the
UTAH DINE BIKEYAH ORGANIZATION

ARTICLE I
OFFICES

Section 1.1 Business Offices. The principal office of the corporation shall be located in the city of Montezuma Creek and the county of San Juan in Utah. The corporation may have other offices either within or outside Utah, as designated by the Board of Directors or as the affairs of the corporation may require from time to time.

Section 1.2 Registered Office is located at 30 E 300 N House # 23, Montezuma Creek, UT 84534.

The registered office may be changed from time to time by the Board of Directors.

ARTICLE II
PURPOSES

Section 2.1 Purposes. This corporation is organized exclusively for promoting the public welfare by providing education to members and the public at large in accordance with Section 501(c)(3) of the Internal Revenue Code.

Section 2.2 Specific Objectives and Purposes. The specific objectives and purposes of this corporation shall be:

A. Providing education to members and the public at large concerning management, development, cultural significance, and use of the natural and cultural lands and resources of the Navajo People in Utah and the Four Corners Region. The Utah Diné Bikéyah Organization recognizes this region as being of international importance because of its historical/ archaeological significance, wilderness characteristics, diverse wildlife populations, and its globally unique geologic and natural features.

B. Furthermore, the purposes of the Corporation are to ensure that the aboriginal territory of the Navajo Nation remain a landscape where the needs of the Utah Navajo people are satisfied in harmony with the continued long term viability of its native plants, fish, wildlife and natural ecosystems.

C. Additionally, the purposes of the Corporation are to advance sustainable community and economic development in San Juan County, Utah and throughout the four-corners region.

D. A primary goal will be to benefit the public as a whole by the prioritization, promotion and encouragement of the protection, beneficial use and management of reservation and US public lands of importance to the Utah Navajo. Also, to contribute to and improve the education, health and well-being of Utah Navajo People living within their traditional territory.

Mission Statement:

Preserving and protecting the cultural and natural resources of ancestral Navajo/Dine 'lands to benefit and bring healing to the earth and its people.

ARTICLE III BOARD OF DIRECTORS

Section 3.1 General Powers. The Board is responsible for overall policy and direction of the Organization and delegates have responsibility for day-to-day operations to the *Utah Dine Bikeyah*. These delegates may include the executive director, staff and board committees as assigned. All corporate powers shall be exercised by or under the direction of the Board of Directors.

Section 3.2 Number, Election, and Qualifications. The business, property and affairs of the Corporation shall be managed by a Board of Trustees composed of five (5) persons. The Executive Director may be designated to serve on the Board of Trustees on an ex officio basis. The Board of Trustees shall be comprised of persons who are members of the Navajo Nation, and who support the purposes of the Corporation, and are willing to assist the Corporation in accomplishing said purposes. Navajo officials who actively serve as either San Juan County Commissioner or on the Navajo Nation Council representing Utah shall be invited to serve as an ex-officio member(s) of the Board of Trustees. Any action of the Board of Directors to increase or decrease the number of Directors, whether expressly by resolution or by implication through the election of additional Directors, shall constitute an amendment of these bylaws effecting such increase or decrease. Officers shall be elected or re-elected by the existing Board of Directors at each annual meeting of the board, and each trustee shall hold office for four year terms. Subsequent terms can be sought.

Section 3.3 Tenure. Trustees are elected for *four year terms. Term cycles are staggered so that approximately one-third of the trustees' terms expire each year. Initially, one-third of the board members will be asked to serve shortened terms to provide opportunity for rotation. The number of terms a Trustee is allowed to serve is not limited*

Section 3.4 Duties. Directors must be participating members. *Board Members are expected to attend the annual meeting and at least three board meetings per year. After two consecutive absences, the Board President or a member of the Executive Committee will contact the board member in question to confirm his or her interest in remaining on the board. After three consecutive absences, unless proven otherwise, it will be assumed that said board member desires to resign.*

Section 3.5 Vacancies. Any trustee may resign at any time by giving written notice to the President of the *Utah Dine Bikeyah Organization*. Such resignation shall take effect at the time specified therein, and unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum. A trustee elected to fill a vacancy shall be elected for the un-expired term of his/her predecessor in office.

Section 3.6 Annual and Regular Meetings.

Annual Meeting. The date of the regular annual meeting shall be set by the Board of Directors who shall also set the time and place.

Regular Meetings. Regular meetings of the Board shall be held quarterly and at places determined by the Board.

Section 3.7 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The person or persons authorized to call special meetings of the Board of Directors will provide proper notice

and may fix any place, date and time for holding any special meeting of the Board called by them.

Section 3.8 Notice. Notice of each meeting of the Board of Directors stating the place, day and hour of the meeting shall be given to each trustee at his business or home address at least five days prior thereto by mailing a written notice by first class, certified or registered mail, or at least two days prior thereto by personal delivery of written notice or by telephone notice or by email (and the method of notice need not be the same to each trustee).

Section 3.9 Quorum and Voting. A majority of the number of Directors fixed by section 2 of this Article III shall constitute a quorum, but if less than such majority is present at a meeting, a majority of the Directors present may adjourn the meeting without further notice than an announcement at the meeting, until a quorum shall be present. No trustee may vote or act by proxy at any meeting of Directors.

Section 3.10 Meetings by Telephone. Members of the Board of Directors or any other committee thereof may participate in a meeting of the board or committee by means of conference telephone or similar communications equipment. Such participation shall constitute presence in person at the meeting.

Section 3.11 Action Without a Meeting. If and when a majority of the Trustees shall consent in writing, including email, to any action to be taken by the Corporation, such action shall be as valid a corporate action as though it had been authorized at a meeting of the Board of Trustees.

Section 3.12 Presumption of Assent. A trustee of the *UTAH DINÉ BIKÉYAH ORGANIZATION* who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent is entered in the minutes of the meeting, or unless he files his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a trustee who voted in favor of such action.

Section 3.13 Compensation. Directors shall receive compensation in the amount of one hundred dollars per member, if requested, for services performed during Board Meetings. Other meetings relating to organizational work are not eligible for compensation. Reasonable expenses associated with attendance at board meetings and other meetings may also be paid or reimbursed by the corporation upon request. Directors shall not be disqualified to receive reasonable compensation for services rendered to or for the benefit of the *UTAH DINÉ BIKÉYAH ORGANIZATION* in any other capacity, provided that other members of the board are aware of the agreement between the board member or company of the board member and the *UTAH DINÉ BIKÉYAH ORGANIZATION*.

Section 3.14 Executive and Other Committees. By one or more resolutions, the Board of Directors may designate from among its members an executive committee and one or more other committees, each of which, to the extent provided in the resolution establishing such committee, shall have and may exercise all of the authority of the Board of Directors, except as prohibited by statute. The delegation of authority to any committee shall not operate to relieve the Board of Directors or any member of the board from any responsibility imposed by law. Rules governing procedures for meetings of any

committee of the board shall be as established by the Board of Directors, or in the absence thereof, by the committee itself.

ARTICLE IV OFFICERS AND AGENTS

Section 4.1 Executive Committee Defined. The officers of the *UTAH DINÉ BIKÉYAH ORGANIZATION* shall include President, Vice-President, and Treasurer. The Board of Directors may also elect or appoint such other officers, assistant officers and agents, including an Executive Director, Secretary, one or more vice-chairs, a controller, assistant secretaries and assistant treasurers, as it may consider necessary. One person may hold more than one office at a time, except that no person may simultaneously hold the offices of President and Secretary. Officers need not be Directors of the Corporation. All officers must be at least eighteen years old.

