



## NAVAJO NATION HUMAN RIGHTS COMMISSION

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### **The Navajo Nation alleges violation of the equal protection mandate in San Juan County, Utah and files lawsuit**

*Navajo voters file against a Utah county to uphold the equal protection mandate*

ST. MICHAELS, Ariz.—The U.S. Constitution’s equal protection mandate of one person, one vote seems simple. Not so for one Utah county against which the Navajo Nation filed a lawsuit in federal court earlier today.

The Navajo Nation Human Rights Commission along with the Naabik’iyati’ redistricting subcommittee of the 22<sup>nd</sup> Navajo Nation Council, and the Navajo Nation Department of Justice found substantial reason to file a lawsuit for alleged unequal representation in the San Juan County’s commission districts. San Juan County has three districts for electing county commissioners and Navajo voters reside in all three districts. The suit is a result of the Navajo Nation’s participation in redistricting activities in the states overlapping the Navajo Nation.

On March 31, 2011, Speaker Johnny Naize of the 22<sup>nd</sup> Navajo Nation Council directed NNHRC to lead the Navajo Nation’s redistricting efforts in Arizona, New Mexico and Utah. The Speaker recognized race relations as a primary factor in a state’s efforts to redistrict, according to a Naabik’iyati’ Committee resolution, NABIAU47-11, passed unanimously on August 1, 2011.

“[NNHRC] shall ensure that all members of the Navajo Nation are fairly and adequately represented in all elective districts,” according to the NABIAU47-11 resolution.

NNHRC Executive Director Leonard Gorman explained that individuals approached Navajo human rights officials at the Utah Governor’s Native American Summit in Salt Lake City, Utah last August. The Naabik’iyati’ redistricting subcommittee authorized the NNHRC to participate San Juan County, Utah’s redistricting effort because a large Navajo population resides in the Navajo Nation portion of southern Utah.

In order to protect the voting rights of the Navajo citizens, after the release of the decennial census data, officials from NNHRC analyzed the population data in San Juan County. According to NNHRC’s analysis of population growth, at least two of the three districts do not meet the U.S. Constitutional mandate of substantially equal population.

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The lawsuit alleges the districts fall outside the acceptable deviation percentages established by federal law.

Navajo people have dual citizenship as citizens of the United States and of the Navajo Nation. Under the equal protection mandate, voters must have equal voting strength whether the voters are Navajo or non-Navajo.

“Navajo citizens in San Juan County should be treated as any other citizen of the United States,” said Gorman.

In addition to the protections guaranteed by the U.S. Constitution, Navajos are protected under the Voting Rights Act as a minority language voting population. The Voting Rights Act was enacted to protect minority voters from a state’s discriminatory voting practices. When a state redistricts it must ensure population equality in each district, compliance with the Voting Rights Act, while simultaneously paying regard to principles such as community of interest, contiguity and compactness.

Furthermore, NNHRC discovered San Juan County’s alleged lack of action to redistrict in 1990 and in 2000. To date, allegedly, the last reapportionment occurred in 1984 and it was based on the 1980 census data.

NNHRC addressed the issue of malapportioned commission districts to San Juan County commissioners multiple times last year. NNHRC staff members have urged San Juan County commissioners at county meetings and through correspondence to address the various intricacies of redistricting including equal protection. San Juan County has not taken any action to layout a process to redistrict.

San Juan County has been given the benefit of doubt to redistrict explained Gorman.

However, due to the County’s lack of action Gorman said, “Navajo voters came forward and urged the Navajo Nation to sue San Juan County.”

“I don’t think San Juan County would have addressed redistricting if we hadn’t raised the issue,” said Gorman.

Filing the lawsuit is the Navajo Nation’s latest attempt to accomplish the redistricting of San Juan County.

“As we get closer to the candidacy declaration date, which is in early March, we lose time and now the Navajo Nation wants reassurance that San Juan County will address equal protection in their redistricting efforts,” said Gorman.

Attorney Brian M. Barnard of the Utah Civil Rights and Liberties Foundation, Inc., of Salt Lake City will litigate on behalf of the Navajo Nation and the Navajo plaintiffs to protect their voting rights.

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Said, one plaintiff, Red Mesa Chapter President Herman Farley of Red Mesa, Navajo Nation (Utah), “I have the duty to act on behalf of my constituents and Navajo voters have given me that privilege and the right to act on their behalf to protect their voting rights.”

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*Contributing writers were NNHRC Associate Attorney, Naomi L. White and NNDOJ Attorney Michelle Begay.*