Section 4.2 Election and Term of Office. The Executive Committee or officers of the *UTAH DINÉ BIKÉYAH ORGANIZATION* shall be elected by the Board of Directors at each regular annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon as convenient thereafter. Officers shall hold office for four (4) year terms.

Section 4.3 Removal. Any officer or agent may be removed by a majority vote of the Board of Directors whenever in its judgment the best interests of the corporation will be served thereby.

Section 4.4 Vacancies. Any officer may resign at any time, subject to any rights or obligations under any existing contracts between the officer and the corporation, by giving written notice to the President or the Board of Directors. An officer's resignation shall take effect at the time specified in such notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. A vacancy in any office, however occurring, may be filled by the Board of Directors for the unexpired portion of the term.

Section 4.5 Authority and Duties of Officers. The officers of the corporation shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the President, the Board of Directors or these bylaws, except that in any event each officer shall exercise such powers and perform such duties as may be required by law.

(a) President. The President shall, subject to the direction and supervision of the Board of Directors: (i) be the chief executive officer of the *UTAH DINÉ BIKÉYAH ORGANIZATION* and have general and active control of its affairs and business and general supervision of its officers, agents and employees; (ii) preside at all meetings of the Board of Directors; (iii) see that all orders and resolutions of the Board of Directors are carried into effect; and (iv) perform all other duties incident to the office of President and as from time to time may be assigned to her/him by the Board of Directors.

(b) Vice-President. The vice-president or vice-presidents shall assist the president and shall perform such duties as may be assigned to them by the president or by the Board of Directors. The vice-president (or if there is more than one, then the vice president designated by the Board of Directors, or if there be no such designation, then the vice-presidents in order of their election) shall, at the request of the president, or in his absence

or inability or refusal to act, perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president.

(c) Secretary. The secretary shall: (i) keep the minutes of the proceedings of the Board of Directors and any committees of the board; (ii) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; (iii) be custodian of the corporate records and of the seal of the corporation; and (iv) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him/her by the president or by the Board of Directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

(d) Treasurer. The treasurer shall: (i) be the principal financial officer of the corporation and have the care and custody of all its funds, securities, evidences of indebtedness and other personal property and deposit the same in accordance with the instructions of the Board of Directors; (ii) receive and give receipts and a quittance for moneys paid on account of the corporation, and pay out of the funds on hand all bills, payrolls and other just debts of the *UTAH DINÉ BIKÉYAH ORGANIZATION* of whatever nature upon maturity; (iii) unless there is a controller, be the principal accounting officer of the corporation and as such prescribe and maintain the methods and systems of accounting to be followed, keep complete books and records of account, prepare and file all local, state and federal tax returns and related documents, prescribe and maintain an adequate system of internal audit, and prepare and furnish to the President and the Board of Directors statements of account showing the financial position of the *UTAH DINÉ BIKÉYAH ORGANIZATION* and the results of its operations; (iv) upon request of the board, make such reports to it as may be required at any time; and (v) perform all other duties incident to the office of treasurer and other such duties as from time to time may be assigned to him/her by the President or the Board of Directors. Assistant treasurers, if any, shall have the same powers and duties, subject to supervision by the treasurer.

ARTICLE V MEMBERSHIP

Section 5.1 Classification, Qualification, Privileges and Election of Members. The corporation shall have two *classes of nonvoting members*. *Membership Class #1* is open to individuals and organizations that support the purposes of the Corporation, upon application to and approval by the Board of Trustees and upon payment of annual dues or providing annual volunteer service to the organization. *Membership Class #2* is open to enrolled members of the Navajo Nation that support the purposes of the Corporation, upon application to and approval by the Board of Trustees.

Section 5.2 Dues. The Board of Directors may establish such membership initiation fees, periodic dues and other assessments and such rules and procedures for the manner and method of payment, the collection of delinquent dues and assessments and the proration or refund of dues and assessments in appropriate class as the Board of Directors shall deem necessary or appropriate.

Section 5.3 No Voting Rights. Members of the Corporation shall have no voting rights and shall not be entitled to notice of any meetings provided for hereunder.

ARTICLE VI INDEMNIFICATION

Section 6.1 Indemnification of Directors, Officers, etc. To the full extent permitted by law, the Association shall indemnify any trustee or officer, including the executive director for purposes of this Section 9.1, or former trustee or officer of the Association, or any person who may have served at its request as a trustee or officer of another corporation against expenses actually and reasonably incurred by them, in connection with the defense of any action, suit or proceeding, civil or criminal, in which they are made a party by reason of being or having been such trustee or officer, except in relation to matters as to which they shall be adjudged in such action, suit or proceeding to be liable for gross negligence in the performance of duty; and to make such other indemnification (including advanced payment of indemnification) as shall be authorized by the Board.

Section 6.2 Insurance. By action of the Board of Directors, notwithstanding any interest of the Directors in such action, the *UTAH DINÉ BIKÉYAH ORGANIZATION* may, subject to Section 5.8, purchase and maintain insurance, in such amounts as the board may deem appropriate, on behalf of any person indemnified hereunder against any liability asserted against him/her and incurred by him/her in the capacity of or arising out of his/her status as an agent of the corporation, whether or not the corporation would have the power to indemnify him/her against such liability under applicable provisions of law. The corporation may also purchase and maintain insurance, in such amounts as the board may deem appropriate, to insure the *UTAH DINÉ BIKÉYAH ORGANIZATION* against any liability, including without limitation, any liability for the indemnifications provided in this Article.

Section 6.3 Limitation on Indemnification. Notwithstanding any other provision of these bylaws, the *UTAH DINÉ BIKÉYAH ORGANIZATION* shall neither indemnify any person nor purchase any insurance in any manner or to any extent that would jeopardize or be inconsistent with qualification of the corporation as an organization described in section 501(c)(3) of the Internal Revenue Code or would result in liability under section 4941 of the Internal Revenue Code.

ARTICLE VII MISCELLANEOUS

Section 7.1 Account Books, Minutes, Etc. The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors and committees and business meetings of officers. Any trustee or his accredited agent or attorney may inspect all books and records of the corporation, for any proper purpose at any reasonable time.

Section 7.2 Fiscal Year. The fiscal year of the corporation shall operate on the calendar year: January 1 to December 31.

Section 7.3 Conveyances and Encumbrances. Property of the corporation may be assigned, conveyed or encumbered by such officers of the corporation as may be authorized to do so by the Board of Directors, and such authorized persons shall have power to execute and deliver any and all instruments of assignment, conveyance and encumbrance; however, the sale, exchange, lease or other disposition of all or

substantially all of the property and assets of the corporation shall be authorized only in the manner prescribed by applicable statute.

Section 7.4 Designated Contributions. The corporation may accept any designated contribution, grant, bequest or device consistent with its general tax-exempt purposes, as set forth in the articles of incorporation. As so limited, donor-designated contributions will be accepted for special funds, purposes or uses, and such designations generally will be honored. However, the corporation shall reserve all right, title and interest in and to and control of such contributions, as well as full discretion as to the ultimate expenditure or distribution thereof in connection with any special fund, purpose or use. Further, the corporation shall retain sufficient control over all donated funds (including designated contributions) to assure that such funds will be used to carry out the corporation's tax-exempt purposes.

Section 7.5 Conflicts of Interest. If any person who is a trustee or officer of the corporation is aware that the corporation is about to enter into any business transaction directly or indirectly with himself, any member of his family, or any entity in which he has any legal, equitable or fiduciary interest or position, including without limitation as a trustee, officer, shareholder, partner, beneficiary or trustee, such person shall (a) immediately inform those charged with approving the transaction on behalf of the corporation of his interest or position, (b) aid the persons charged with making the decision by disclosing any material facts within his knowledge that bear on the advisability of such transaction from the standpoint of the corporation, and (c) not be entitled to vote on the decision to enter into such transaction.

Section 7.6 Loans to Directors and Officers Prohibited. No loans shall be made by the corporation to any of its Directors or officers. Any trustee or officer who assents to or participates in the making of such loan shall be liable to the corporation for the amount of such loan until it is repaid.

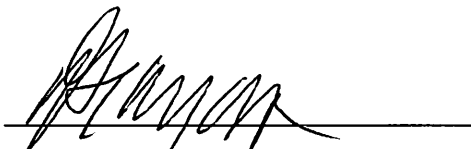
Section 7.7 Amendments. The power to alter, amend or repeal these bylaws and adopt new bylaws shall be vested in the Board of Directors.

Section 7.8 Severability. The invalidity of any provisions of these bylaws shall not affect the other provisions hereof, and in such event these bylaws shall be construed in all respects as if such invalid provision were omitted.

ARTICLE VIII CERTIFICATION

The foregoing By-laws have been adopted by consent of the Board of Trustees as of _____, 2012. A quorum was present and the Bylaws received a majority of the votes of those present at the meeting.

Signed on behalf of the President of the Board of Trustees



Willie Grayeyes, President

EXHIBIT J

Steven C. Boos, USB# 4198
 Maynes, Bradford, Shipps & Sheftel, LLP
 835 East Second Avenue, Suite 123
 Durango, Colorado 81301
 (970) 247-1755 / Facsimile: (970) 247-8827
 E-mail: sboos@mbsslpl.com;

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 Telephone: (801) 262-0555
 E-Mail: Alanakaed@aol.com

ATTORNEYS FOR PLAINTIFFS

**IN THE SEVENTH JUDICIAL DISTRICT COURT
 IN AND FOR SAN JUAN COUNTY, STATE OF UTAH**

KELLY LAWS,
 Petitioner,

vs.

WILLIE GRAYEYES,
 Respondent.

AFFIDAVIT OF WILLIE GRAYEYES

Case No. 180700016
 Judge: Don M. Torgerson

Willie Grayeyes, being first duly sworn, states as follows:

1. I was born at Piute Mesa, Utah and, in accordance with Diné custom and tradition, my umbilical cord is buried there. My ancestors have lived in the Piute Mesa area since the time when Diné people emerged into the Fourth World. Consequently, Utah is the place that I believe to be my permanent legal residence.
2. On November 6, 2018, I was elected to serve on the San Juan County Commission.
3. On December 28, 2018, my opponent in the County Commission race, Kelly Laws, filed a complaint against me claiming that I am not a legal resident of Utah.

4. Mr. Laws' complaint was not given to me until January 7, 2019, ten days after the complaint was filed and only a few minutes before I was sworn in as a Commissioner. I do not understand why service was delayed, especially given my understanding that the Court is required to decide the complaint within 30 days after it was filed and the late service has significantly reduced my time to make a response. I think this violates my right to due process.

5. The complaint says that I am a resident of Arizona because I own a house in Page, Arizona. I don't understand this, as I know there are many Anglo people who are legal residents of one state, but own property in another state and this does not make them legal residents of the other state. United States Senator for Utah, Mitt Romney, is one of those people. I do not understand why a different rule would apply to me because I am Diné, rather than Anglo.

6. Anyway, here's the story about the house in Page. I bought that house (which is really a double-wide mobile home) back in the 1980s, when I was a member of the Navajo Nation Council. I never lived in that house, but my wife and kids did, mostly because there were no schools in Navajo Mountain back then and the kids needed to be close to schools.

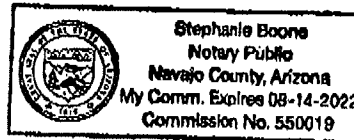
7. In recent years, my son, Stephan Grayeyes, has been living in the house.

8. Tax notices concerning the property go to a post office box in Page, and that post office box is in the name of my daughter, Navarina Boshane. It's my daughter who has been checking that box and getting the mail out of it.

9. No one lives in that house now. About three months ago, even before the election, Stephan moved to Phoenix. The utilities are shut off and we boarded up the house so that it wouldn't be vandalized. I have attached a photo to this affidavit showing what it looks like now and has looked like since last fall.

Dated this 10 day of January, 2019.

STATE OF Arizona)
)ss.
COUNTY OF Navajo)



[Signature]
Willie Grayeyes

Sworn before me this 10 day of January 2019. WITNESS my hand and official seal.

My commission expires: 08/14/2022

[Signature]
Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of January, 2019 I electronically filed the foregoing **AFFIDAVIT OF WILLIE GRAYEYES** with the Seventh Judicial District Court in and for San Juan County, State of Utah. Notice will be electronically mailed to the following individuals representing Petitioner Kelly Laws:

PETER STIRBA
MATTHEW STROUT
STIRBA, P.C.
215 S. State Street, Suite 750
P.O. Box 810
Salt Lake City, Utah 84110-0810
Telephone: (801) 364-8300
Fax: (801) 364-8355
Email: peter@stirba.com
mstrout@stirba.com

/s/ Lataj Gamble

Lataj Gamble



EXHIBIT K

A	B	C	D	E	F	G	H	I	J
Voter ID	Last Name	First Name	Middle Name	Name Suffix	Status	Permanent Absentee	UOCAVA	Registration Date	Original Registration Date
5703926	Grayeyes	Willie			Active	YES		7/18/2016	2/3/1984
K	L	M	N	O	P	Q	R	S	T
Party	Phone	Mailing Address	Mailing city, state zip	County ID	Precinct	House Number	House Number Suffix	Direction Prefix	Street
Democratic	(505)516-9742			San Juan	11	10035			Navajo Mtn. 14
U	V	W	X	Y	Z	AA	AB	AC	AD
Direction Suffix	Street Type	Unit Type	Unit Number	City	Zip	Congressional	State House	State Senate	State Schoolboard
				Navajo Mtn	86044	3	73	27	
AE	AF	AG	AH	AI	AJ	AK	AL	AM	AN
Local Schoolboard	County Council	City Council	10/5/1999	How Voted	11/2/1999	How Voted	3/10/2000	How Voted	6/27/2000
Local School Board # 5 5							3/10/2000	Normal	
AO	AP	AQ	AR	AS	AT	AU	AV	AW	AX
How Voted	11/7/2000	How Voted	10/2/2001	How Voted	11/6/2001	How Voted	6/25/2002	How Voted	11/5/2002
	11/7/2000	Normal							11/5/2002
AY	AZ	BA	BB	BC	BD	BE	BF	BG	BH
How Voted	11/4/2003	How Voted	6/22/2004	How Voted	11/2/2004	How Voted	10/4/2005	How Voted	11/8/2005
Normal					11/2/2004	Normal			
BI	BJ	BK	BL	BM	BN	BO	BP	BQ	BR
How Voted	6/27/2006	How Voted	11/7/2006	How Voted	11/6/2007	How Voted	2/5/2008	How Voted	6/24/2008
			11/7/2006	Normal			2/5/2008	Normal	
BS	BT	BU	BV	BW	BX	BY	BZ	CA	CB
How Voted	11/4/2008	How Voted	9/15/2009	How Voted	9/29/2009	How Voted	11/4/2009	How Voted	6/22/2010
	11/4/2008	Normal							
CC	CD	CE	CF	CG	CH	CI	CJ	CK	CL
How Voted	11/2/2010	How Voted	9/13/2011	How Voted	11/8/2011	How Voted	6/26/2012	How Voted	11/6/2012
	11/2/2010	Normal							9/17/2012
CM	CN	CO	CP	CQ	CR	CS	CT	CU	CV
How Voted	8/13/2013	How Voted	11/5/2013	How Voted	6/24/2014	How Voted	11/4/2014	How Voted	8/11/2015
Normal							11/4/2014	Normal	
CW	CX	CY	CZ	DA	DB	DC	DD	DE	DF
How Voted	11/3/2015	How Voted	6/28/2016	How Voted	11/8/2016	How Voted	12/15/2016	How Voted	8/15/2017
	11/3/2015	Normal	7/5/2016	Absentee	10/31/2016	Absentee			
DG	DH	DI	DJ	DK	DL	DM			
How Voted	11/7/2017	How Voted	6/26/2018	How Voted	11/6/2018	How Voted			
	10/26/2017	Absentee							

EXHIBIT L



Johnson, Norman <njohnson@sanjuancounty.org>

Election Issues

1 message

Johnson, Norman <njohnson@sanjuancounty.org>
To: Williegrayeyes@yahoo.com

Mon, Oct 29, 2012 at 12:24 PM

Willie I need your financial report by 5:00 PM tomorrow October 30th
also I need to know your Physical Address in Utah for our records. Please call me
435-587-3223 - Norman

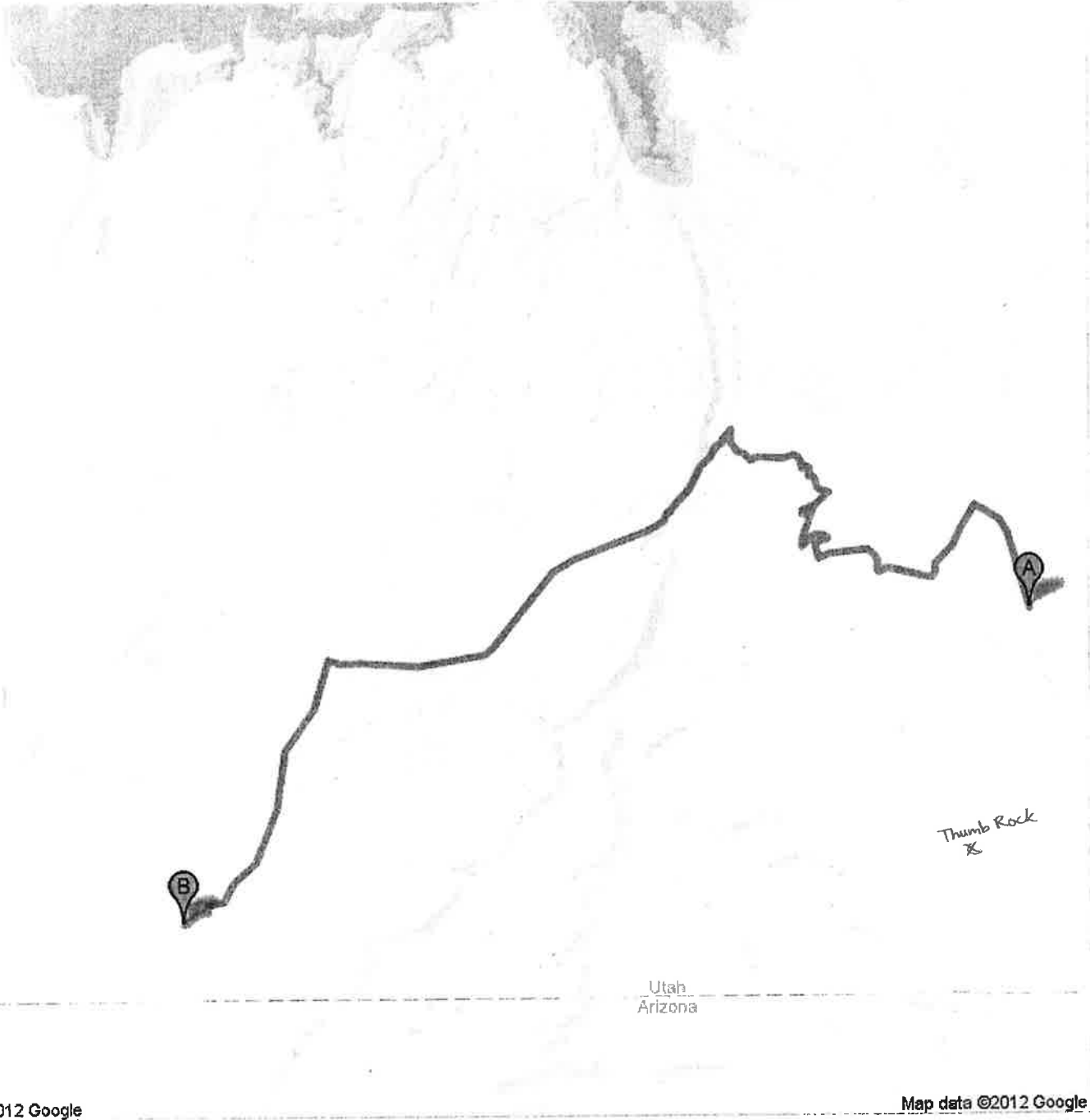
Msg @ 505-516-9742

12:20 PM 10-29-12

Willie called @ 1:20 PM
lives 17 miles from Shapen House
on Pine Mesa, Utah just North
of Thumb Rock -



Directions to Co Rd 488
17.7 mi – about 1 hour 4 mins





Co Rd 434/Piute Creek Rd

- 1. Head north on **Co Rd 434/Piute Creek Rd** go 1.5 mi
Continue to follow Co Rd 434 total 1.5 mi
About 6 mins
- ↩ 2. Turn left toward **Co Rd 434/Piute Creek Rd** go 1.6 mi
About 6 mins total 3.0 mi
- 3. Continue straight onto **Co Rd 434/Piute Creek Rd** go 10.8 mi
Continue to follow Co Rd 434 total 13.8 mi
About 42 mins
- ↩ 4. Turn left to stay on **Co Rd 434** go 3.5 mi
About 9 mins total 17.3 mi
- ↪ 5. Turn right onto **Co Rd 488** go 0.3 mi
About 1 min total 17.7 mi



Co Rd 488

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2012 Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

EXHIBIT M

DECLARATION OF CANDIDACY

by

Willie Grayeyes

(Print name of candidate exactly as it is to be printed on the Official Ballots)

for the office of San Juan County Commission Sw Dist #2

STATE OF UTAH

County of San Juan

ss.

March 9, 2018

(Date)

I, Willie Grayeyes, declare my intention of becoming a candidate for the office of Commissioner for Dist #2 as a candidate for the Democratic

party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at 17 miles ^{N. on NE 310} on Painted Mesa, Utah from Nav. N.H. Chyghs Hse. Street, in the City or Town of Navajo N.H. Chyghs comm., Utah, Zip Code 86044, Phone No. 928 614 1281; I will not knowingly violate any law governing campaigns and elections; I will file all

campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is

P.O. Box 10035, Tonalca, Arizona 86044

Additional information:

Williegrayeyes@yahoo.com
e-mail Address

Web Site

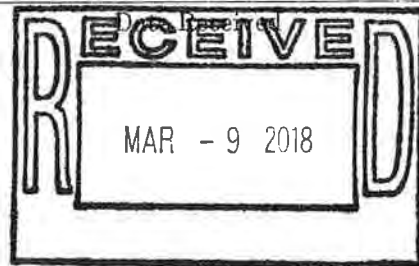
[Signature]
Signature of Candidate

Subscribed and sworn before me this 3/9/2018
(month/day/year)

[Signature]
Notary Public (or other officer qualified to administer oath)

For Office Use

Date Certified by Party



Certified by _____
(Party)

Received by _____
(Authorized Person)

QUALIFICATION FOR CANDIDATE FILING AFFIDAVIT
(Utah Code reference 20A-9-201)

I, the undersigned declare the constitutional and statutory requirements as listed below for the office of

Commissioner

were read to me by the filing officer and that I meet those qualifications.

[Signature]
Signature of Candidate

March 9, 2018
Date

[Signature]
Signature of Filing Officer

3/9/18
Date

UTAH CANDIDATE FILING QUALIFICATIONS

Before the filing officer accepts any candidacy, he shall read to the candidate the constitutional and statutory requirements for candidacy, and the candidate shall state whether he fulfills the requirements of candidacy. If the candidate indicates that such candidate does not qualify, the filing officer shall decline such person's candidacy. 20A-9-201(3) All candidates must be United States citizens.

UTAH SENATE AND REPRESENTATIVE

Utah Constitution Article VI, Section 3, 4, 5 & 6

25 years old at the filing deadline time.

3 year resident of Utah at the filing deadline time.

6 month resident of the senate or representative district from which elected at the filing deadline time.

COUNTY COMMISSION

Utah Code 17-16-1; 17-53-202

Registered voter for at least one year before the date of the election.

Be a registered voter of the county which the member represents.

At least one year resident of the county immediately before the date of the election.

COUNTY CLERK, AUDITOR, RECORDER, TREASURER

Utah Code 17-16-1

A registered voter in the county.

At least one year resident of the county immediately before the date of the election.

COUNTY ASSESSOR

Utah Code 17-16-1; 17-17-2

A registered voter in the county.

At least one year resident of the county immediately before the date of the election.

Those candidates seeking the office of county assessor in a first through third class county must be a state-licensed or state-certified appraiser before filing for office. All other candidates for county assessor shall be a state-licensed or state-certified appraiser before the expiration of 36 months from the day on which the person's term of office begins.

COUNTY SHERIFF

Utah Code 17-16-1; 17-22-1.5

A registered voter in the county.

At least one year resident of the county by the date of the election.

At time of filing:

Has successfully met the requirements of the Peace Officer Training and Certification Act; or

Has passed a certification examination and be qualified to be certified as defined in Section 53-13-103.

Present a POST certification with the declaration of candidacy and be certified as a correctional officer.

17-22-1.5

COUNTY ATTORNEY

Utah Code 17-16-1; 17-18a-302

An attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar.

A registered voter in the county.

A current resident of the county in which the person is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney.

DISTRICT ATTORNEY

Utah Code 17-16-1; 17-18a-302

An attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar.

A registered voter in the prosecution district in which he is seeking office.

A current resident of the prosecution district in which the person is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney.

COUNTY SURVEYOR

Utah Code 17-16-1; 17-23-1

A registered voter in the county.

At least one year resident of the county immediately before the date of the election.

Any person elected exclusively as the county surveyor shall be a registered professional land surveyor in the state of Utah.

In a county where the office of county surveyor is consolidated with another elected office, the officeholder need not be a registered professional land surveyor, but all surveying work must be performed by a registered professional land surveyor.

STATE OF UTAH
PLEDGE OF FAIR CAMPAIGN PRACTICES
(UCA § 20A-9-206)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of Utah has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their right to a free election, and that the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

I SHALL conduct my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing, without fear or favor, the record and policies of my opponents that I believe merit criticism.

I SHALL NOT use nor shall I permit the use of scurrilous attacks on any candidate or the candidate's immediate family. I shall not participate in or nor shall I permit the use of defamation, libel, or slander against any candidate or the candidate's immediate family. I shall not participate in nor shall I permit the use of any other criticism of any candidate or the candidate's immediate family that I do not believe to be truthful, provable, and relevant to my campaign.

I SHALL NOT use nor shall I permit the use of any practice that tends to corrupt or undermine our American system of free elections, or that hinders or prevents the free expression of the will of the voters, including practices intended to hinder or prevent any eligible person from registering to vote or voting.

I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees or volunteers.

I SHALL immediately and publicly repudiate support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of an opponent, to methods in violation of the letter or spirit of this pledge. I shall accept responsibility to take firm action against any subordinate who violates any provision of this pledge or the laws governing elections.

I SHALL defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of Utah, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Name: Willie Grayeyes Office: Commission/Dist #2

Signature:  Date: March 9, 2018

***This is a voluntary pledge. Candidates are not required to sign this pledge of fair campaign practices.**

***This document is considered a public record and will be retained for public inspection until 30 days following the election.**

EXHIBIT N

WILLIE GRAYEYES and TERRY WHITEHAT

VS

SPENCER COX

Civil No. 4:18-CV-00041-DN

DEPUTY COLBY TURK

July 11, 2018

ADVANCED REPORTING SOLUTIONS

801-746-5080 • office@advancedrep.com • advancedrep.com

SALT LAKE | 159 West Broadway, Broadway Lofts, Suite 100 | Salt Lake City, Utah 84101

PROVO | 3507 North University Avenue, Suite 350-D | Provo, Utah 84604

ST. GEORGE | 20 North Main Street, Suite 301 | St. George, Utah 84770

REPORTING SOLUTIONS
ADVANCED

Deputy Colby Turk
July 11, 2018

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

3 --oo0oo--

4	WILLIE GRAYEYES and TERRY)	
5	WHITEHAT,)	Case No. 4:18-CV-00041-DN
6	Plaintiffs,)	
7	vs.)	
8	SPENCER COX; JOHN DAVID)	
9	NIELSON; KENDALL G. LAWS;)	
10	COLBY TURK; and WENDY BLACK,)	
11	Defendants.)	

12
13 DEPOSITION OF DEPUTY COLBY TURK

14
15 Taken on Wednesday, July 11, 2018
16 at 10:30 A.M.

17 At San Juan County Administrative Offices
18 117 South Main Street
19 Monticello, Utah 84535

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23
24 Reported by: Kellie Peterson, RPR, CSR
25

Deputy Colby Turk
July 11, 2018

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Andrew Dymek, Esq.
OFFICE OF THE UTAH ATTORNEY GENERAL
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Sixth Floor
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Telephone: (801)366-0260
adymek@agutah.gov

Deputy Colby Turk
July 11, 2018

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I N D E X

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12	Photograph	85

1 Q. So you have no way of knowing how many days
2 out of the year he actually was up there --

3 A. No.

4 Q. -- in house No. 5?

5 A. No.

6 Q. Okay. So you have no way of knowing whether
7 it was 10 percent of the time or 90 percent of the time
8 or 60 percent of the time; is that correct?

9 MR. TRENTADUE: Objection, mischaracterizes
10 his testimony.

11 THE WITNESS: Yes, I don't know.

12 BY MR. BOOS:

13 Q. All right. With regard to Lucinda, let's be
14 clear. She's the mother of Mr. Grayeyes's purported
15 girlfriend. Correct?

16 A. Correct.

17 Q. Not her mother-in-law -- his mother-in-law?

18 A. Yes.

19 Q. Okay. You never saw a marriage certificate,
20 did you?

21 A. No.

22 Q. Okay. In doing this investigation, has
23 anyone ever talked to you about the difference between
24 where someone lives and what their legal residence is?

25 A. No.

1 Q. Okay. Is it fair to say Mr. Grayeyes moves
2 around a lot?

3 A. Yes.

4 Q. Okay. And did you ever talk to
5 Lucinda Johnson or any other person about how many days
6 out of the year Mr. Grayeyes is actually staying at the
7 trailer in Tuba City?

8 A. No.

9 Q. Okay. So you don't know whether it was a few
10 days each year or more than half a year or the entire
11 year, you just don't know; is that correct?

12 A. Yes. I don't know.

13 Q. All right. If, when you were in Argentina,
14 someone had asked your parents where is your principal
15 residence, what would they have said?

16 MR. HAMILTON: Objection, calls for
17 speculation. Also asked an answered.

18 BY MR. BOOS:

19 Q. I'm just curious. Go ahead.

20 A. That I lived in Argentina but that my home
21 was in Blanding.

22 Q. Well, let's get into that idea of where your
23 home is. What is the difference between a residence and
24 where your home is, in your opinion?

25 A. A residence is somewhere where you -- in my

1 opinion, where you are physically living, and home, like,
2 to me will always be the home that I grew up in or where
3 my family is at. That's home.

4 Q. Okay. So when you were doing your
5 investigation, you learned an awful lot about the various
6 places where Mr. Grayeyes resides, but you didn't learn
7 anything about where his home is. Correct?

8 A. I would say it's the opposite.

9 Q. Explain.

10 A. Meaning his home is Piute Mesa, Navajo
11 Mountain, but he resides all over the place.

12 Q. Okay. That's what I wanted to know. I don't
13 have any other questions.

14 MR. HAMILTON: Jesse, anything?

15 MR. TRENTADUE: Nothing.

16 MR. DYMEK: I have nothing.

17 MR. HAMILTON: We ask for the opportunity to
18 read and sign. You can have the transcript sent to me.
19 I'll take an electric copy, please.

20 MR. BOOS: And anything you can do to
21 expedite as soon as possible would be great.

22 (The deposition was concluded at 12:45 P.M.)
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Deputy Colby Turk
July 11, 2018

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REPORTER'S CERTIFICATE

State of Utah)
)
County of Salt Lake)

I hereby certify that the witness in the foregoing deposition was duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken at the time and place herein named;

That the testimony of said witness was reported by me in stenotype and thereafter transcribed into typewritten form.

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action and that I am not interested in the events thereof.

IN WITNESS WHEREOF, I set my hand this 12th day of July, 2018.



Kellie Peterson, RPR

EXHIBIT O

WILLIE GRAYEYES and TERRY WHITEHAT

VS

SPENCER COX

Case No. 4:18-CV-00041-DN

JOHN NIELSON

July 16, 2018

ADVANCED REPORTING SOLUTIONS

801-746-5080 | office@advancedrep.com | advancedrep.com

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ST. GEORGE | 20 North Main Street, Suite 301 | St. George, Utah 84770

ADVANCED REPORTING SOLUTIONS
ADVANCED

John Nielson
July 16, 2018

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

3 --oo0oo--

4	WILLIE GRAYEYES and TERRY)	
5	WHITEHAT,)	Case No. 4:18-CV-00041-DN
6	Plaintiffs,)	
7	vs.)	
8	SPENCER COX; JOHN DAVID)	
9	NIELSON; KENDALL G. LAWS;)	
10	COLBY TURK; and WENDY BLACK,)	
	Defendants.)	

11
12
13 DEPOSITION OF JOHN NIELSON

14
15 Taken on Monday, July 16, 2018

16 at 10:30 A.M.

17 At San Juan County Administrative Offices
18 117 South Main Street
19 Monticello, Utah 84535

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22
23
24 Reported by: Kellie Peterson, RPR, CSR
25

A P P E A R A N C E S

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Telephone: (801)366-0260
adymek@agutah.gov

John Nielson
July 16, 2018

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I N D E X

WITNESS	EXAMINATION BY	PAGE NO.
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John Nielson
July 16, 2018

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1 Q. Okay. And when did you do that?

2 A. I don't recall.

3 Q. Okay. Are you familiar with the -- what I
4 think of as the mail-in ballot case, the case filed by
5 Leonard Gorman and others against the county concerning
6 the mail-in ballot system that the county uses?

7 A. Yes.

8 Q. Okay. Have you kept up to date on what's
9 going on in that case?

10 A. Yes.

11 Q. Okay. As part of your duties as clerk, do
12 you often see the mailing addresses and driver licenses
13 of county residents and voters?

14 A. Do I see the actual driver licenses?

15 Q. No. Are you familiar with their mailing
16 addresses?

17 A. I see them as they come through on the voter
18 registration forms.

19 Q. Okay. And when people come to the office in
20 Monticello, here in this building, do you see their
21 driver licenses when they register to vote?

22 A. No, not all the time.

23 Q. You don't ask for driver's license as proof
24 of residence?

25 A. No.

1 Q. Okay. Well, let's me move on. Based on your
2 knowledge of the case concerning the mail-in ballot case,
3 have you seen in your voter files the addresses for
4 voters from Navajo Mountain?

5 MR. HAMILTON: I'm going to object to
6 relevancy of this question.

7 BY MR. BOOS:

8 Q. Go ahead.

9 A. Some of them.

10 Q. Okay. You were aware that it's common for
11 residents of Navajo Mountain to have a Tonalea, Arizona,
12 post office box addresses. Correct?

13 A. Yes.

14 Q. And it's quite common. Correct?

15 A. Yes.

16 Q. And it's equally common for residents of
17 Tonalea, Arizona, to have Arizona driver licenses; isn't
18 that correct?

19 A. Yes.

20 Q. Okay. Now, I would like to go over something
21 that I think you may be having some difficulty
22 remembering all of this, but I'm going to show you
23 Exhibit 2.

24 A. Okay.

25 Q. Here's this.

1 (Deposition Exhibit No. 2 was
2 marked for identification.)

3 BY MR. BOOS:

4 Q. You said a while ago that Mr. Grayeyes is the
5 only residency challenge that you have dealt with since
6 you've been county clerk. That isn't quite true, is it?

7 A. True.

8 Q. It isn't quite true?

9 A. Yes, there was a challenge for Mr. Holiday.

10 Q. So what we're looking at now is -- this
11 Document 51-1, or part of Document 51-1 that was filed
12 with the court. This is a letter that you sent to
13 Harve Holiday on May 2, 2018. Correct?

14 A. Yes.

15 Q. And it has your signature on it?

16 A. Yes.

17 Q. And it advises him that his residency was
18 challenged by someone named Maryleen Tahy of Blanding,
19 who said his primary residence was not in San Juan County
20 but in Arizona. Correct?

21 A. Yes.

22 Q. Okay. I would like you to look at the second
23 page. What that shows is a business card from Colby Turk
24 and then Mr. Holiday's Arizona driver's license; is that
25 correct?

1 A. Yes.

2 Q. Okay. And what it shows is that he had an
3 Arizona address for his driver's license. Correct?

4 A. It says he has a P.O. box in Arizona.

5 Q. Okay. If you would look at the last document
6 in this package, a letter dated May 17, 2018. It was
7 sent to Mr. Holiday. This is a decision that you made in
8 the case; is that correct?

9 A. Yes.

10 Q. Okay. And you determined that Mr. Holiday
11 is, in fact, a resident of San Juan County, Utah; isn't
12 that right?

13 A. Yes.

14 Q. You base that, according to the second
15 paragraph in this letter, on a culture resources
16 inventory survey for a proposed homesite; is that right?

17 A. That was part of the determination.

18 Q. What other parts did you have?

19 A. Deputy Turk had gone down and done an
20 investigation.

21 Q. Yes. What did the investigation show?

22 A. And came back and showed that he felt that
23 Mr. Holiday did live in Utah.

24 Q. So the decision was made by Deputy Turk; is
25 that what you're saying?

1 MR. HAMILTON: Objection, misstates his
2 testimony.

3 BY MR. BOOS:

4 Q. That if Deputy Turk said he was living in
5 Utah, that was good enough for you; is that what you are
6 saying?

7 MR. HAMILTON: Again, objection, misstates
8 the testimony.

9 BY MR. BOOS:

10 Q. Go ahead. You can answer.

11 A. It helped in the decision.

12 Q. Okay. What other things went into the
13 decision?

14 A. The paperwork that Mr. Holiday presented.

15 Q. Isn't it true that the surveys that are
16 referenced in here date from 2002?

17 A. I don't know.

18 Q. Did you look at them?

19 A. Yes.

20 Q. Okay. And didn't they date from 2002?

21 A. I don't remember that part of the survey. I
22 don't remember seeing that.

23 Q. Did you maintain those documents in your
24 files here?

25 A. I believe so.

1 Q. Okay. Let's get back to this question, but
2 on a break I want you to go and check your files and see
3 what date they are. Now, if they are from 2002, that
4 means they are there from 16 years ago. Correct?

5 A. Yes.

6 Q. Okay. And so you made a decision about
7 Mr. Holiday's current residency based on 16-year-old
8 documents?

9 MR. HAMILTON: Objection, again, misstates
10 his testimony.

11 BY MR. BOOS:

12 Q. In part on 16-year-old documents?

13 MR. HAMILTON: And objection, speculation.
14 He doesn't remember. He's already testified that he
15 doesn't remember when those documents were dated.

16 MR. BOOS: Okay. We can check.

17 MR. HAMILTON: And specifically with having
18 him check his file, that is not part of this deposition,
19 so I will instruct him not to check.

20 MR. BOOS: All right. Well, we will get the
21 documents at some point.

22 BY MR. BOOS:

23 Q. But let's say as a hypothetical, that your
24 document shows that the survey was conducted in 2002.
25 Those documents are 16 years old. Correct?

1 Q. Let me try this again.

2 A. I don't know.

3 Q. You can live in someplace else and still be a
4 legal resident of Utah. Correct? Still have legal
5 residence in Utah. Correct?

6 A. Yes.

7 Q. Okay. So the fact that Mr. Grayeyes may have
8 been living some of the time in Tuba City wouldn't
9 necessarily change his legal residence. Correct?

10 A. That he may have been living there some of
11 the time, yes.

12 Q. Okay. Yes, it wouldn't have changed his
13 legal residence?

14 A. Yes, it wouldn't have changed.

15 Q. Would not have or would have?

16 A. Would not have changed.

17 Q. Okay. All right. So from now on, we will
18 talk about where someone is living and where their legal
19 residence is. Officer -- or Deputy Turk --

20 MR. HAMILTON: If we are going to be correct,
21 we should probably use the terms in the statute, which
22 are "principal residence" because you can have more than
23 one residence.

24 BY MR. BOOS:

25 Q. Okay. There was a subsequent interview by

1 it's on my mind.

2 BY MR. BOOS:

3 Q. Did you, or anyone else that you know of,
4 ever ask Deputy Turk to look into the issue of whether
5 Mr. Grayeyes is registered to vote anyplace else?

6 A. I don't believe that he was asked to do that.

7 Q. Okay. Did you ask him to do that?

8 MR. HAMILTON: I will hold you -- you said
9 one question.

10 MR. BOOS: Okay. I will ask two or three.

11 BY MR. BOOS:

12 Q. Did you --

13 A. Me, no.

14 Q. Okay. Did you ever research the issue of
15 whether Mr. Grayeyes is registered to vote anyplace but
16 Utah?

17 A. I did call the clerk's office in Arizona and
18 asked.

19 Q. And what did they tell you?

20 A. That he is not registered to vote there.

21 Q. Okay. Let's have lunch.

22 (Whereupon, a break was taken.)

23 BY MR. BOOS:

24 Q. I think before we took the break for lunch, I
25 had asked whether you had looked into whether

1 Mr. Grayeyes had registered to vote anywhere else but
2 Utah, and you said you had called someone in Arizona, and
3 they confirmed that he was never registered in Arizona;
4 is that correct.

5 A. Yes.

6 Q. Do you remember when you made that call?

7 A. I do not.

8 Q. Okay. Did you review Mr. Grayeyes's voter
9 file here for San Juan County?

10 A. I believe I looked at it.

11 Q. Did it show that he voted in the 2000 primary
12 and general elections?

13 A. I don't remember. I mean, I don't think I
14 looked at that part where -- how far back he wrote it.

15 MR. HAMILTON: Just because we are going back
16 on the record, can you make sure you speak up?

17 THE WITNESS: Speak up? Sorry. Thank you.

18 BY MR. BOOS:

19 Q. Mr. Grayeyes had mentioned that he voted in
20 the 2000 primary and general elections. Do you have any
21 information to suggest that that was not true?

22 A. No.

23 Q. But you didn't check?

24 A. I didn't specifically look, that I can
25 recall, at when he did or did not vote.

1 Q. So you accepted -- let me run through it. He
2 said in his declaration that he voted in the 2000 primary
3 and general elections, the 2002 general election, the
4 2006 general election, the 2008 primary and general
5 elections, the 2010 general election, the 2012 general
6 election, the 2014 general election, the 2015 general
7 election, and the 2016 primary and general elections. Do
8 you have any reason to believe that that wasn't true?

9 A. No.

10 Q. Okay. That didn't figure into your decision
11 about his residency?

12 A. No.

13 Q. Did you talk to anyone about the fact that
14 having registered and voted in an election in Utah is
15 presumptuous that someone is a resident?

16 A. I did not.

17 Q. Okay. Why not?

18 A. I just didn't -- I didn't think about that.

19 Q. Well, wasn't it mentioned in the letter that
20 I sent to you on -- what date was it? Now I have to go
21 back and find it. The original letter I sent to you
22 concerning the challenge, April 19th. If you look at the
23 second paragraph on page 2 of the April 19th letter, the
24 one, two, three, four, fifth sentence that begins, "Some
25 factors, such as registry and to vote in Utah," can you

1 Q. Okay. Are you familiar with the Navajo
2 traditional belief that where your umbilical cord is
3 buried is your place on this earth forever?

4 A. Vaguely familiar.

5 Q. Were you familiar with it before this case?

6 A. Yes.

7 Q. How are you familiar with it?

8 A. Earlier, we talked about the traditions.

9 Q. Yes.

10 A. And there wasn't a lot of talk, but -- and I
11 don't remember if I was told directly or not, but I do
12 remember hearing at some point about that belief and
13 tradition.

14 Q. Did you hear it from your wife or your wife's
15 relatives?

16 A. It would have been, yes.

17 Q. So when you saw this declaration, what did
18 you think?

19 A. That because of where he was born, that it
20 was his belief that that was his residence.

21 Q. Okay. And now, we talked about this before
22 lunch because principal place of residence is something
23 based on subjective intent. Wouldn't this have been
24 important?

25 MR. HAMILTON: Objection, misstates the law.

1 MR. BOOS: Well, we can go back and look at
2 the law. I think it was quoted in the letter.

3 MR. HAMILTON: It's based partially --

4 BY MR. BOOS:

5 Q. You agree that this means in Mr. Grayeyes's
6 mind, Piute Mesa, where his umbilical cord is buried,
7 that is his residence. Correct?

8 MR. HAMILTON: Objection, foundation.

9 BY MR. BOOS:

10 Q. Go ahead.

11 A. Yes.

12 Q. Okay.

13 (Deposition Exhibit No. 12 was
14 marked for identification.)

15 BY MR. BOOS:

16 Q. This one is Plaintiffs' 12. This is the
17 declaration from Lena Fowler -- correct? -- that came in
18 the letter on April 25th?

19 A. Yes.

20 Q. Did you see it before when it came with the
21 letter?

22 A. Yes.

23 Q. Did you understand that Ms. Fowler is an
24 elected official in Coconino County, to wit, a
25 supervisor, same as a county commissioner in this county,

1 account.

2 BY MR. BOOS:

3 Q. Did you take it into account and reject it?

4 A. No.

5 Q. Did you take it into account at all?

6 MR. HAMILTON: I will object. Again, the
7 document speaks for itself. The letter specifically says
8 that he reviewed the fact that he was a registered voter
9 in the state of Utah.

10 BY MR. BOOS:

11 Q. Did you take it into account? You,
12 personally?

13 A. That he was a registered voter in the state
14 of Utah?

15 Q. And no place else?

16 MR. HAMILTON: Same objection.

17 BY MR. BOOS:

18 Q. Go ahead.

19 A. Yes. I mean, recognized that he was a
20 registered voter in Utah and that he had not registered
21 anyplace else.

22 Q. Okay. So if he is not a resident -- based on
23 your analysis, if he is not a resident of Utah, a legal
24 resident of Utah, where is he a legal resident?

25 A. I don't know.

1 Q. Okay. So you have no knowledge that he
2 established legal residency anyplace else on earth?

3 A. No.

4 Q. Did you discuss that issue of Mr. Grayeyes's
5 election history and his lack of registration anyplace
6 else with anyone?

7 MR. HAMILTON: Objection, vague.

8 BY MR. BOOS:

9 Q. Did you discuss that issue with anyone?

10 A. I believe I mentioned to Mr. Francom that he
11 had not registered anyplace else --

12 Q. Did Mr. Francom -- go ahead, sorry.

13 A. -- but that he was registered to vote in Utah
14 but not anyplace else.

15 Q. Did Mr. Francom have anything to say about
16 that in response?

17 A. No, I don't recall.

18 Q. Did you discuss it with Mr. Laws or
19 Mr. Brooks?

20 A. I did not discuss it with Mr. Laws. I don't
21 recall discussing it with Mr. Brooks, but it may have
22 been.

23 Q. When you got this declaration, did you pass
24 it along to anyone else, either handing it to them or
25 email or any other form of communication?

EXHIBIT P



Clerk/Auditor
John David Nielson
jdnielson@sanjuancounty.org

May 2, 2018

Harve Holiday
PO Box 360282
Monument Valley, UT 84536

Mr. Holiday,

One of the more onerous duties of the County Clerk is to oversee elections and the formal processes and procedures of candidates for public office. It is therefore my duty to inform you that your right to vote in San Juan County Utah has been challenged by Maryleen Tahy of Blanding, Utah. The basis of this challenge is that your primary residence is not in San Juan County, Utah, rather that it is in Arizona, which would negate your right to vote or hold office in San Juan County.

Utah Code 20A-3-202.3 (3)(c) states that the challenged party is allowed the opportunity to refute this challenge and provide evidence (a sworn statement, supporting documents, affidavits, etc) to the contrary that your primary residence is in fact located within San Juan County, Utah.

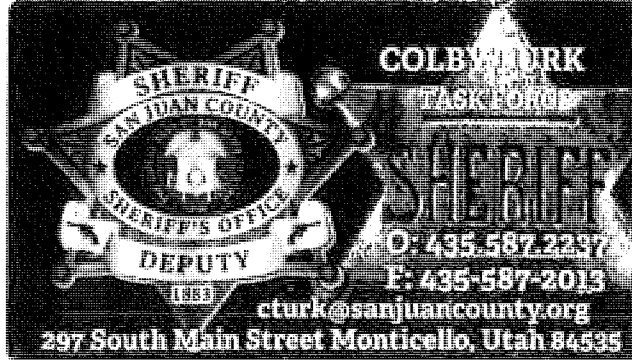
Your response and evidence to this challenge would be greatly appreciated as soon as possible.

If you have any questions, you may contact me by phone or by email.

Regards,

John David Nielson

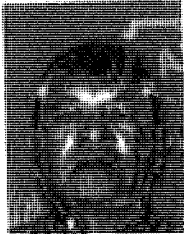
John David Nielson
San Juan County Clerk/Auditor
Telephone - (435) 587-3223
Email - jdnielson@sanjuancounty.org



435-459-1538

Harve DRIVER LICENSE USA

NOT FOR FEDERAL IDENTIFICATION



3 CLASS D 40 DLN [REDACTED]
15 END NONE 30 DOB [REDACTED]
11 REST B 3 DOB [REDACTED]

1 HOLIDAY
7 HARVE
8 PO BOX 1847
KAYENTA, AZ, 86033-1847

4b EXP 05/31/2020 4a ISS 04/06/2018

15 SEX M 18 EYES BRO
16 HGT 5-09" 19 HAIR BLK
17 WGT 190 lb

Harve 5 DD [REDACTED]

April 10 - I was cleaning my chain saw inside my shade when Deputy drove up around 10am, San Juan County Deputy Sheriff, Colby Turk.

Deputy "where does Harvey Holiday live?"

Respond "Harvey Holiday lives west of Goulding."

Deputy "this Harvey Holiday works for N.T.U.A.?"

Respond "In that case that is me, my name is Harve without the y. I don't work for N.T.U.A. anymore. I left N.T.U.A. Back in 2012 and I've reside here every since!"

Deputy "there was a challenged by Maryleem Tahy that your primary residence is not in S.J. county, Utah also check into your driver license and it says you reside at Mile post 395.7."

Respond - "Yeah it probably says that cuz that license was issued a while back (2005)!"

Deputy "So who lives at that location?"

Respond "My Son lives there!" ~~██████████~~

Remark "I also have a Grazing Permit for this area"

Deputy "So wheres your cattle at?" While he was looking around.

Respond "This is open range and they could be anywhere, but we gathered some yesterday over this hill (pointing) you can drive to location."

Deputy "No, that's ok" "You don't mind if I look inside your house?"

Respond "I don't mind"

Deputy walks inside house looking around and commended "nice house, where's your bed?"

Respond "Currently staying on hill with John while finishing up the house."

Deputy walks back out of the house, while walking to his truck he hands me his business card also wrote his personal cell number on the back of card made a comment "call me on my personal number if you have any questions."

Deputy "If I continue on County road north will I get back out?"

Respond "No and yes about 3 miles down, there is a canyon with sandy wash once you pass it is very rocky. If your truck is a 4x4 you can probably make it out to Monument Pass to Hwy 163."

Deputy "No, I'll just go back out where I came in. Thank you!"

Note: Before he got to my house Deputy stop by John Holiday's house asking where Harvey Holiday lives. John says he just pointed in the direction of my house. My older brother Albert was inside John's house when Deputy stop by.

Har Holiday



Clerk/Auditor
John David Nielson
jdnielson@sanjuancounty.org

May 17, 2018

Harve Holiday
P.O. Box 360282
Monument Valley, UT 84536

Mr. Holiday,

On April 11, 2018 Maryleen Tahy of Blanding submitted a challenge to your right to vote in San Juan County. In the challenge she stated that you lived in Kayenta, Arizona instead of Monument Valley, Utah. She also stated that you work for NTUA, have a homesite lease, and that is common knowledge that you live in Kayenta, Arizona. I informed you of the challenge and requested documents refuting Ms. Tahy's claim and supporting your claim that you do live in Monument Valley, Utah. I also asked Deputy Turk from the San Juan County Sheriff's office to also investigate the claim.

On May 10, 2018, I received your evidence of a cultural resources inventory survey for a proposed homesite in your name. After a review of the claim by Ms. Tahy and the evidence provided by you and Deputy Turk, I have determined that you do in fact live in Monument Valley, Utah.

This decision means that you maintain your right to vote in Utah.

Regards,

John David Nielson